



SOMALIA

Harsh War, Harsh Peace

Abuses by al-Shabaab, the Transitional Federal Government,
and AMISOM in Somalia

HUMAN
RIGHTS
WATCH



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and AMISOM in Somalia**

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Map of Somalia



Summary

Somalia remains mired in a brutal conflict between the Transitional Federal Government (TFG), which holds only a sliver of the capital, Mogadishu, and armed opposition groups that control most of the country. Over the past year hostilities have raged in strategically important areas, including Mogadishu, while much of the rest of Somalia has enjoyed relative peace.

Both the inhabitants of the shattered capital and those living in more peaceful areas have endured devastating patterns of abuse. In much of the south, which is largely controlled by the armed Islamist group al-Shabaab, the population is subject to targeted killings and assaults, repressive forms of social control, and brutal punishments under its draconian interpretation of Sharia (Islamic law). Meanwhile, in Mogadishu, mortars fired by al-Shabaab and African Union troops deployed to protect the internationally-backed TFG continue to kill civilians and ravage the city. All sides have violated the laws of war by conducting indiscriminate attacks and other abuses.

Al-Shabaab is a radical offshoot of the Islamic Courts Union, the militia-backed coalition that held sway in Mogadishu for part of 2006 before being routed by Ethiopia's military intervention in Somalia. Some of al-Shabaab's leaders have ties to al-Qaeda, and the United States, the European Union, and many regional governments have viewed its rise with alarm. Today it is the most powerful single armed faction in Somalia, controlling more territory than any other group.

In many areas, al-Shabaab rule has brought relative peace and order that contrasts dramatically with the chaos in Mogadishu. Residents from some of these areas told Human Rights Watch that they credit al-Shabaab with ending a constant menace of extortion, robbery, and murder from bandits and freelance militias. But even where this holds true, security has come at a steep price—especially for women.

The international media has focused on al-Shabaab's suicide attacks, public beheadings, stoning of women accused of adultery, and amputations of convicted thieves. Less attention has been given to the grinding repression that characterizes daily life in communities controlled by al-Shabaab, where many local administrations have sought to implement harsh and intolerant measures in the name of Sharia.

These measures control minute details of personal lives, from the way the way people dress and work to interactions between men and women. The punishments for even minor offenses are often summary, arbitrary, and cruel. A climate of fear prevents most people from speaking out against abuses of power. As one resident of the southern town of El Wak put it, “We just stay quiet. If they tell us to follow a certain path, we follow it.”

Freedoms women took for granted in traditional Somali culture have been dramatically rolled back. In many areas, women have been barred from engaging in any activity that leads them to mix with men—even small-scale commercial enterprises that many of them depend on for a living. Al-Shabaab authorities have arrested, threatened, or whipped countless women for trying to support their families by selling cups of tea. “I used to be able to walk and work freely,” one woman said. But when al-Shabaab took control of her community, “I felt like I was in a jail.”

In many areas, al-Shabaab officials require women to wear a particularly heavy type of *abaya*, a traditional form of Islamic dress that covers everything but the face, hands, and feet. Women who fail to do so are often arrested, publicly flogged, or both. Human Rights Watch interviewed one woman who was publicly whipped and then locked in a shipping container for racing out of her home without her *abaya* in pursuit of a toddler who had wandered into the street. Many women, especially in impoverished rural areas, simply cannot afford these relatively expensive garments and have to share one among several relatives or families—meaning only one can leave the house at a time.

It is not only women who suffer from al-Shabaab’s brutal attempts to enforce their edicts. And the rules often seem to depend partly on the whims of the militiamen who enforce them. Many young men described how al-Shabaab militiamen threatened to arrest them for engaging in “idle” activity like playing soccer. One man told Human Rights Watch how an al-Shabaab militiaman forced him to his knees in the street and shaved his head with a broken piece of glass after deciding that his hair was too long. Others spoke of being jailed or flogged for failing to pray at proscribed times or of patrols smashing cell phones that contained western music.

In Mogadishu, civilians are trapped in a very different scenario: a bloody and intractable conflict pitting the TFG, protected by the 5,300-strong African Union Mission in Somalia (AMISOM), against an armed opposition spearheaded by al-Shabaab. Civilians in Mogadishu continue to bear the brunt of the fighting, which has long been characterized by indiscriminate attacks by all sides. Opposition fighters have unlawfully deployed in densely populated civilian neighborhoods and at times used civilians as “shields” to fire mortars at

TFG and AMISOM positions—attacks conducted so indiscriminately that they frequently destroy civilian homes but rarely strike military targets. Often AMISOM or TFG forces respond in kind, launching indiscriminate mortar strikes on the neighborhoods from which opposition fighters had fired and then fled—leaving only civilians to face the devastation that ensues.

Human Rights Watch interviewed people who saw their entire families blown to pieces by mortar shells lobbed indiscriminately at their homes. One 14-year-old boy lost his parents and four brothers to one of these attacks. “I saw pieces of their hands and legs near the part of the house that we used for resting,” he said. “I am in such shock I barely know who I am.”

In addition, al-Shabaab and other opposition forces often threaten to kill people they suspect of harboring sympathies for their opponents or who resist recruitment. These are not empty threats—opposition groups have murdered civilians regularly and with complete impunity. One young man told Human Rights Watch that after his 15-year-old brother deserted from al-Shabaab, a group of its gunmen shot dead his uncle for refusing to reveal the boy’s whereabouts.

The TFG and AMISOM forces are deployed only in Mogadishu, but sporadic fighting between other groups in areas outside the capital has also exacted a heavy toll on civilians. For example, clashes between rival armed groups Hizbul Islam and Ahlu Sunna Waljamaca around the central towns of Dhusamareb and Beletweyne displaced more than 25,000 people at the beginning of 2010. All told, some 63,000 people were driven from their homes across southern and central Somalia during the first three weeks of the year.

International actors continue to play a direct—and often counter-productive—role in Somalia. Almost all key foreign actors including the African Union, United States, and European Union have adopted a policy of strong backing for the TFG that includes training and arming its fighters. Neighboring Kenya has under false pretenses recruited Somali youths from refugee camps to be fighters—contravening humanitarian principles and returning them to the very chaos they fled. Eritrea, in an effort to undermine the regional interests of its political foe Ethiopia, has supported al-Shabaab and other Somali opposition groups.

Governments supporting the TFG contend that it represents a real chance at peace and good governance for Somalia, while al-Shabaab is the potential leading edge of international terrorism in the region. Many analysts find this policy framework simplistic. But whatever its analytic merits, the policy has failed to achieve its goals. The TFG remains a weak faction confined to a small part of the capital that is under relentless military assault; it would

almost certainly collapse without AMISOM's backing. Somalia's people continue to suffer pervasive human rights abuses and indiscriminate attacks and al-Shabaab has grown more powerful and radicalized despite increasing international pressure.

Meanwhile, one of the world's worst humanitarian crises grows more catastrophic by the day. About 1.5 million Somalis are displaced from their homes and half the population is in urgent need of humanitarian aid. More than half-a-million people have sought shelter in other countries as refugees. And as of this writing the UN World Food Program (WFP) had to suspend food aid to a huge swath of southern Somalia, citing threats, attacks, and unreasonable demands by al-Shabaab and other armed groups. A recent UN report found that an enormous proportion of the food aid WFP delivers to Somalia is diverted by powerful local contractors and armed groups.

There is no easy solution to the complex and deeply entrenched crisis that is tearing Somalia apart. But the UN, other intergovernmental bodies, and influential governments should first reverse the policies that are contributing to rampant abuses. The US government should stop sending mortars and mortar shells to the TFG in Mogadishu, as it had in 2009, so long as the weapons are used without regard to the laws of war, destroying homes and shattering families. UN institutions and key regional and western powers including the African Union should demand that AMISOM and TFG forces also abide by the laws of war instead of turning a blind eye to their allies' abuses on the ground.

Al-Shabaab and other armed opposition groups should stop committing abuses such as firing mortars indiscriminately and from densely populated areas, using civilians as human shields, and recruiting child soldiers. Al-Shabaab should also halt floggings, amputations, decapitations, and other practices that contravene international human rights standards.

Methodology

This report is largely the result of a three-week research mission to Kenya in October 2009 by two Human Rights Watch researchers who carried out dozens of interviews in the Dadaab refugee camps and in Nairobi's Eastleigh neighborhood. Dadaab is home to some 280,000 refugees, most of them Somali, and new refugees arrive at the rate of several thousand every month. Human Rights Watch interviewed more than 70 victims of and witnesses to human rights abuses and laws-of-war violations. Most were refugees who recently arrived in Kenya after fleeing their homes in Somalia. The Human Rights Watch researchers sought to identify refugees who had recently arrived from Mogadishu as well as those from al-Shabaab-controlled areas in southern Somalia, including the port city of Kismayo and smaller, rural communities. The names and other identifying details of the victims and witnesses quoted in this report have either been withheld or changed in order to guard against possible reprisal.

Human Rights Watch researchers also interviewed or consulted with a broad range of western government, African Union, United Nations, and nongovernmental organization officials as well as independent analysts working on Somalia. The bulk of those interviews and consultations took place in Nairobi and in Washington, DC.

Security conditions in south/central Somalia did not permit Human Rights Watch researchers to conduct research inside Somalia. AMISOM officials reversed tentative plans to allow Human Rights Watch researchers to visit their base of operations in Mogadishu, citing security concerns following a devastating suicide bombing of AMISOM's main base in September 2009.

Recommendations

To the Transitional Federal Government of Somalia (TFG)

- Immediately issue clear, public orders and take all necessary steps to ensure that TFG security forces and allied militias comply with international humanitarian and human rights law.
- Halt all use of mortars in populated areas of Mogadishu unless measures are implemented to ensure that their use complies with the principles of distinction and proportionality under international humanitarian law.
- Ensure that all credible allegations of humanitarian law violations by TFG forces are promptly, impartially, and transparently investigated and that those responsible for serious abuses, regardless of rank, are held to account.
- Invite the UN Office of the High Commissioner for Human Rights to increase the number of staff monitoring and reporting on human rights abuses in Somalia.
- Conduct rigorous screening and take other active measures to ensure that no children under the age of 18 are recruited into TFG armed forces. Release all previously recruited children.
- Request that the UN Secretary-General establish a Commission of Inquiry to investigate and map serious crimes and recommend measures to improve accountability for violations of international human rights and humanitarian law in Somalia, and fully cooperate with that Commission once it is established.

To the African Union and the African Union Mission in Somalia (AMISOM)

- Ensure that all credible allegations of humanitarian law violations by AMISOM forces are promptly, impartially, and transparently investigated and that those responsible for serious abuses, regardless of rank, are held to account.
- Ensure that AMISOM forces immediately halt all use of mortars in populated areas of Mogadishu unless measures are implemented to ensure that their use complies with the principles of distinction and proportionality under international humanitarian law.
- Ensure that AMISOM personnel receive appropriate training in international humanitarian law.
- Consider implementing a system of meaningful payments for civilian loss of life, injury, and property damage. This system should not be limited to compensation for violations of the laws of war but should also include condolence or ex-gratia payments for losses stemming from AMISOM troop activities in which there is no

assumption of liability. The system should not be considered a substitute for training and other measures to ensure that AMISOM military personnel comply with international humanitarian law.

- Request that the UN Secretary-General establish a Commission of Inquiry to investigate and map serious crimes and recommend measures to improve accountability for violations of international human rights and humanitarian law in Somalia.

To al-Shabaab and other Opposition Groups Fighting in Mogadishu

- Immediately take all necessary steps to end violations of international humanitarian law:
 - Cease using civilians as “human shields” or placing them at unnecessary risk by launching attacks and firing mortars from densely populated areas.
 - End all firing of mortars in populated areas of Mogadishu unless measures are implemented to ensure that their use complies with the principles of distinction and proportionality under international law.
 - Facilitate the departure of civilians to safer areas during military operations.
 - Halt death threats and targeted killings of civilians.
 - End all forced recruitment of adults.
 - End all recruitment of children under the age of 18 and release all children previously recruited.
 - Appropriately hold to account all personnel, regardless of rank, who commit serious violations of international humanitarian law.

To al-Shabaab and Local Authorities in al-Shabaab-Controlled Communities

- Immediately take all necessary steps to comply with the principles of international human rights law:
 - Lift all formal or informal bans on the rights to freedom of expression, association, peaceful assembly, and religion. These include measures that prevent groups from gathering or speaking openly, that impose criminal sanctions for failing to pray or for public activity during prayer times, and that attempt to censor public education.
 - Halt all measures that discriminate against women, including restrictions on their work, travel, and attire.
 - Eliminate cruel, inhuman, and degrading punishments, including death sentences, amputations, and flogging for criminal and other offenses.

- Halt arbitrary interference in the rights to privacy, home, family, and expression, including punishing people whose dress or appearance do not conform to codes imposed by al-Shabaab or local authorities.
- Ensure that all criminal sanctions are the result of proceedings that respect the due process and fair trial rights of the accused.
- Appropriately hold to account al-Shabaab members and local administrators who commit human rights abuses.

To the UN Security Council

- Support the establishment of an independent and impartial commission of inquiry to investigate and map serious crimes and recommend measures to improve accountability for violations of international human rights and humanitarian law in Somalia.
- Publicly condemn violations of international human rights and humanitarian law by all parties to the conflict in Somalia, including AMISOM and TFG forces.
- Strictly enforce the UN arms embargo on Somalia, and grant no exemptions to any party seeking to ship mortars or mortar rounds to the TFG or AMISOM unless measures are implemented to ensure that the use of those weapons complies with the principles of distinction and proportionality under international law.
- Ensure that the UN Political Office for Somalia does not take actions that would undermine the neutrality of humanitarian agencies operating in Somalia.
- Encourage the Office of the High Commissioner for Human Rights to expand its capacity to carry out human rights monitoring and reporting in Somalia and to make that work a priority.
- Encourage the UN High Commissioner for Refugees to work with the Kenyan government to permit the safe return to the Dadaab refugee camps of men and youths recruited from the camps in 2009 for military deployment in Somalia.
- Call on Kenya to ensure that refugees fleeing Somalia are able to access protection and assistance in Kenya.

To the UN Secretary-General

- Establish an independent and impartial commission of inquiry to investigate and map serious crimes and recommend measures to improve accountability for violations of international human rights and humanitarian law in Somalia, in cooperation with the African Union and with support from the Office of the High Commissioner for Human Rights.
- Support expansion of the capacity of the Office of the High Commissioner for Human Rights to carry out human rights monitoring and reporting in Somalia and make that work a priority.

To the UN High Commissioner for Human Rights

- Increase the number of human rights officers monitoring and publicly reporting on human rights abuses in Somalia.
- Ensure that impartial monitoring, investigation, and public reporting of human rights abuses is a priority for the Office of the High Commissioner for Human Rights staff working on Somalia, including staff working within the human rights unit of the UN Political Office on Somalia.

To the UN High Commissioner for Refugees

- Work with the Kenyan government to permit the safe return to the Dadaab refugee camps of men and youths recruited from the camps in 2009 for military deployment in Somalia.
- Call on Kenya to ensure that refugees fleeing Somalia are able to access protection and assistance in Kenya.

To the UN Human Rights Council

- Establish a special rapporteur mandate for the Horn of Africa that would investigate and report on the human rights situation in Somalia, Eritrea, and Ethiopia, including serious violations of international human rights and humanitarian law.
- Hold a special briefing session on Somalia including key actors such as the Special Representative of the Secretary-General's office, the African Union, the Transitional Federal Government, and civil society actors.

To the Government of Kenya

- Recognize that the recruitment of refugees from the Dadaab refugee camps in 2009 for military service in Somalia was unlawful by ending their service and permitting them to safely return to the camps.
- Ensure that refugees fleeing Somalia are able to access protection and assistance in Kenya.

To the Governments of Uganda and Burundi

- Take the lead in urging the African Union to strengthen appropriate training in international humanitarian law.
- Take the lead in urging the African Union to investigate options for a system of payments for civilian loss of life, injury, and property damage.

To the United States, the European Union and its Member States, and the African Union

- Launch comprehensive policy reviews of engagement with Somalia that focus on protecting the basic human rights of the Somali population. The African Union should take a leadership role in implementing these revised policies.
- Publicly condemn violations of international humanitarian and human rights law by all parties to the conflict in Somalia, including AMISOM and the TFG.
- Cease the shipment of mortars and mortar rounds to AMISOM and the TFG until measures are implemented that ensure their use complies with international humanitarian law.
- Publicly call on the Kenyan government to release men and youths recruited from the Dadaab refugee camps in 2009 for military deployment in Somalia, and ensure these refugees are able to safely return to the camps.
- Urge Kenya to ensure that refugees fleeing Somalia are able to access protection and assistance in Kenya.
- Strengthen human rights components to bilateral aid for security forces, including non-lethal methods of crowd control, respect for the laws of war, measures to combat torture, and internal accountability.

Background

Since the fall of the Siad Barre government in 1991, Somalia has been wracked by civil conflict and the absence of a functioning central government. For 15 years the country's most powerful figures were warlords who fielded private militias and often brutalized civilians while vying for influence and territory. In 2006, militia-backed Sharia courts known as the Islamic Courts Union (ICU) looked poised to bring stability to Mogadishu and elsewhere in the country.¹ But when Ethiopia began seeing the ICU as a threat to its own security, it intervened militarily in December 2006, routing the ICU militias. For two years, Ethiopia and the nominal Transitional Federal Government (TFG) engaged in a bloody and brutal armed conflict with various armed opposition groups including al-Shabaab—especially in the capital, Mogadishu.

The departure of Ethiopian armed forces from Somalia by January 2009 created cautious optimism among many Somalis that that the previous two years of intensified fighting and atrocities by all parties to the conflict might be drawing to a close.² But those hopes have been crushed by familiar patterns of indiscriminate warfare and a rising tide of extremist repression and abuse.

The UN-led Djibouti peace process had by late 2008 ushered in a new administration to head the country's moribund TFG.³ Despite the backing of the UN and almost all key governments, the TFG had long been the weakest of all the major warring parties in Somalia. But new possibilities seemed to be emerging. Ethiopian forces had withdrawn from the country. The new TFG president, Sheikh Sharif Ahmed, appeared committed to building greater legitimacy and a broader base of military support for his government. Sharif, the former head of the ICU, had spent two years in exile in Eritrea and Djibouti. He had a

¹ The Islamic Courts Union (ICU) brought a level of stability and peace to Mogadishu that the capital had not known in years. Even many who disagreed with the ICU's goal of imposing Sharia, or deplored the arbitrary and harsh nature of some of the punishments it handed down, welcomed the brief period of relative normalcy. See Human Rights Watch, *Shell Shocked: Civilians Under Siege in Mogadishu*, vol. 19, no. 12(A), August 2007, <http://www.hrw.org/en/reports/2007/08/12/shell-shocked>, pp. 27-42. For a contemporary analysis on the tenure of the ICU near its peak, see International Crisis Group, "Can the Somali Crisis be Contained?" Africa Report No. 116, August 10, 2006, <http://www.crisisgroup.org/home/index.cfm?id=4333&l=1> (accessed February 10, 2010), pp. 9-19.

² Human Rights Watch has documented the patterns of human rights abuse and violations of international humanitarian law that have characterized the conflict in Somalia since 2007. See Human Rights Watch, *Shell Shocked*; Human Rights Watch, *So Much to Fear: War Crimes and the Devastation of Somalia*, 1-56432-415-X, December 2008, <http://www.hrw.org/en/reports/2008/12/08/so-much-fear-0>; and "Somalia: New Violence Highlights Need for Independent Inquiry," Human Rights Watch news release, February 5, 2009, <http://www.hrw.org/en/news/2009/02/05/somalia-new-violence-highlights-need-independent-inquiry>.

³ For a discussion of the Djibouti peace process, see Human Rights Watch, *So Much to Fear*, pp. 20-21.

background that many hoped would enable him to draw elements of the formidable but diverse armed opposition to the TFG under his banner.⁴

This did not happen. During the tenuous calm that emerged in early 2009, thousands of families who had been displaced by war began returning home.⁵ But by late February Somalia's armed factions had reverted to open conflict—and the situation has deteriorated ever since.

The consequences have been dire. Fighting once again rages in the capital and civilians bear the brunt of indiscriminate attacks and other abuses. Much of southern Somalia has come under the increasingly firm control of al-Shabaab, a militant offshoot of the ICU that has been radicalized and strengthened by the last three years of warfare. Al-Shabaab now controls more of Somalia's territory than any other faction. Much of this report documents serious human rights abuses that have proliferated in areas controlled by al-Shabaab.

Somalia is now burdened with one of the worst humanitarian crises in the world—a catastrophe that is in large part a product of conflict and related human rights abuses. Some 1.5 million people are internally displaced and more than 560,000 others are living as refugees in neighboring countries.⁶ Half of the population needs urgent assistance, yet general insecurity and attacks on humanitarian operations have made it virtually impossible for aid organizations to reach many of the people in need.⁷

⁴ See, for example, Andrew Stroehlein, "Somalia: No-win military scenario leaves engagement as only option," *The National* (Abu Dhabi), December 22, 2009, <http://www.crisisgroup.org/home/index.cfm?id=6453> (accessed February 10, 2009), noting that at the beginning of 2009 "Somalia was experiencing a rare moment of optimism" but that by the end of the year, "all traces of optimism [were] gone."

⁵ See, for example, "More than 40,000 Somalis return to Mogadishu despite renewed fighting," UNHCR News Story, February 27, 2009, <http://www.unhcr.org/49a8070b2.html> (accessed February 11, 2010), estimating that some 40,000 displaced people returned to Mogadishu during the first two months of 2009.

⁶ United Nations High Commissioner for Refugees (UNHCR), Somalia Fact Sheet, January 12, 2010, [http://www.reliefweb.int/rw/RWFiles2010.nsf/FilesByRWDocUnidFilename/LSGZ-7ZMGXS-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2010.nsf/FilesByRWDocUnidFilename/LSGZ-7ZMGXS-full_report.pdf/$File/full_report.pdf) (accessed March 17, 2010); see also "Conflict displaces 63,000 Somalis in southern Somalia so far this year," UNHCR News Story, January 19, 2010, <http://www.unhcr.org/4b55ccf76.html> (accessed February 1, 2010).

⁷ In January 2010 the World Food Program suspended humanitarian aid to up to one million people in southern Somalia, citing attacks and threats by al-Shabaab and other insurgent groups. See the section below on The Role of Key International Actors. Doctors Without Borders named Somalia one of the world's 10 worst humanitarian crises in 2009. See Doctors Without Borders, "Top Ten Humanitarian Crises of 2009," <http://www.doctorswithoutborders.org/publications/topten/2009/story.cfm?id=4098&cat=top-ten-humanitarian-crises> (accessed February 11, 2010).

Major Domestic Parties to the Conflict

The following is a brief overview of the major parties to the armed conflict in Somalia as of early 2010.⁸

Transitional Federal Government

Somalia's Transitional Federal Government (TFG), which formed in 2004, is recognized by the United Nations and almost all key foreign powers as the legitimate government of Somalia, but it controls only a small section of southern Mogadishu centered on the port, airport, and presidential palace. It is dependent for its survival on the protection provided by African Union troops stationed in Mogadishu. Other areas that were under the TFG's influence at the beginning of 2009, such as the key towns of Baidoa and Jowhar, left its orbit or were captured by armed opposition groups during the year. The TFG provides virtually no public services and its security forces—along with some government ministers—have been accused of entrenched corruption.⁹ For many Somalis, the TFG is simply one of several parties involved in the interminable battle for control of the capital.

Al-Shabaab

Al-Shabaab, which means “the youth” in Arabic, began as part of the armed wing of the Islamic Courts Union (ICU) when the courts rose to power in Mogadishu in 2006. The 2006 Ethiopian military intervention in Somalia routed the ICU and sent its leaders into exile, but a hard core of al-Shabaab fighters and commanders remained in the country to continue the fight. Since then, they have steadily emerged as the most powerful and effective armed faction on the ground, especially in southern Somalia. Initially, they benefited from significant public support as the only group mounting serious resistance to the unpopular Ethiopian military presence. They have also received material support from the Eritrean government, which is eager to undercut rival Ethiopia's interests in Somalia and throughout the region.¹⁰

Al-Shabaab is not a monolithic entity but rather an alliance of factions that have rallied under its banner. To the extent that the group's diverse leaders have a common agenda, it consists of defeating AMISOM and the TFG and extending extreme measures it justifies as

⁸ In the context of this report, unless otherwise noted “Somalia” refers only to south/central Somalia—excluding the semi-autonomous region of Puntland and the self-declared republic of Somaliland to the north.

⁹ United Nations Security Council, Report of the UN Monitoring Group on Somalia pursuant to Security Council Resolution 1853 (2008), S/2010/91, March 10, 2010, [http://www.reliefweb.int/rw/RWFiles2010.nsf/FilesByRWDocUnidFilename/MUMA-83N2WN-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2010.nsf/FilesByRWDocUnidFilename/MUMA-83N2WN-full_report.pdf/$File/full_report.pdf) (accessed March 25, 2010), pp. 7, 67.

¹⁰ See below, The Role of Key International Actors.

Sharia, the Islamic system of laws and daily conduct, across Somalia.¹¹ Across a large part of southern Somalia, local administrations that identify themselves as al-Shabaab appear to answer to authorities based in Kismayo. But in other areas, “al-Shabaab” administrations may be little more than preexisting clan-based power structures assuming a different name.

In 2009 al-Shabaab moved quickly to fill the vacuum created by the withdrawal of Ethiopia’s military forces. In January the group seized control of Baidoa, formerly the seat of the TFG parliament, without a fight.¹² In May al-Shabaab forces took control of Jowhar, which had been one of TFG President Sharif’s most reliable strongholds. In October al-Shabaab and Hizbul Islam, another leading opposition group, shattered their alliance as they fought each other for the strategic port city of Kismayo; a short battle ended with al-Shabaab taking undisputed control. By the end of the year, al-Shabaab controlled more territory than any other faction in Somalia.

Hizbul Islam

Like al-Shabaab, Hizbul Islam (“Party of Islam”) is an armed group that espouses a Sharia agenda and seeks to drive AMISOM and the TFG from Mogadishu. It came into being under the leadership of Hassan Dahir Aweys, a former ICU leader who broke with Sheikh Sharif when the two men were in exile. While Sharif was in Djibouti, Aweys spent his exile in Asmara and cultivated close ties with the Eritrean government.¹³ Aweys returned to Mogadishu in early 2009 and instead of allying himself with Sharif’s government, joined with al-Shabaab to resume fighting.

Hizbul Islam’s tenuous alliance with al-Shabaab ended in October 2009 during the two groups’ fight for Kismayo. A month after its Kismayo defeat, Hizbul Islam also lost the key

¹¹ Somalia’s Parliament in April 2009 unanimously approved a law making Sharia the country’s official judicial system. Sharif, who previously served as the ICU’s president, approved the law but said he would not permit a strict interpretation. However, his writ means little outside the small section of Mogadishu the TFG controls. See “Somalia votes to implement Sharia,” *al-Jazeera.net*, April 19, 2009, <http://english.aljazeera.net/news/africa/2009/04/200941895049381692.html>, and “Somali president bends to rebel demand for Sharia law,” *CNN*, February 28, 2009, <http://www.cnn.com/2009/WORLD/africa/02/28/somalia.sharia/index.html> (both accessed December 23, 2009).

¹² See, for example, Mohammed Ibrahim and Alan Cowell, “Islamists Overrun Somalia City as Ethiopians Leave,” *New York Times*, January 26, 2009, http://www.nytimes.com/2009/01/27/world/africa/27somalia.html?_r=1&pagewanted=all (accessed March 1, 2010). The al-Shabaab administration in Baidoa and the surrounding region is under the control of Mukhtar Robow, whose Rahanweyn clan predominates in the area.

¹³ Aweys has been listed on US government terrorist lists since 2001 because of his support for al-Shabaab, itself designated a terrorist group by the US government. US Department of the Treasury, Office of Foreign Assets Control, “Executive Order 13224—Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit or Support Terrorism,” September 24, 2001, <http://www.treasury.gov/offices/enforcement/ofac/programs/terror/terror.pdf> (accessed January 27, 2010).

border town of Dhobley to al-Shabaab forces, which both groups had previously occupied together.

Ahlu Sunna Waljamaca

Ahlu Sunna Waljamaca (roughly translated as “Adherents to the Sunnah and Congregation”) is often described as an Islamist group rooted in traditional Somali Sufism that professes to support a “moderate” agenda, in opposition to the vision of al-Shabaab and Hizbul Islam. It is the only Somali faction that has enjoyed substantial military success against al-Shabaab and it has also been involved in clashes with Hizbul Islam forces.¹⁴ The group exists primarily in central Somalia, where it has managed to maintain control over large swaths of territory, predominantly in Galgadud and Hiran regions. Ahlu Sunna Waljamaca in February 2010 signed a power-sharing and military unification pact with the TFG, though relations between the two groups have at points been strained. Ethiopia has also provided support to Ahlu Sunna Waljamaca and as of early 2010 some of its fighters were reportedly undergoing training in Ethiopia.¹⁵

The African Union Mission in Somalia

The African Union Mission in Somalia (AMISOM) is an African Union force authorized by the UN Security Council and deployed to Mogadishu to bolster the TFG.¹⁶ It consists of roughly 5,300 Ugandan and Burundian troops. Most analysts believe the TFG would quickly collapse without the military protection that AMISOM forces provide.¹⁷

AMISOM has never approached its authorized troop strength of 8,000. Its forces have come under constant harassment and attack by armed opposition groups in the capital, many of whom demanded AMISOM’s withdrawal from Somalia as a precondition for negotiating with

¹⁴ Ahlu Sunna Waljamaca and al-Shabaab forces have clashed repeatedly in central Somalia, with Ahlu Sunna Waljamaca managing to retain control of towns that were attacked by al-Shabaab. See, for example, Mohammed Ibrahim, “Rival Islamists Fight for Town in Somalia,” *New York Times*, January 2, 2010, <http://www.nytimes.com/2010/01/03/world/africa/03somalia.html> (accessed March 25, 2010). In January 2010 Ahlu Sunna Waljamaca forces clashed with Hizbul Islam fighters in Beletweyne. See, for example, “Somalia: IDPs on the run again as fighting hits Beletweyne,” *IRINnews*, February 11, 2010, <http://www.irinnews.org/Report.aspx?ReportId=87787> (accessed February 11, 2010).

¹⁵ Human Rights Watch interviews with western diplomatic officials, Nairobi, October 2009; Human Rights Watch telephone interview with independent regional analyst, Washington DC, January 2010.

¹⁶ The Security Council renewed AMISOM’s mandate on January 28, 2010. See UN Security Council, Resolution 1910 (2010), S/RES/1910 (2010), <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Somalia%20S%20RES%201910.pdf> (accessed March 1, 2010). The resolution is based on a Security Council finding that the situation in Somalia constitutes a threat to international peace and security in the region.

¹⁷ See, for example, Bronwyn E. Bruton, *Somalia: A New Approach*, Council on Foreign Relations, March 2010, <http://www.cfr.org/publication/21421> (accessed March 18, 2010), p. 3.

the “new” TFG in early 2009.¹⁸ AMISOM forces sustained two devastating suicide bomb attacks in 2009, including a September attack on AMISOM’s main base of operations that claimed the lives of at least 21 people, including the deputy force commander.¹⁹

Al-Shabaab and International Terrorism

Al-Shabaab is often described by US and European government officials and media outlets as a Somalia-based “proxy” of al-Qaeda.²⁰ The reality is considerably more complex: al-Shabaab is a broad coalition of groups with diverse agendas, and while some leaders have ties to al-Qaeda, it is far from a monolithic tool of Osama bin Laden. Some analysts believe there is growing tension between al-Shabaab leaders with transnational agendas and those with purely national ambitions.²¹

While the extent of al-Qaeda’s influence on al-Shabaab remains unclear, the presence in Somalia of militants with suspected links to international terrorism is central to western governments’ intervention in Somalia and particularly their support for the TFG, especially in the case of the United States.²²

Concern about the potential for coordination between the two groups increased after the attempted bombing on Christmas Day 2009 of a US-bound airliner. That attempt was claimed by Al-Qaeda in the Arabian Peninsula (AQAP), an al-Qaeda affiliate based in Yemen,

¹⁸ Even if it were at full strength, many policy analysts question whether AMISOM would be effective. See, for example, Peter Pham, “When the Jihadists Take Mogadishu,” *World Defense Review*, January 14, 2010, <http://worlddefensereview.com/phamo11410.shtml> (accessed February 9, 2010), noting that, “Despite the peacekeepers’ valiant efforts, they cannot be expected to confer legitimacy and viability on Somalia’s “Transitional Federal Government” (TFG) when it does not possess those qualities in its own right.”

¹⁹ See discussion of suicide bomb attacks below.

²⁰ Al-Shabaab has been listed as a terrorist organization by the US government since 2008 and by Canada since 2010. US Department of the Treasury, “Executive Order 13224.”

²¹ See, for example, “Shabab’s Mixed Messages,” *Jane’s Terrorism and Security Monitor*, January 27, 2010, noting that many foreign officials say that al-Shabaab leaders Ahmed “Godane” and Ibrahim Jama (“Afghani”) “have become the figureheads for the divergent agendas within the Shabab, despite their close relationship. The officials say Godane is the focal point for radical diaspora Somalis and foreigners, but has become increasingly alienated from some of his oldest comrades in arms, while Afghani is the strongest advocate of a more nationalist-Islamist agenda.”

²² Militants who have provided training or sought refuge in Somalia include members of al-Qaeda’s East African network who are suspected in the 1998 bombings of the US embassies in Kenya and Tanzania that killed more than 220 people, and of an Israeli-owned hotel in Kenya in 2002 that killed 15 people. The US has repeatedly sought to capture or kill the fugitives, who allegedly used Somalia as a base from which to plan the 2002 hotel attack as well as a failed attack on a passenger jet at Nairobi’s international airport that year. In September 2009, US commandos killed one key suspect, Salih Ali Salih Nabhan, a Kenyan of Yemeni descent. US attempts to take out another key suspect, Fazul Abdullah Mohammed, a dual national of Kenya and the Comoros Islands who was indicted for the attacks, have failed. While al-Qaeda has taken credit for insurgent acts inside Somalia as long ago as the US-led, UN interventions of 1992-95, many credible security analysts believe it has grossly exaggerated its direct role there. See International Crisis Group, “Counter-Terrorism in Somalia: Losing Hearts and Minds?” Africa Report No. 95, July 11, 2005, <http://www.crisisgroup.org/home/index.cfm?id=3555> (accessed February 25, 2010). Also see below, The Role of Key International Actors.

across the Gulf of Aden from Somalia. Following that attempt, al-Shabaab offered to send fighters to Yemen to help AQAP counter US-assisted airstrikes by the Yemeni government, and a top al-Shabaab leader affirmed support for “the international jihad of al-Qaeda.”²³ Bin Laden, in turn, has repeatedly voiced rhetorical support for al-Shabaab. However, credible analysts caution that they view those statements as posturing.²⁴ US government officials have also said they do not see substantive evidence of al-Shabaab-al-Qaeda coordination, or view the al-Shabaab threat as comparable to that of AQAP.²⁵ Moreover, many credible security analysts have long questioned the notion that al-Qaeda could establish a major presence in Somalia, given the country’s complex inter-clan dynamics and volatility.²⁶

Al-Shabaab has not attacked foreign targets, although Somali immigrants charged with an attempted strike in Australia in 2009 were said by arresting authorities to have some links to the group—an allegation al-Shabaab denied.²⁷ Al-Shabaab leaders have reportedly threatened to attack foreign countries, particularly on the African continent, but here, again, serious doubts exist as to the seriousness and credibility of these threats.²⁸

²³ The call, one of several in recent years pledging support for al-Qaeda or bin Laden from some al-Shabaab figures, came in January 2009 from Ahmed Abdi Godane. See “Somali rebels unite, profess loyalty to al Qaeda,” Reuters, February 1, 2010, <http://www.reuters.com/article/idUSTRE6102Q720100201> (accessed February 1, 2010). Also see “Al Shabab pledges loyalty to bin Laden,” *Voice of America*, September 22, 2009, <http://www1.voanews.com/english/news/a-13-2009-09-22-voa31-68758447.html> (accessed February 6, 2010).

²⁴ Human Rights Watch interviews with independent analysts and journalists, Nairobi and Washington, DC, October and November 2009.

²⁵ See, for example, the briefing with reporters by Daniel Benjamin, US State Department coordinator for counterterrorism, January 25, 2010, <http://www.state.gov/s/ct/rls/rm/2010/135786.htm> (accessed January 25, 2010), and testimony by US National Intelligence Director Dennis Blair, “Annual Threat Assessment of the US Intelligence Community for the Senate Select Community on Intelligence,” testimony before the US House Select Intelligence Committee, February 2, 2010, http://www.dni.gov/testimonies/20100202_testimony.pdf (accessed March 1, 2010), p. 11.

²⁶ See “Al Qaeda’s (mis)adventures in the Horn of Africa,” West Point Combating Terrorism Center, 2007, <http://ctc.usma.edu/aq/aqll.asp> (accessed February 11, 2010). This view was reaffirmed by experts at a Horn of Africa panel at the Jamestown Foundation Annual Terrorism Conference in Washington, DC, on December 9, 2009.

²⁷ In August 2009 Australian authorities arrested five men, three of them Somalis and one with ties to al-Shabaab, on charges of planning a suicide attack on a military base. An al-Shabaab spokesman denied the group’s involvement in the plots. Some attempted plots abroad may be at most inspired rather than directed by al-Shabaab. In December 2009, for example, Danish police said a Somali immigrant charged with trying to kill an artist in Denmark whose 2005 cartoon of the Prophet Muhammad insulted many Muslims and was followed by widespread protests had ties to al-Shabaab; the group said it did not plan the attempted attack but praised it. See “Militant Group Denies Link,” *ABC News*, August 7, 2009, <http://www.abc.net.au/news/stories/2009/08/07/2648501.htm>; John F. Burns, “Cartoonist in Denmark Calls Attack ‘Really Close,’” *New York Times*, January 2, 2010, <http://www.nytimes.com/2010/01/03/world/europe/03denmark.html>; and “East African Terrorism Comes to Scandinavia,” *Jamestown Foundation Terrorism Monitor*, January 14, 2010, [http://www.jamestown.org/single/?no_cache=1&tx_ttnews\[tt_news\]=35909&tx_ttnews\[backPid\]=13&cHash=1272f796ee](http://www.jamestown.org/single/?no_cache=1&tx_ttnews[tt_news]=35909&tx_ttnews[backPid]=13&cHash=1272f796ee) (all accessed February 5, 2010).

²⁸ Al-Shabaab has reportedly threatened to attack targets in Kenya, but some of its leaders contend that at least one of these threats was falsely attributed to the group. They have also reportedly threatened to strike Ethiopia, Uganda, and Burundi, the latter two for providing peacekeeping forces to Somalia. See Scott Baldauf, “It wasn’t us: Somali militants disavow Kenya threat,” *Christian Science Monitor*, January 1, 2010, <http://www.csmonitor.com/World/Africa/2010/0122/It-wasn-t-us-Somali-militants-disavow-Kenya-threat> (accessed March 14, 2010). They threatened the United States after a strike on an alleged al-Qaeda member in Somalia in September 2009.

One source of concern among the United States and its allies are the foreign fighters who have come to Somalia to take up arms on al-Shabaab's behalf. Most credible estimates agree that there are several hundred foreign fighters in Somalia, including an Alabama native nicknamed Abu Mansoor Al-Amriki ("The American") who became a prominent al-Shabaab figure.²⁹

The importance of these foreign fighters is frequently overstated.³⁰ However, some are members of a large Somali diaspora that includes dual nationals who can travel easily between their homeland and adoptive countries. Foreign al-Shabaab members reportedly include Europeans, Australians, Canadians, and at least 20 young men from the United States; some of these individuals have been implicated in attacks inside Somalia.³¹ The US and other foreign governments fear al-Shabaab may return some diaspora members to their adoptive countries to create " sleeper cells."³²

One of five suicide bombers who killed at least 30 people in coordinated attacks in October 2008 in Hargeisa, a city in northern Somaliland, was an American citizen of Somali origin—the first recorded instance of a suicide attack carried out by a US national.³³ In addition, the suicide bomber whose December 2009 attack at a Mogadishu hotel killed at least 22 people was a Somali-born Danish citizen.³⁴

²⁹ Andrea Elliott, "The Jihadist Next Door," *The New York Times Magazine*, January 31, 2010, <http://www.nytimes.com/2010/01/31/magazine/31jihadist-t.html> (accessed February 1, 2010).

³⁰ Report of the UN Monitoring Group on Somalia, S/2010/91, March 10, 2010, [http://www.reliefweb.int/rw/RWFiles2010.nsf/FilesByRWDocUnidFilename/MUMA-83N2WN-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2010.nsf/FilesByRWDocUnidFilename/MUMA-83N2WN-full_report.pdf/$File/full_report.pdf) (March 23, 2010), pp. 51-53.

³¹ In November 2009 US authorities indicted 14 men on terrorism-related charges for allegedly recruiting the 20 Somalis from the Minneapolis area for al-Shabaab. See "Terror Charges Unsealed in Minnesota Against Eight Defendants, Justice Department Announces," US Department of Justice press release, November 23, 2009, <http://minneapolis.fbi.gov/dojpressrel/pressrelo9/mp112309.htm> (accessed March 10, 2010).

³² Blair, "Annual Threat Assessment of the US Intelligence Community for the Senate Select Committee on Intelligence."

³³ See, for example, Jason Ryan and Pierre Thomas, "Mueller: Suicide Bomber Recruited in U.S.," *ABC News*, February 23, 2009, <http://abcnews.go.com/TheLaw/Terrorism/story?id=6942162&page=1>. DNA tests were underway to determine whether a second suicide bomber was American, according to Katharine Houreld, "Somali Minister: Suicide Bomber Was Danish-Somali," Associated Press, December 10, 2009, <http://abcnews.go.com/International/wireStory?id=9300550> (both accessed February 6, 2010).

³⁴ See for example, "Somalia suicide bomber 'was from Denmark,'" *BBC News Online*, December 10, 2009, <http://news.bbc.co.uk/2/hi/8406886.stm> (accessed February 6, 2010).

Daily Life under al-Shabaab

Generally when we pray, we pray for fear of God. When al-Shabaab are in control, we pray for fear of al-Shabaab.

—Somali man who fled the Karan district of Mogadishu in October 2009.³⁵

Al-Shabaab controls more territory in south/central Somalia than the TFG or any other armed group.³⁶ In many areas it dictates even minute details of daily life, from clothing styles to prayer observance to cell phone ring tones. The brunt of its restrictions fall on women, who face harsh punishments if they seek to exercise freedoms they once took for granted.

The nature and scale of al-Shabaab's edicts vary by community, depending partly on the outlook of local leaders. But the method of enforcement is generally the same: intrusive surveillance and draconian punishments that include floggings, head shavings, and, in some cases, amputations and execution by stoning. Those who violate al-Shabaab's edicts receive little, if any, due process and many punishments are meted out on the spot.

International Legal Standards

Interpretations of Sharia vary around the world.³⁷ Al-Shabaab applies a draconian interpretation which goes well beyond its traditional application in Somalia.³⁸ Many of the measures that al-Shabaab seeks to justify in the name of Sharia contravene regional and international human rights standards.

Human Rights Watch does not advocate for or against Sharia or any other system of religious law. Rather, we are concerned about preventing and ending human rights abuses in any country, whatever their basis or legal justification.

³⁵ Human Rights Watch interview with M.A., Dagahaley refugee camp, October 17, 2009.

³⁶ See above, Background.

³⁷ The application of Sharia depends on interpretations of holy texts, principally the Quran, the central religious text of Islam; and *hadiths*, a collection of sayings and descriptions of the *sunna*, or exemplary and normative conduct, of the Prophet Muhammad. Wide differences exist over which prophetic examples are authentic, and the validity of applying certain passages verbatim to the modern era.

³⁸ Somalia has traditionally limited the application of Sharia, the Islamic system of laws and daily conduct, to personal status cases such as marriage, divorce, and inheritance. See Andre Le Sage, *Stateless Justice in Somalia: Formal and Informal Rule of Law Initiatives*, Centre for Humanitarian Dialogue, July 2005, <http://www.hdcentre.org/publications/stateless-justice-somalia-formal-and-informal-rule-law-initiatives> (accessed December 24, 2009). Application of other legal aspects of Sharia increased after the spread since the 1970s of the austere form of Islam known as Wahhabism and the collapse of the state. This was reflected in the 2006 rise of the Islamic Courts Union, whose members applied varying elements of Sharia. Some banned music, consumption of *qat*, and other activities they deemed immoral.

As an armed group that effectively controls and acts as the de facto governing body in much of Somalia, al-Shabaab is responsible for respecting fundamental human rights and holding those who abuse them to account.³⁹ These rights—set forth in the Universal Declaration of Human Rights as well as a host of international human rights treaties—include the rights to life, liberty, fair trials, freedom from torture and other cruel, inhuman, or degrading treatment or punishment, freedom of expression, religion, association and peaceful assembly, and equal treatment before the law.⁴⁰ Al-Shabaab practices such as summary executions; amputations and floggings; bans on public gatherings; prohibitions on certain forms of women’s work and movement; and arbitrary interference with privacy, family, and home; are contrary to these basic standards.⁴¹

Peace and Security—For a Price

Many refugees from areas controlled by al-Shabaab told Human Rights Watch they were fleeing the group’s abusive dictates. But even many critics credited the group with bringing

³⁹ Various UN institutions and mechanisms have pressed for the applicability of international human rights standards to non-state armed groups. The UN Security Council has long called upon various non-state groups to respect human rights, particularly when they exercise significant control over territory and population. See Andrew Clapham, “Human Rights Obligations of Non-State Actors in Conflict Situations,” *International Review of the Red Cross*, vol. 88, no. 863, September 2006, <http://www.icrc.org/web/eng/siteenggo.nsf/html/review-863-p491> (accessed February 11, 2010), pp. 504-08. Clapham cites the Security Council Resolution on Angola (S/RES1213 (1998)), which is addressed both to the government of Angola and the armed group UNITA. UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston, has noted that while only state actors have binding legal obligations to abide by international human rights treaties, non-state actors are subject to the demands of the international community, first expressed in the Universal Declaration of Human Rights, that “every organ of society respect and promote human rights.” See, for example, Alston’s report outlining the responsibilities of the non-state armed group, the Liberation Tigers of Tamil Eelam, UN Commission on Human Rights, Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston, Mission to Sri Lanka, E/CN.4/2006/53/Add.5, March 27, 2006, <http://www.unhcr.org/refworld/docid/45377b400.html> (accessed March 11, 2010), paras. 24-27. UN field missions have also addressed human rights abuses by non-state armed groups. For instance, the human rights field operation in Nepal of the Office of the UN High Commissioner for Human Rights has reported on killings and other abuse by non-state armed groups. See UN Commission on Human Rights, Report of the UN High Commissioner for Human Rights on the situation of human rights in Nepal, E/CN.4/2006/107, February 16, 2006, <http://www2.ohchr.org/english/bodies/chr/docs/62chr/E.CN.4.2006.107.pdf> (accessed March 25, 2010), paras. 45-58.

⁴⁰ Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Resolution 217 (III), U.N. Doc. A/810 at 71 (1948). Other authoritative sources of fundamental human rights standards are the International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Resolution 2200A (XXI), 21 U.N. GAOR Supp. (no. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, <http://www1.umn.edu/humanrts/instree/b3ccpr.htm> (accessed January 4, 2010); the African [Banjul] Charter on Human and Peoples’ Rights (African Charter), adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 21, 1986, <http://www.africa-union.org/root/au/Documents/Treaties/Text/Banjul%20Charter.pdf> (accessed January 4, 2010); and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted December 10, 1984, G.A. Resolution 39/46, annex, 39 U.N. GAOR Supp. (no. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-9&chapter=4&lang=en (accessed January 4, 2010).

⁴¹ For instance, the African Charter states that men and women should enjoy equal protection and access to civil and political rights. Similarly, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) commits state parties to pursue a policy of eliminating discrimination against women and ensuring equality of men and women. CEDAW, adopted December 18, 1979, G.A. Resolution 34/180, 34 U.N. GAOR Supp. (no. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-8&chapter=4&lang=en (accessed January 4, 2010), art. 2(f).

peace and order to communities that had been plagued by crime and insecurity since the collapse of the Somali state nearly two decades earlier.

One farmer from the area around Mayonde, a village roughly 25 miles (40 kilometers) north of Kismayo, described the positive aspects of al-Shabaab's takeover of his community in early 2009:

A human being always strives to get independence and freedom, but the Shabaab administration brought peace and sanity. As a farmer I am saying this—as someone who wishes to work my land with ease and sell the fruits and get back to my family in peace so life can continue. Before al-Shabaab, this was not possible. There were many checkpoints where we needed to pay bribes. Robbery was common and you could come home without anything.⁴²

Similarly, a public transport driver and father of seven credited al-Shabaab for improving security even though he had fled because of rules he found extreme. “You can sleep with your door wide open,” he told Human Rights Watch. “As a parent you will never fear that your daughter might be confronted or harassed by any man.”⁴³

Still, even Somalis who praised al-Shabaab for making their communities safer said the benefit had come at a steep cost, with violence and chaos replaced by repression and fear.

Climate of Fear

Somalis who oppose al-Shabaab's mandates rarely challenge them for fear of harsh or even deadly retaliation, according to many refugees and civil society leaders.⁴⁴ Residents of the southern Somali border town of El Wak learned that lesson the hard way.

The town capitulated when al-Shabaab took control of their community in late 2008, residents told Human Rights Watch.⁴⁵ As one man summed it up, “They came and we just

⁴² Human Rights Watch interview with A.A., Ifo refugee camp, October 13, 2009. The farmer was visiting a relative in the refugee camps but intended to return to Mayonde.

⁴³ Human Rights Watch interview with M.D., Ifo refugee camp, October 19, 2009.

⁴⁴ Human Rights Watch interviews with Somali refugees and civil society leaders, Dadaab refugee camps and Nairobi, October 2009.

⁴⁵ Human Rights Watch interviews with a group of residents from El Wak, Somalia, conducted across the border in El Wak, Kenya, February 16, 2009.

handed over to them. We just stayed quiet. If they tell us to follow a certain path, we follow it.... Anybody who does not follow their beliefs they call a traitor and he should be killed.”⁴⁶

But residents said that popular discontent began building in response to al-Shabaab’s bans on activities such as chewing *qat*—a mild stimulant that is used throughout Somalia—and on women working in public places.⁴⁷ One day in December 2008, angry residents began pelting al-Shabaab fighters with stones. The fighters responded by shooting and beating the protesters. Witnesses said that eight demonstrators died from their wounds.⁴⁸

Residents from many other communities described living in a state of constant fear as al-Shabaab members, their identities often hidden by masks or headscarves, patrolled streets, burst into homes, and dispatched spies seemingly everywhere. “They will even find six-year-olds to use as informers who report back that, ‘So-and-So was smoking,’ ‘So-and-So has a television in his house,’ ‘So-and-So was seen with a woman,’” an 18-year-old who left the southern port city of Kismayo in June 2009 told Human Rights Watch.⁴⁹

One young man said he could not even tell his closest friends about his opposition to al-Shabaab “because those same friends could use that information against you.”⁵⁰

Some Somalis were afraid to even walk near al-Shabaab members on the street. “If you look too intently at what they are doing they might harm you, and if you run away too fast they might harm you, too. You have to think very cleverly,” said an 18-year-old woman who fled the al-Shabaab-controlled neighborhood around the Livestock Market in Mogadishu in October 2009.⁵¹

Arbitrary Interference with Privacy, Family, Home, and Expression

Al-Shabaab exerts enormous control over personal lives and devotes remarkable energy to policing and penalizing conduct that it deems idle or immoral. Almost no detail is too minute to escape the group’s scrutiny. In many areas, al-Shabaab administrators have banned

⁴⁶ Human Rights interview with a resident of El Wak, February 16, 2009.

⁴⁷ *Qat* chewing is widespread in Somalia. The Islamic Courts Union banned *qat* in 2006, when al-Shabaab and the current transitional President Sharif were still members, but the decree has been far more widely enforced since al-Shabaab’s sweep of south/central Somalia in 2009.

⁴⁸ Human Rights Watch interviews with El Wak residents, February 16, 2009.

⁴⁹ Human Rights Watch interview with A.D., location withheld, October 24, 2009.

⁵⁰ Human Rights Watch interview with I.M., location withheld, October 25, 2009.

⁵¹ Human Rights Watch interview with F.D., Nairobi, October 23, 2009.

public gatherings, dancing at weddings, musical ringtones on cell phones, western music, and movies. They have outlawed *qat* chewing and cigarette smoking. They have barred men from shaving their beards and moustaches, or wearing long hair or long trousers. They have refused to allow people on the streets during prayer times.

In many areas, al-Shabaab patrols break up public gatherings, no matter how small, unless they are the organizers. Frequently, al-Shabaab justifies the dispersals on the grounds that participants are engaged in “idle” or “useless” activity, a concept that is arbitrarily applied and often includes everything from playing soccer to talking among friends. “If they find a group of people talking, they may just beat them and tell them to go and do something useful,” said one man from the border village of El Wak.⁵²

One young man from Kismayo said he watched an al-Shabaab patrol throw a group of teenage boys in jail one evening for playing Scrabble:

They said this was idle activity. They took them away and jailed them overnight and shaved some of their heads with a razor blade or a broken bottle. One of them was injured from the shaving. They won’t even let people gather to listen to the BBC, or to smoke tobacco.⁵³

Another apparent motive for dispersing groups is to suppress potential dissent. “Al-Shabaab believe they are on a mission from God and therefore only they have the right to rule,” a civil society leader told Human Rights Watch. “You have no right to talk about politics. You have no right to exercise your values and beliefs.”⁵⁴

Human Rights Watch also interviewed many people who were beaten, detained, or threatened simply because al-Shabaab members objected to their appearance or the contents of their cell phones.

Rough head shavings are the common punishment for young men whose hair styles al-Shabaab militiamen deem to be western or overly long. A 19-year-old father of three, who was disabled and lost his wife in crossfire during the Ethiopian intervention in Mogadishu, described how al-Shabaab stopped him to forcibly cut his hair as he fled the capital in September 2009.

⁵² Human Rights Watch interview with a resident of El Wak, February 16, 2009.

⁵³ Human Rights Watch interview with M.O., location withheld, October 25, 2009.

⁵⁴ Human Rights Watch interview with A.M., Nairobi, October 25, 2009.

I was flogged because of my hair, which was too long. There were a number of us. They used scissors to cut our hair but they cut chunks out of it so you would look very ugly. On purpose, to humiliate us. Most of us were teenagers. Some of the others were even shaved with broken pieces of bottles.

There were numerous al-Shabaab checkpoints. They stop the car, look inside, look at how people are dressed as well as what they are carrying. If they see a tape of music they will break it there and then. On your mobile phone if they find pictures of someone who has a uniform or near a government building, they can shoot you.⁵⁵

An 18-year-old woman from the livestock market area of Mogadishu described how an al-Shabaab gunman searched the contents of her cell phone.

If 50 percent of the information in your phone is what they call filthy, like western music, they will smash the phone to pieces. Once [in May 2009], al-Shabaab checked my phone. I had western music, Somali music, some photos. They said the good contents were greater than the filthy contents so I was just told: “Next time, no more filthy things.”⁵⁶

In the sprawling camps for internally displaced people along the Afgooye corridor, a widower said al-Shabaab gunmen threatened to kill him in September 2009 if he didn’t stop tucking in his shirt, a custom they criticized as western.⁵⁷

Freedom of Conscience, Religion, and Education

One of al-Shabaab’s strictest rules involves the imposition of mandatory prayer. No excuse is acceptable for appearing in public rather than going to mosque during the five daily prayer times, even for the infirm and the elderly, many refugees told Human Rights Watch. A young man from Kismayo said:

I saw a woman walking down the street at prayer time who looked as if she were about 70 years old. A boy young enough to be her grandson whipped her [for not being in the mosque].⁵⁸

⁵⁵ Human Rights Watch interview with D.G., Ifo refugee camp, October 19, 2009.

⁵⁶ Human Rights Watch interview with F.D., October 23, 2009.

⁵⁷ Human Rights Watch interview with M.G., Ifo refugee camp, October 16, 2009.

A man from the Medina neighborhood of Mogadishu said al-Shabaab jailed him for three days in Daynile, an al-Shabaab stronghold, beat him with a whip made of tire rubber, and shaved his head for not going to the mosque one Friday morning. He said he was seated by the wall of a shop:

“Why are you here?” they asked. I said it is not yet time for prayers. They said, “Stand up.” They realized my trousers were long so one of them cut them short with scissors. And they shaved my head. They used a razor blade, forcibly shaving me. I sustained some cuts on my head. Then I was imprisoned in a shipping container and whipped several times. In the middle of the night, someone came with a cold bucket of water and said, “Don’t sleep, wake up!” and threw the water on me.

The man said he was not taken to any kind of court:

A fine is what they usually impose. For not praying I had to pay 300,000 shillings [roughly US\$10]. If the case is not that serious they take you to the container area and present you to the emir [local al-Shabaab commander].... It can take time. In my case it took three days before I could see him.⁵⁹

Al-Shabaab members from late 2008 through 2009 have frequently committed violence against Sufism, the mystical strain of Islam to which Somalis traditionally adhered. Sufism includes practices such as the worship of clerics’ tombs that are considered idolatry under Wahhabism, the austere form of Islam that al-Shabaab embraces.⁶⁰ Al-Shabaab has desecrated Sufi tombs in southern communities including Kismayo. Its fighters also have raided mosques during Sufi rites, and killed Sufi clerics, government officials, and militiamen, according to media and foreign government reports.⁶¹ Since many targets are also political or military rivals such as members of the armed Sufi group Ahlu Sunna

⁵⁸ Human Rights Watch interview with I.M., October 25, 2009.

⁵⁹ Human Rights Watch interview with K.M., Hagadera refugee camp, October 14, 2009.

⁶⁰ Wahhabism, which originated in Saudi Arabia, spread to Somalia in the 1970s and 1980s, and was espoused by militia-backed groups that filled the vacuum after the Somali government collapsed in 1991. See International Crisis Group, “Somalia’s Islamists,” Africa Report No. 100, December 12, 2005, <http://www.crisisgroup.org/home/index.cfm?id=3830> (accessed February 25, 2010).

⁶¹ See US State Department, Bureau of Democracy, Human Rights, and Labor, “International Religious Freedom Report—2009: Somalia,” October 26, 2009, <http://www.state.gov/g/drl/rls/irf/2009/127255.htm>, and Abdi Sheikh, “Shabaab rebels destroy grave and mosque in Somalia,” Reuters, October 19, 2009, <http://www.reuters.com/article/idUSTRE5911HQ20091019> (both accessed December 29, 2009).

Waljamaca, Human Rights Watch has been unable to determine to what extent religion played a role in these attacks.⁶²

Al-Shabaab has also used religion as a basis for restricting the right to education. One leader warned the country's few operating schools against using text books provided by the UN Educational, Scientific and Cultural Organization (UNESCO), which it described as "un-Islamic."⁶³ In March 2010, al-Shabaab reportedly banned English and science studies in schools in the southern Afmadow town; it described English as the language of western spies.⁶⁴

Discrimination and Abuse against Women

While all Somalis living under local al-Shabaab administrations cope with onerous and repressive edicts, women bear the brunt of the group's repression and abuse. Somali women already faced serious discrimination, but al-Shabaab's rules have reinforced traditional and cultural prejudices while introducing an array of new ones.⁶⁵

In one of al-Shabaab's most far-reaching edicts, some of its leaders have ordered women to wear a particularly thick and bulky type of *abaya*, a traditional form of Islamic over-gown that covers everything but the face, hands, and feet.⁶⁶ Al-Shabaab has also barred women from commerce or other activities that bring them into contact with men. In most al-Shabaab-controlled areas, for example, women are no longer allowed to operate tea stands or other shops, denying them a vital source of income. In some areas, women are also not allowed to watch their sons play soccer or walk to the market with a man, even if he is a relative.

⁶² "Somalia Sufi forces organize to fight Shabaab," Agence France-Presse, November 5, 2009, <http://www.alarabiya.net/articles/2009/11/05/90325.html> (accessed February 9, 2010).

⁶³ The TFG rebuffed the September 2009 decree, but its protest carries virtually no weight since its control is limited to a small area of Mogadishu. Al-Shabaab has sought to instill students with military as well as religious beliefs, and employed unusual means to do so at a school in Kismayo. In October 2009 members of the group reportedly handed out AK-47 assault rifles, hand grenades, and an anti-tank mine along with office supplies to winners of a quiz on the Quran and Somali geography. Media quoted an al-Shabaab representative as saying the aim was to make young men focus on defending their country. See "Minister Rejects Al-Shabab's Education Warning," *IRINnews*, September 22, 2009, <http://www.irinnews.org/Report.aspx?ReportId=86241>, and "Guns given to Somali quiz winners," *BBC News Online*, October 17, 2009, <http://news.bbc.co.uk/go/pr/fr/-/2/hi/africa/8312447.stm> (both accessed November 28, 2009).

⁶⁴ Sahra Abdi, "Somali Islamist rebels ban English, science lessons," Reuters, March 5, 2010, <http://www.reuters.com/article/idUSTRE6241E520100305> (accessed March 11, 2010).

⁶⁵ Human Rights Watch interviews with Somali civil society leaders, Nairobi, October 21-28, 2009.

⁶⁶ *Abayas* are common attire for women in some parts of the Muslim world, and are required in Saudi Arabia. Some conservative Muslims believe women should wear the *abaya* to respect God's call in the Quran, the Islamic holy book, to "draw their cloaks close round them" and "guard their modesty." However, there is no universal consensus among Muslims regarding their use.

“We lived in depression and fear,” said one woman who fled the southern border town of Dhobley in July 2009. “I used to be able to walk and work freely,” she told us. But once al-Shabaab took over “I felt like I was in a jail.”⁶⁷

Restrictions on Women’s Dress

In the second quarter of 2009, as al-Shabaab consolidated its hold on south/central Somalia, its local authorities began requiring women to be fully veiled in public.⁶⁸ Over the next few months, many leaders added the additional stipulation that women wear an *abaya* made of a particularly thick cloth and that touches the ground and hides all physical contours.

These orders were a dramatic departure for many Somali women, who traditionally cover their heads and bodies, but often with lightweight, colorful fabrics that they wrap around themselves loosely.

One former al-Shabaab fighter described how he would patrol the neighborhoods of Kismayo in August and September 2009 and punish women in lighter-weight *abayas* or traditional Somali clothing. First, he said, they would slash the woman’s clothes with a knife or scissors. Afterwards, he continued, “We would whip her for a while to feel the pain and then take her to the nearest emir [local al-Shabaab commander] to decide punishment.”⁶⁹

A woman from Kismayo told Human Rights Watch that in mid-2009 an al-Shabaab patrol beat her in a market and jailed her overnight for wearing the lighter-weight *abaya* even though the heavier garment hurt her head and shoulder, which had been wounded by shrapnel in 1992. “They called out, ‘God is great!’ and started...hitting me with the butts of their guns,” she recalled. “I told them I could not bear the heavy clothes because of my injuries but they would not listen.”⁷⁰

The *abaya* decrees have severely hampered freedom of movement for women who simply cannot afford the expensive, imported garments. Many poor women have had to share one *abaya* across an entire family or group of households, meaning that only one of them can

⁶⁷ Human Rights Watch interview with F.M., Hagadera refugee camp, October 14, 2009.

⁶⁸ US State Department, Bureau of Democracy, Human Rights, and Labor, “International Religious Freedom Report - 2009: Somalia,” October 26, 2009, <http://www.state.gov/g/drl/rls/irf/2009/127255.htm> (accessed March 10, 2010).

⁶⁹ Human Rights Watch interview with M.U., Kenya, location withheld, October 28, 2009.

⁷⁰ Human Rights Watch interview with F.G., Ifo refugee camp, October 15, 2009.

leave the home at any given time. A woman farmer who in October 2009 had fled a farm near Jilib, a town 60 miles (96 kilometers) north of Kismayo, explained the dilemma:⁷¹

They realize that when we are in the fields we cannot [dress] like this, but when going to and from the farms we must wear [the *abaya*]. If they find you without one, they will beat and flog you. This happened to me two months ago. I was standing in front of my compound. When I saw them with whips and guns I rushed back inside. But a man chased me and whipped me three times. He used a stick from a *marer*[a berry tree]. He said, “Why are you not wearing a hijab?” I said, “I cannot afford it.” He said, “That is not possible, get into your house.” So you either have to have it or stay in your house, hungry.

In some areas, al-Shabaab militiamen have threatened men over their wives’ or daughters’ attire. In the Media neighborhood of Mogadishu, one husband was given the choice in September 2009 of being flogged or watching his wife be flogged after she rushed out of her house uncovered to grab her young son, who had wandered into the street. The woman described the ordeal:

An al-Shabaab patrol saw me. I told them, “I am running after my child and you cannot arrest me—I have another child in the house.” One of them slapped me and told me to walk. I told them, “Since I am not dressed decently, let’s pass through back roads to the station.” One of them slapped me again and said, “Walk! This is how you have decided to dress.” One of them hit me with a whip.⁷²

The woman’s husband brought her an *abaya* at the location where she was being held in a shipping containers used as a cell.

It was thrown to me and I was told to dress inside the container. My husband was then asked, “Are you going to take the 10 lashes normally prescribed for women who are supposed to wear the *abaya*?” He refused and they said, “Okay, then your wife will take it.” A young man gave me 10 lashes with the whip. He beat me so much that I felt heat and pain throughout my body. He

⁷¹ Human Rights Watch interview with A.H., Dagahaley refugee camp, October 17, 2009.

⁷² Human Rights Watch interview with wife of M.K., Hagadhera refugee camp, October 14, 2009.

was raising his hand back and counting, “One, two, three, four, five....” It felt so painful that if I had a gun I would have killed that man.⁷³

One man from a small town in the southern region of Lower Shabelle said al-Shabaab authorities in August 2009 repeatedly whipped his wife and two of his four daughters, then jailed them and threatened to jail him, because he could only afford one *abaya* for them and it was not of the exact type women had been told to wear. “They said, ‘If your husband cannot provide for you, let him come to jail and provide for you there,’” said the driver, who instead fled while village elders arranged for his female relatives’ release.⁷⁴

Women are also targeted with sporadically applied decrees that appear to underscore the arbitrary power and impunity of some local leaders rather than a coordinated policy. Only in some areas, for example, did al-Shabaab order women to don gloves and socks, a common addition to the *abaya* in conservative countries such as Saudi Arabia. Similarly, in some neighborhoods of Mogadishu, Kismayo, and Bardheere, a few women told us al-Shabaab had banned bras because they considered them a “western deception.”⁷⁵ But this did not appear to be a uniform mandate, despite widespread media coverage.⁷⁶

Some women who were devout Muslims and already wore *abayas* told us they initially had welcomed the dress codes, particularly those who had been criticized for wearing the *hijab* by troops from neighboring Ethiopia who were bolstering the TFG. But soon, these women said, they felt as if they had been yanked from one extreme to the other.⁷⁷

Ban on Commercial Activity

Somali women have traditionally engaged in a wide array of small-scale businesses such as selling tea, *qat*, and fruit in kiosks, small shops, and markets. But al-Shabaab administrations have ordered women to close their shops. As one resident of a southern village explained, “Al-Shabaab said this is social mixing [with men].”⁷⁸ These discriminatory

⁷³ Ibid.

⁷⁴ Human Rights Watch interview with M.D., Ifo refugee camp, October 19, 2009.

⁷⁵ Human Rights Watch interviews, Ifo refugee camp, October 15, 2009 and October 18, 2009, and Dagahaley refugee camp, October 17, 2009.

⁷⁶ The bra bans received widespread media coverage. See, for example, Abdi Sheikh, “Somali Islamists whip women for wearing bras,” Reuters, October 16, 2009, <http://af.reuters.com/article/oddlyEnoughNews/idAFTRE59F1K420091016> (accessed October 17, 2009).

⁷⁷ An unmarried 18-year-old woman from the Wardigle sector of Mogadishu said she initially welcomed the opportunity to wear an *abaya* without being ostracized, but became angry after a local al-Shabaab leader also ordered her to wear a different style of socks than married women. Human Rights Watch interview with A.O., Nairobi, October 24, 2009.

⁷⁸ Human Rights Watch interviews with residents of El Wak, February 16, 2009.

bans have profoundly curtailed women's rights to freedom of movement and to earn a living. In a country with a vast number of war widows and female-headed households, with scarce employment options, they also have left many families without crucial sources of income.

Several refugees told us that al-Shabaab enforcers did not hesitate to punish working women who were infirm, elderly, or pregnant, or who had lost all other breadwinners in the conflict.

A woman from Kismayo recounted that she was in her third term of pregnancy when al-Shabaab members whipped her in August 2009 for selling tea. They did not appear to care that al-Shabaab had previously abducted her husband and two brothers.

They said, "Your husband is supposed to be your provider." I replied, "You have kidnapped my husband. How is he supposed to provide for me?"....They whipped me twice, even though I told them that if the child develops a problem they would be responsible. They broke all the cups and thermoses.... I fled two nights later.⁷⁹

Some women said they were fortunate to get off with warnings. But a 22-year-old tea vendor from Kismayo said seven al-Shabaab militiamen broke her wrist and beat her unconscious while jailing her for two days in July 2009.⁸⁰

Al-Shabaab has reserved some of its harshest treatment for women who commit what it considers the double transgression of selling tea or other goods to alleged TFG sympathizers. In the Hawlwadaq neighborhood of Mogadishu, one woman said al-Shabaab gave her 185 lashes over the course of a week in jail in December 2008 after accusing her of that "crime." The woman said she had no other means to support her disabled husband, five children, and four war-orphaned nephews.⁸¹

In November 2009, al-Shabaab insurgents reportedly closed three grassroots women's organizations in the southern border town of Balad Hawa, saying that Islam does not allow women to go to offices.⁸²

⁷⁹ Human Rights Watch interview with F.K., Nairobi, October 24, 2009.

⁸⁰ Human Rights Watch interview with N.M., Ifo refugee camp, October 13, 2009.

⁸¹ Human Rights Watch interview with N.A., Nairobi, October 23, 2009.

⁸² "Somali rebels close women's organizations," Reuters, November 2, 2009, <http://af.reuters.com/article/somaliaNews/idAFL228139520091102?sp=true> (accessed March 11, 2010).

Segregation from Men

In addition to barring women from working in public places, al-Shabaab has imposed more general rules that segregate males and females outside the home. A 19-year-old refugee described life in Kismayo before he left in October 2009: “You cannot even go to the market with a woman, even if she is your sister. Girls and boys can no longer share the same class at school. But most people are too scared to go to school anyway.”⁸³

A 19-year-old woman from Kismayo told Human Rights Watch that an al-Shabaab patrol jailed her overnight for sitting outside her house one evening in July 2009 and chatting with a young man who was a neighbor.

They said, “You are a woman, you are not allowed to sit close to a man in public.” I said, “We have the right to associate with whom we please.” They shouted at me and threatened me all the way to the station house.⁸⁴

When women travel, they are often required to have a male escort. A 17-year-old girl said that in August 2009, an al-Shabaab patrol pulled her from a passenger van in the town of Bulo Haji, near the Kenya border, and flogged her and several other women who were not traveling with men.

They beat me on the back with a horsewhip. It hurt so much I thought I was dying. I was begging and crying for mercy. One of them said, “This is your reward for not going with a *muhrim* [male escort].”⁸⁵

Male escorts must sit in a different seat if the woman is traveling in a vehicle, however, as al-Shabaab bars men and women from sitting together. Several women told us they were warned by bus drivers that they would be flogged if they were caught sitting beside a man.

Amputations and Executions

Al-Shabaab’s system of justice is harshest on those it accuses of crimes that holy Islamic texts single out for specific punishments. These include theft (punishable by amputation),

⁸³ Human Rights Watch interview with D.M., Ifo refugee camp, October 18, 2009.

⁸⁴ Human Rights Watch interview with A.U., Nairobi, October 25, 2009.

⁸⁵ Human Rights Watch interview with N.G., Nairobi, October 25, 2009.

extra-marital sex (punishable by death or flogging), and apostasy or renunciation of Islam (punishable by death).⁸⁶

Not all governments or non-state groups that adopt Sharia as a legal system implement these punishments, which violate international law. Stoning, flogging, amputations, and other forms of corporal punishment violate international legal prohibitions on cruel, inhuman, and degrading punishments.⁸⁷ Imposing capital punishment for such crimes as extra-marital sex in states that have yet to abolish the death penalty also violates international law.⁸⁸ Human Rights Watch opposes the death penalty in all circumstances because of its inherent cruelty and finality.

In many areas of Somalia, al-Shabaab leaders have not only embraced amputations and executions but turned them into mandatory public spectacles. In many cases, the alleged offenders receive scant or no due process.

Refugees from Mogadishu, Kismayo, and Bardheere described al-Shabaab gunmen driving around in pickup trucks and ordering them to attend the amputation of an alleged thief's hand or foot.

⁸⁶ These punishments can be found in the Quran and *hadiths*.

⁸⁷ See ICCPR, <http://www1.umn.edu/humanrts/instree/b3ccpr.htm>, art. 7 (prohibiting the use of torture and ill-treatment as a form of punishment) and Convention Against Torture, <http://www1.umn.edu/humanrts/instree/hzcatoc.htm>, art. 16 (prohibiting the use of torture and ill-treatment as a form of punishment). With regard to corporal punishment, the Committee against Torture (CAT) in 2002 concluded that “the sentencing to, and imposition of, corporal punishments by judicial and administrative authorities, including, in particular, flogging and amputation of limbs, are not in conformity with the Convention [against Torture]. CAT, “Consideration of Reports Submitted by States Parties Under Article 19 of the Convention, Conclusions and Recommendations of the Committee Against Torture, Saudi Arabia,” CAT/C/CR/28/5, December 6, 2002, [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CAT.C.CR.28.5.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CAT.C.CR.28.5.En?Opendocument) (accessed April 9, 2010), sec. 4(b). In 2006, the CAT concluded that flogging and stoning was a breach of the convention. CAT, “Consideration of Reports Submitted by States Parties under Article 19 of the Convention, Conclusions and Recommendations of the Committee Against Torture, Qatar,” CAT/C/QAT/CO/1, July 25, 2006, [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CAT.C.QAT.CO.1.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CAT.C.QAT.CO.1.En?Opendocument) (accessed April 9, 2010), sec. 12. Various UN special rapporteurs on torture have also raised objections to corporal punishment. The special rapporteur in his 2005 report to the General Assembly concluded that “any form of corporal punishment” is contrary to the prohibition of torture and other ill-treatment, and that states cannot invoke domestic law to justify their violation of international legal obligations. United Nations General Assembly, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, A/60/316, August 30, 2005, <http://www.unhcr.org/refworld/docid/43f30fb40.html> (accessed April 9, 2010), sec. 28. Regional human rights bodies have reached similar conclusions. See Manfred Nowak and Elizabeth McArthur, *United Nations Convention Against Torture*, (New York: Oxford University Press, 2008), art. 16, para. 54.

⁸⁸ See the ICCPR, <http://www1.umn.edu/humanrts/instree/b3ccpr.htm>, art. 6(2). (“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.... This penalty can only be carried out pursuant to a final judgement rendered by a competent court.”) There is a legal trend towards abolition of the death penalty as reflected in the many states that have abolished the punishment and that have ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (1989). See Nowak and McArthur, *United Nations Convention Against Torture*, article 16, paras. 56-59.

“If a thief steals something, his hand is chopped. If he tries again, the other hand will be chopped. The hand chopping is rare but when it happens they announce it with a loudspeaker ... to mobilize people to come see how people are punished,” said one woman who fled Baahdeere in October 2009. “Even the children hear it.”⁸⁹

An 18-year-old man described an amputation in Kismayo before he fled in October 2009:

Every Friday after prayers, the al-Shabaab would converge near the hospital. They would call the public and give lectures and try to recruit the youth.... That was where they called a large crowd to witness an amputation. As usual, they had announced earlier in the mosques that “There will be a person punished today.” They said the man was a bandit and would be brought to full justice. They did not say what he had stolen. The men in the open area were wearing masks. They stretched the man's hand until they pulled the joint apart and cut it off with a sword.⁹⁰

The man said he averted his gaze when the al-Shabaab members cut off one of the man's feet.

Refugees in Kismayo and Mogadishu also described seeing amputated hands and legs of alleged thieves or spies hanging from public areas in al-Shabaab-controlled areas, such as the doorways of a police compound or a market.

According to independent media and civil society groups, al-Shabaab has stoned to death at least three people since late 2008 for allegedly committing adultery. In one case, in November 2008, al-Shabaab drew hundreds of spectators to a soccer stadium in Kismayo to watch its enforcers stone to death an alleged female adulterer. The victim's age has not been confirmed; some reports say she was as young as 13 while others say she was an adult.⁹¹

In the village of Wajid, about 250 miles (400 kilometers) northwest of Mogadishu, al-Shabaab reportedly stoned to death a divorcee in November 2009 for having an affair with

⁸⁹ Human Rights Watch interview with F.A., Ifo refugee camp, October 13, 2009.

⁹⁰ Human Rights Watch interview with H.D., Nairobi, October 25, 2009.

⁹¹ Refugees who were in Kismayo at that time but did not see the stoning also gave Human Rights Watch varying age estimates. Human Rights Watch interviews with Somali refugees from Kismayo, Dadaab refugee camps, and Nairobi, October 2009.

an unmarried man. The man was reportedly given 100 lashes.⁹² The same month, media reported that al-Shabaab stoned a man to death for adultery in the port of Merka, south of Mogadishu. Al-Shabaab announced it would execute the man's pregnant girlfriend after she gives birth.⁹³

⁹² "Somali woman stoned for adultery," *BBC News Online*, November 18, 2009, <http://news.bbc.co.uk/2/hi/8366197.stm> (accessed December 23, 2009).

⁹³ *Ibid.*

Civilians Trapped in the Middle: Violations of International Humanitarian Law

We heard the Ethiopians were leaving and we were hopeful there would be peace in the city. But this has become even worse. This is not based on clan. This is not two governments fighting. This is fighting based on new names and ideologies. We do not know where the head or the tail of it is. In Mogadishu you can find within two kilometers two factions wearing the same thing but [with] different ideas. That confuses us—who should you go to and who should you fear?

—Somali refugee who fled Mogadishu in mid-2009⁹⁴

Somali civilians have borne the brunt of loss of life and property from the fighting of the past three years. This is especially true in Mogadishu, where the major parties to the conflict have carried out numerous indiscriminate attacks and other violations of international humanitarian law (the laws of war) with terrible consequences for the civilian population. Al-Shabaab and Hizbul Islam forces have also frequently threatened civilians or conducted targeted killings. All sides have recruited children into their ranks. The often unrestrained violence has driven hundreds of thousands of people from their homes in the hopes of finding safety elsewhere in Somalia or abroad.

Indiscriminate and Other Unlawful Attacks

Mogadishu has been the primary theater of open warfare in Somalia, though fighting has also exacted a heavy toll on civilians in other conflict areas in south/central Somalia. In early 2009 tens of thousands of Somalis who had been displaced by fighting began returning to their homes in Mogadishu, hopeful of the possibility of peace. But after a brief lull, fighting began anew and has continued ever since. Violations of the laws of war, which apply to both national armed forces and non-state armed groups, have persisted in the Somali capital since 2007 and continue through the present. The following pages describe the patterns of these violations.⁹⁵

⁹⁴ Human Rights Watch interview with D.D., Dagahaley refugee camp, October 17, 2009.

⁹⁵ Many of these laws-of-war violations have been documented in previous Human Rights Watch reports. See Human Rights Watch, *Shell Shocked* and Human Rights Watch, *So Much to Fear*.

Indiscriminate Attacks

All parties to the conflict in Somalia have conducted numerous mortar attacks against enemy forces in densely populated areas of Mogadishu without regard for the civilian population, causing a high loss of civilian life and property. The laws of war prohibit attacks that are indiscriminate; that is, attacks that are not directed—or use a method or means of attack that cannot be directed—at a specific military target, and are likely to strike military targets and civilians without distinction. Indiscriminate attacks include bombardments that treat as a single military target a number of clearly separated and distinct military targets in a populated area.⁹⁶

While mortars can be highly accurate weapons if guided to their targets by spotters or guidance systems, none of the warring parties in Mogadishu have employed such methods. Opposition armed groups have indiscriminately fired mortar rounds in the general direction of TFG or AMISOM installations in southern Mogadishu. TFG and AMISOM forces sometimes respond in kind, directing mortar rounds towards the general area they take fire from or simply bombarding areas such as Bakara Market that are opposition strongholds. Such attacks, while of limited military value, cause considerable loss of civilian life and property damage—and have done so for the past three years.

During fierce fighting early in 2010 a Médecins Sans Frontières-supported hospital in Mogadishu's opposition-controlled Daynile neighborhood treated 89 people for blast injuries from indiscriminate shelling in just five days—including 52 women and children.⁹⁷

In late 2009 Human Rights Watch interviewed about 15 civilians from Mogadishu who were victims of or witnesses to indiscriminate mortar attacks during the year. Their accounts echo others previously gathered by Human Rights Watch from people who suffered similar attacks in 2007 and 2008. One 14-year-old boy from Mogadishu's Medina neighborhood told Human Rights Watch that he fled the city with strangers after his family was killed by a mortar shell in late September 2009:

One day when I came home from *duksi* [Quranic school] I found our house had been hit by a [mortar shell]. The house was pulverized. My mother and

⁹⁶ See International Committee of the Red Cross (ICRC), *Customary International Humanitarian Law* (Cambridge, UK: Cambridge University Press, 2005), rules 11-13, citing First Additional Protocol of 1977 to the Geneva Conventions (Protocol I), arts. 51(4)-(5).

⁹⁷ “52 women and children injured by indiscriminate shelling admitted to Daynile hospital,” Médecins Sans Frontières article, February 3, 2010, http://msf.org/msfinternational/invite.cfm?objectId=93C50769-15C5-F00A-25CF88378425ACDB&component=toolkit.article&method=full_html (accessed February 9, 2010).

father were killed. I think my four brothers were killed as well—I saw pieces of their hands and legs near the part of the house that we used for resting. I am in such shock I barely know who I am.⁹⁸

The same boy had been injured by another mortar strike that killed three of his friends just a month earlier.⁹⁹

A 36-year-old man told Human Rights Watch that his parents died in front of him when mortar fire hit his house one evening in early 2009. The house was near Villa Baidoa, which is Somalia's former presidential residence and an important TFG military installation that has been repeatedly attacked in recent years.¹⁰⁰ Days earlier his neighborhood had been covered in leaflets attributed to al-Shabaab that warned residents to relocate or risk being caught in a forthcoming attack.¹⁰¹ In addition to the death of his parents from the attack, he lost his left leg below the knee:

At around six-thirty one night our house was hit with one of these weapons. We were seated outside on a mat and it fell just some meters from us. My mother and father were closer to it. They were immediately cut to pieces [and killed]. I rushed to help and a second one fell into the compound. It hit the wall and injured me. Half of my leg was in pieces. Neighbors rushed into the compound and I was rushed to Medina hospital in a wheelbarrow.¹⁰²

Like many longtime residents of Mogadishu interviewed by Human Rights Watch, he was able to identify the weapon that destroyed his home as a mortar round because of his long experience living in a war zone. "I have been living in Mogadishu for 20 years and this is an everyday occurrence for us," he said. "I know they were mortars because of how they look and how they sound." He went on to correctly describe the telltale signs that distinguish mortar from rocket or artillery fire. "It goes up and then it falls down. It has no sound as it

⁹⁸ Human Rights Watch interview with O.K., Ifo refugee camp, October 19, 2009.

⁹⁹ Ibid.

¹⁰⁰ Villa Baidoa used to be the official residence for Somali prime ministers. It often serves as a base of operations for top TFG military officials.

¹⁰¹ The laws of war require parties to a conflict, when circumstances permit, to give effective advance warning of attacks that may affect the civilian population. See ICRC, *Customary International Humanitarian Law*, rule 20, citing Protocol I, art. 57(2)(c).

¹⁰² Human Rights Watch interview with H.M., Ifo refugee camp, October 16, 2009.

moves but you can see it in the air at night. There is no sound until it falls and then it hits with a very loud bang and shakes the entire area.”¹⁰³

Deploying in Densely Populated Areas and “Human Shielding”

Mortar attacks by al-Shabaab and other opposition armed groups often follow a common pattern. Fighters drive to a firing location, hastily assemble the weapons and then lob one or more rounds in the vague direction of TFG and AMISOM installations.¹⁰⁴ They then immediately pack their weapons and flee. While the mortar attacks appear to rarely strike their target, they subject the civilians in the firing location to a counter-attack.¹⁰⁵ In many cases it appears that part of the reason opposition forces launched attacks from civilian areas was to attract indiscriminate counter-attacks from the other side that would kill civilians and thereby generate useful propaganda.¹⁰⁶

The laws of war require parties to a conflict to take all feasible precautions to protect civilians under their control against the effects of attacks.¹⁰⁷ This includes avoiding locating military objectives within or near densely populated areas.¹⁰⁸ Warring parties must endeavor to remove civilians from the vicinity of military objectives.¹⁰⁹

In those instances where forces deliberately use civilians to render military targets immune from attack, they are committing shielding, a serious violation of the laws of war.¹¹⁰ Human Rights Watch has previously reported on shielding by armed groups in Somalia.¹¹¹ Hassan Dahir Aweys, a prominent leader of Hizbul Islam, acknowledged his fighters’ use of civilians to protect their forces from attack in a September 2009 interview with the Voice of America.

¹⁰³ Ibid. See also Human Rights Watch, *So Much to Fear*.

¹⁰⁴ Human Rights Watch interviews with witnesses to mortar attacks by opposition fighters, civil society leaders, and AMISOM officials, Nairobi and Dadaab, October 2009. See also *So Much to Fear*, pp. 64-66.

¹⁰⁵ In the past two years only a handful of reported opposition mortar strikes actually struck possible military targets under TFG or AMISOM control—the airport, Villa Somalia, and the seaport.

¹⁰⁶ See Report of the UN Monitoring Group on Somalia, S/2010/91, March 10, 2010, [http://www.reliefweb.int/rw/RWFiles2010.nsf/FilesByRWDocUnidFilename/MUMA-83N2WN-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2010.nsf/FilesByRWDocUnidFilename/MUMA-83N2WN-full_report.pdf/$File/full_report.pdf), para 35, noting that “In addition to threatening Transitional Federal Government and African Union positions, the use of mortars has proved effective in provoking retaliatory and often indiscriminate responses from AMISOM forces—precisely the effect Al-Shabaab hopes to achieve.”

¹⁰⁷ ICRC, *Customary International Humanitarian Law*, rule 22, citing Protocol I, art. 58(c).

¹⁰⁸ Ibid., rule 23, citing Protocol I, art. 58(b).

¹⁰⁹ Ibid., rule 24, citing Protocol I, art. 58(a).

¹¹⁰ Ibid., rule 97, citing Protocol I, art. 51(7).

¹¹¹ Human Rights Watch documented the use of shielding as an opposition tactic in Mogadishu in 2008. See *So Much to Fear*, pp. 28-29, 64-66.

“The muhajid [holy warrior] is like a fish ... the population is his water,” Aweys said. “The population acts like a shield and we operate out of them.”¹¹²

Human Rights Watch interviewed a young woman from Mogadishu’s livestock market area who said that al-Shabaab fighters fired mortar rounds from her family’s compound several times, forcing her and her relatives into two back rooms while they fired. “They would come, fire, and move on,” she recalled. “When the return fire [from AMISOM or TFG forces] came, the Al-Shabaab had already left. We would run [outside] in case our house got hit. I was terrified.”¹¹³

Indiscriminate Attacks by TFG and AMISOM Forces

Unlawful deployments of opposition forces within civilian areas do not permit TFG and AMISOM forces free rein to conduct retaliatory attacks. The obligation to respect international humanitarian law does not depend on reciprocity by belligerent forces.¹¹⁴

TFG and AMISOM officials deny that their forces have conducted mortar attacks that do not discriminate between civilians and military targets but eyewitness accounts belie those claims.¹¹⁵ While residents of areas subject to bombardment usually lack direct evidence as to which side fired, attacks on neighborhoods in northern Mogadishu typically followed mortar attacks fired by opposition forces from those very areas against TFG and AMISOM strongholds in the south of the city. One AMISOM official insisted to Human Rights Watch that al-Shabaab itself conducts the indiscriminate mortar attacks on al-Shabaab-controlled areas to discredit AMISOM forces, but offered no evidence to support this implausible assertion.¹¹⁶

Residents of TFG-held areas of southern Mogadishu told Human Rights Watch that following attacks from opposition-controlled areas they often saw mortar rounds being fired towards northern Mogadishu from TFG or AMISOM installations, including Villa Somalia and the AMISOM base near the airport.¹¹⁷ Both TFG and AMISOM forces are deployed around these

¹¹² “Somali Militant Leader Says Fighting Will Continue Despite Civilian Casualties,” *Voice of America*, September 5, 2009, <http://www1.voanews.com/english/news/a-13-2009-09-05-voa23-68662912.html?rss=politics> (accessed February 11, 2010).

¹¹³ Human Rights Watch interview with F.D., Nairobi, October 23, 2009.

¹¹⁴ ICRC, *Customary International Humanitarian Law*, rule 140.

¹¹⁵ Human Rights Watch interviews with AMISOM, UN, and western diplomatic officials, Nairobi, February and October 2009.

¹¹⁶ Human Rights Watch interview with AMISOM official, Nairobi, October 2009.

¹¹⁷ Human Rights Watch interviews with residents of southern Mogadishu neighborhoods and with Somali civil society activists from Mogadishu, February and October 2009.

locations. But mortar fire coming from the AMISOM base by the Mogadishu airport could only originate with AMISOM forces as no other armed groups are based there.

A resident from an al-Shabaab-controlled area in northern Mogadishu was of the opinion that, “The government and AMISOM do not recklessly fire unless they are attacked or suspect there is an attacker in the neighborhood. But when attacked they hit back and then civilians are injured.”¹¹⁸ A woman who lived in Mogadishu’s opposition-controlled Gubta neighborhood until mid-2009 described the pattern of events that led to many deaths in her neighborhood in 2008 and 2009:

They [al-Shabaab] use mortars. They sit at a specific place, and launch one, five or even 10 mortar rounds. Then they pack and go immediately. We have no way to complain to them [and tell them to stop]. Even if you look at them you can be killed. Now a counterattack comes, without discrimination. One day some of my relatives were buried in their house after a mortar hit a nearby house—three people died there. My house was blocked by the rubble of that house. We had to dig them out.¹¹⁹

While denying that their forces fire mortars indiscriminately, neither AMISOM nor TFG officials have explained any measures their forces take to verify that they are shelling military targets and acting to minimize civilian harm. When Human Rights Watch formally requested that AMISOM indicate whether any such measures were being employed, AMISOM’s response was limited to vague assurances that its forces “are not engaged in such act[s].” AMISOM then noted that “It is a well known fact that the insurgents deliberately launch attacks against AMISOM from densely populated civilian neighborhoods using the civilian population as human shields.” But as noted, laws-of-war violations by one party to a conflict do not justify abuses by the other side.

AMISOM also stated that the training and rules of engagement it employs are designed to minimize harm to civilians. But this, too, says nothing about what specific measures AMISOM has taken, such as using ground-spotters or other means of targeting.¹²⁰ In August 2009 a journalist with the *Los Angeles Times* reported seeing AMISOM troops using sticks

¹¹⁸ Human Rights Watch interview with K.M., Hagadera refugee camp, October 14, 2009.

¹¹⁹ Human Rights Watch interview with D.D., Dagahaley refugee camp, October 17, 2009.

¹²⁰ Letter from Ambassador Boubacar Gaoussou Diarra, Special Representative of the Chairperson of the African Union Commission for Somalia, to Human Rights Watch, February 19, 2010.

and old cigarette packets to direct mortar fire towards opposition strongholds in northern Mogadishu.¹²¹

Counter-battery attacks by AMISOM or TFG forces that are provoked by indiscriminate opposition mortar attacks can be devastating to civilians as well. In December 2008 a private radio station in northern Mogadishu's opposition-controlled Suq Bacad neighborhood was destroyed by a mortar shell just after opposition forces fired a barrage of mortar shells towards the south of the city from that area. Ten civilians were killed in the initial attack by opposition forces. The apparent retaliatory attack that hit the radio station killed one journalist and wounded two others in addition to destroying the station.¹²² The African Union has not provided payments to civilians who are killed, injured, or suffer property damage as a result of AMISOM actions, whether lawful or unlawful. While an armed force is only required to provide redress for the loss or injury caused by a violation of international humanitarian law,¹²³ international military forces in Iraq and Afghanistan provide "condolence" payments to civilian victims of attacks without reference to fault.¹²⁴ Although those civilian compensation systems are flawed, they provide concrete assistance and some measure of emotional redress.¹²⁵ Such a program instituted in Somalia might help to reduce public animosity in the event of AMISOM attacks that cause civilian loss of life and property.

Al-Shabaab Suicide Bombings

On September 18, 2006, Somalia passed a grim milestone with the country's first suicide bomb attack, a failed attempt on the life of then-TFG President Abdullahi Yusuf that reportedly killed six people.¹²⁶ Since then opposition forces have carried out at least a dozen more suicide attacks including five in 2009.

¹²¹ Edmund Sanders, "In Somalia, troops for peace end up at war," *Los Angeles Times*, August 29, 2009, <http://articles.latimes.com/2009/aug/29/world/fg-somalia-peacekeepers29> (accessed February 11, 2010).

¹²² See "Somali radio station and TV satellite destroyed; one dead," Committee to Protect Journalists, December 21, 2009, <http://cpj.org/2009/12/somali-radio-station-and-tv-satellite-destroyed-on.php> (accessed February 11, 2010).

¹²³ ICRC, *Customary International Humanitarian Law*, rule 150.

¹²⁴ "Iraq: US Data on Civilian Casualties Raises Serious Concerns," Human Rights Watch news release, April 11, 2007, <http://www.hrw.org/en/news/2007/04/11/iraq-us-data-civilian-casualties-raises-serious-concerns>.

¹²⁵ See, for example, Human Rights Watch, "Letter to NATO to Investigate Compensation for Civilian Casualties in Afghanistan," April 2, 2009, <http://www.hrw.org/en/news/2009/04/02/letter-nato-investigate-compensation-civilian-casualties-afghanistan>; Campaign for Innocent Victims in Conflict (CIVIC), *Losing the People: The Costs and Consequences of Civilian Suffering in Afghanistan*, February 2009, www.civicworldwide.org/afghan_report; and Human Rights Watch, *Troops in Contact: Airstrikes and Civilian Casualties in Afghanistan*, August 2008, www.hrw.org/reports/2008/09/08/troops-contact-o.

¹²⁶ See Xan Rice, "Somali president escapes car bomb suicide attack," *The Guardian*, September 19, 2006, <http://www.guardian.co.uk/world/2006/sep/19/mainsection.international11> (accessed February 11, 2010).

While suicide attacks are not an unlawful method of attack under international humanitarian law, those in Somalia have almost invariably been unlawful. The bombers frequently target civilians, or do not discriminate between civilians and military targets, or cause disproportionate civilian harm compared to the expected military gain. Even suicide attacks that are directed at military targets are likely to be unlawful because they are carried out by resorting to perfidy: the attacker feigns civilian or other non-combatant status in order to carry out an attack.¹²⁷

Al-Shabaab leaders have claimed responsibility for many of the suicide attacks, which have generally targeted AMISOM personnel or TFG officials but have also killed scores of civilians.¹²⁸

Suicide attacks in 2009 proved highly disruptive to AMISOM and TFG operations, and greatly contributed to the climate of fear in the capital. On February 22, 2009, a suicide bombing killed 11 Burundian soldiers in Mogadishu and wounded 15 more.¹²⁹ On June 18, 2009, a suicide attack on a hotel in the central Somali town of Beletweyne killed TFG Security Minister Omar Hashi Aden along with at least 20 others.¹³⁰ And on September 17, 2009, two vehicles carrying suicide bombers and disguised with UN insignia bypassed security at AMISOM's main base in Mogadishu.¹³¹ Twenty-one people died in that attack including 17 AMISOM personnel, among them the deputy force commander, Burundian Major General Juvenal Niyoyunguruza.¹³²

¹²⁷ ICRC, *Customary International Humanitarian Law*, rule 65, citing Protocol I, art. 37(1).

¹²⁸ There were four reported suicide bomb attacks in 2007 and six more in 2008—including five near-simultaneous attacks that took place on October 28, 2008 in Hargeisa, the capital of Somaliland, and the port city of Bossaso in the semi-autonomous region of Puntland. Those attacks hit the Presidential Palace, Ethiopian trade mission, and the compound of the United Nations Development Program in Hargeisa and a facility run by the Puntland government's intelligence service in Bossaso. All told at least 24 people died in the attacks and another 28 were wounded, almost all of them civilians. Human Rights Watch, *Hostages to Peace: Threats to Human Rights and Democracy in Somaliland*, July 13, 2009, <http://www.hrw.org/node/84298>, p. 14.

¹²⁹ The attackers infiltrated the AMISOM base at Mogadishu's former Somali National University campus. See Edmund Sanders, "Suicide bomber kills 11 soldiers in Somalia," *Los Angeles Times*, February 23, 2009, <http://articles.latimes.com/2009/feb/23/world/fg-somalia-car-bomb23> (accessed February 11, 2010).

¹³⁰ See Tom Maliti, "Medina Hotel suicide bombing kills 20 including Somali official," Associated Press, June 18, 2009.

¹³¹ See Ibrahim Mohammed, "Suicide car bombers hit main AU base in Somalia," Reuters, September 17, 2009, <http://www.reuters.com/article/idUSTRE58G13R20090917> (accessed March 1, 2010).

¹³² The EU, League of Arab States, United States, Norway, the United Nations, and the Intergovernmental Authority on Development issued a joint statement condemning the attack. See Abdulkarim Mohamed Jimale, "Somalia: Intl community condemn attack," *Voices of Africa*, September 18, 2009, http://voicesofafrica.africanews.com/site/Somalia_Int_community_condemn_attack/list_messages/27004 (accessed March 1, 2010).

In an especially horrifying attack on December 3, 2009, a bomber disguised as a woman blew himself up at the graduation ceremony of Benadir University's first-ever class of medical students. The attack, at Mogadishu's Shamo Hotel, killed at least 22 people including students, two journalists, and three TFG cabinet ministers.¹³³ An al-Shabaab spokesperson subsequently denied that the group was responsible and suggested that the TFG might have staged the attack itself for propaganda purposes. Few international and Somali political observers found the denial credible, not least because it came only after the carnage provoked an unusual public outpouring of anger against al-Shabaab.¹³⁴

Other Unlawful Uses of Force

Civilian death from fighting and general lawlessness remains common in Mogadishu and has spread to areas such as Kismayo and Beletweyne. Many of these deaths occur from crossfire, panic, or the absence of command control by poorly trained fighters. Accounts of eyewitnesses stress that none of the warring factions makes a genuine effort to minimize civilian casualties during clashes. As a middle-aged refugee who fled Mogadishu in early October 2009 told Human Rights Watch, "Neither group has mercy for the common man."¹³⁵

A former TFG soldier told Human Rights Watch that he knew of several occasions where civilians were indiscriminately gunned down by TFG forces who panicked under fire. "Usually if you approach them [at night], because of fear they will just shoot at you," he said. "This has caused many youth in the area to be killed."¹³⁶ He witnessed such a killing one evening in September 2009, of a man who came too close to a TFG checkpoint.

[He] was a mad man, famous and known to everyone in the area. He was ordered to stop. As usual with a mad person he did not follow instructions, and walked towards the soldier.... The soldier immediately shot him. They left his corpse there.¹³⁷

¹³³ See Abdi Guled and Ibrahim Mohamed, "Suicide bomber kills three Somali Ministers," Reuters, December 3, 2009, <http://www.reuters.com/article/idUSTRE5B217Y20091203> (accessed March 2, 2010).

¹³⁴ See Ibrahim Mohamed, "Somalia rebels deny they carried out suicide bombing," Reuters, December 4, 2009, <http://www.reuters.com/article/idUSTRE5B217Y20091204> (accessed March 22, 2010).

¹³⁵ Human Rights Watch interview with M.A., Dagahaley refugee camp, October 17, 2009.

¹³⁶ Human Rights Watch interview with I.G., Ifo refugee camp, October 18, 2009.

¹³⁷ *Ibid.*

Soon after, the former soldier deserted and left Mogadishu. He told Human Rights Watch that he left because, “All the forces were indiscriminately killing and maiming residents, I was not earning any money and my life was under threat.”¹³⁸

In February 2009 an AMISOM patrol struck and exploded a roadside bomb. Witnesses allege that the troops then opened fire into crowds of panicked civilians. At least 13 people died and at least another 15 were wounded; most were cut down by gunfire—not the explosion.¹³⁹

The indiscriminate violence has forced people to make grim calculations in the interest of self-preservation. One man told Human Rights Watch that he fled Mogadishu during heavy fighting in his neighborhood in September 2009. As he and other passengers were leaving in a car, they saw several people lying by the roadside, wounded by stray gunfire, and calling for help. “We could not stop and help them,” he said. “If you make the mistake of stopping in such a place the same bullets that killed the man will also find you.”¹⁴⁰

A woman told Human Rights Watch that she was too scared to stop to bury her husband after masked men opened fire on the truck they were using to flee Mogadishu in July 2009, killing him instantly. “Five men came running toward us with guns,” she said. “I heard the sound of bullets from so many places.... A bullet hit my husband in the forehead.... The truck did not stop. We left the bodies in the keep of some people outside Mogadishu to bury and kept on going.” When Human Rights Watch interviewed her three months later she was fending for herself in the Dadaab refugee camps, pregnant with her late husband’s child.¹⁴¹

Death Threats and Targeted Killings of Civilians

Al-Shabaab has regularly threatened or killed civilians it accuses of links to the TFG or rival armed groups. In 2009 its fighters publicly executed several people they branded as spies for the TFG or foreign powers.¹⁴² Many of these killings have attracted considerable media

¹³⁸ Ibid.

¹³⁹ “Somalia: New Violence Highlights Need for Independent Inquiry,” Human Rights Watch news release, February 5, 2009, <http://www.hrw.org/en/news/2009/02/05/somalia-new-violence-highlights-need-independent-inquiry>. Also see below, *The Role of Key International Actors*.

¹⁴⁰ Human Rights Watch interview with D.G., Ifo refugee camp, October 19, 2009.

¹⁴¹ Human Rights Watch interview with F.O., Ifo refugee camp, October 13, 2009.

¹⁴² For example, in July al-Shabaab authorities in Baidoa beheaded several people accused of spying for the TFG; reports differed as to the exact number of people killed. See “Somalia’s al-Shabaab behead ‘spies,’” *al-Jazeera.net*, July 10, 2009, <http://english.aljazeera.net/news/africa/2009/07/200971017742924625.html>. In September al-Shabaab members publicly executed two men accused of spying on behalf of the African Union and western powers. See Ibrahim Mohamed and Abdi Guled, “Somalia’s Shabaab rebels execute two for spying,” Reuters, October 25, 2009, <http://www.reuters.com/article/idUSTRE59OoRC20091025>. In March al-Shabaab fighters allegedly beheaded two men linked

attention. However al-Shabaab has also issued numerous death threats and carried out many other killings that have received scant publicity.

Human Rights Watch gathered a dozen detailed accounts from Somalis who said they had witnessed extrajudicial executions by al-Shabaab or who saw al-Shabaab fighters take relatives, neighbors, or associates who either never resurfaced or were found murdered.

Two brothers in the southern town of Ras Kamboni allegedly bled to death after al-Shabaab members slit their throats for carrying a camera in 2008. Al-Shabaab fighters often accuse people carrying cameras of attempting to spy on them. The brothers' nephew told Human Rights Watch that they were fishermen who intended to photograph their catch to advertise it at the market.¹⁴³

Several refugees said they had last seen their relatives forcibly taken by al-Shabaab members and assumed they were jailed or dead. That was the assumption of a pregnant woman who described al-Shabaab grabbing her husband and the other three able-bodied men from a Kenya-bound passenger van at the border town of Dhobley in September 2009:

Al-Shabaab said, "You are supporters of the government. You want to denounce us to the infidels and Kenyan government so come out of the van." That was the last time I saw my husband. I wanted to get out of the van and follow him. But I was in pain, heavy with pregnancy and frightened.¹⁴⁴

Human Rights Watch interviewed one woman whose brother was killed at home in Kismayo by an al-Shabaab gunman just after the group fought with Hizbul Islam forces for control of the city in October 2009. The gunman came to detain the woman's brother on suspicion of being a Hizbul Islam fighter and demanded that he come before local al-Shabaab authorities for "questioning." The woman's brother refused. She said:

My brother said, "I am not following you, I don't know who you are or where you are taking me, please leave me and leave my home." [The gunman] took

to the Ahlu Sunna Waljamaca group, which controls large swathes of central Somalia. See Abdi Sheikh and Abdi Guled, "Somali Islamists behead two sheikhs— group," Reuters, March 20, 2009, <http://www.reuters.com/article/idUSLK425430>. In January 2009 al-Shabaab forces executed prominent local politician Abdirahman Ahmed on charges that he cooperated with Ethiopian forces in backing the former administration of Barre Hiraale in Kismayo. See "Somali executed for 'apostasy,'" *BBC News Online*, January 16, 2009, <http://news.bbc.co.uk/2/hi/7833621.stm> (all accessed February 11, 2010).

¹⁴³ Human Rights Watch interview with H.K., Nairobi, October 28, 2009.

¹⁴⁴ Human Rights Watch interview with N.D., Nairobi, October 23, 2009.

my brother by the right hand and started shouting at him. He tried to pull him out of the house and my brother pulled against him and freed his hand. The man immediately drew his gun and shot him. As my brother was turning towards us he shot him in the head and neck and ear. I threw myself on the ground. Immediately my brother fell down. I started wailing and crying.

The family fled the city shortly thereafter.¹⁴⁵

Human Rights Watch also interviewed 11 people who received death threats in 2009 from individuals who claimed to be members of al-Shabaab. These threats often adhere to a familiar pattern—one that Human Rights Watch has documented in past reporting.¹⁴⁶ Most of the people told Human Rights Watch that they received three or more phone calls from blocked numbers. In some cases all three calls came from the same person, in other cases from different people. In many cases the callers initially sought to persuade their target to renounce their alleged ties to enemies of al-Shabaab. Then, if the response was not favorable, the callers turned to explicit death threats.¹⁴⁷

One young man told Human Rights Watch that he received several anonymous phone calls in mid-2009 from people who said they were members of al-Shabaab while he was working as an assistant to a TFG official in Mogadishu. “They said, ‘We know the type of job you are doing. We are your brothers and we would advise you to seek a better path,’” he recalled. But when he did not agree to leave his job, the callers changed tone and repeatedly threatened to kill him. The calls became so frequent and disturbing that he threw away his phone, then quit his job and ultimately fled the city.¹⁴⁸

Many people have been targeted for death threats on the basis of pretexts that are seemingly absurd. One young father of three who worked as a porter in Mogadishu’s Bakara Market began receiving death threats on his cell phone in mid-2009. The callers accused him of being a TFG sympathizer and threatened to kill him. He told Human Rights Watch that at first he could not imagine why anyone would see him as a supporter of any party to the conflict. Then finally one of the callers explained that they often saw him flee to TFG-controlled neighborhoods in southern Mogadishu when TFG or AMISOM forces fired mortar shells towards the Bakara Market area. In the eyes of the people calling him, this was

¹⁴⁵ Human Rights Watch interview with A.G., Ifo refugee camp, October 18, 2009.

¹⁴⁶ Human Rights Watch, *So Much to Fear*, pp. 69-74.

¹⁴⁷ Human Rights Watch interviews, Dadaab refugee camps and Nairobi, Kenya, October 2009.

¹⁴⁸ Human Rights Watch interview with I.G., Ifo refugee camp, October 18, 2009.

convincing proof that he was working as a TFG spy. In fact, he said, he had merely assumed that it would be safer to be in the area mortar fire was coming from than in the area being attacked.¹⁴⁹

People also come under suspicion of being TFG sympathizers simply because they live or work in or near the few areas of southern Mogadishu that the Transitional Federal Government controls. As one man who lived in the TFG-controlled Sobe neighborhood before fleeing in the latter half of 2009 put it to Human Rights Watch:

Even if you are living in the same neighborhood as AMISOM you will be forced to go to other neighborhoods like Bakara [market] for shopping and business. Or you may wish to go seek help from relatives or visit friends in other parts of the city. And on your way there, coming from your area, you will be associated with AMISOM forces and termed an infidel. But it is not your choice which part of the city you live in. As a result most of the people choose to leave altogether.¹⁵⁰

A prosperous merchant said that he was kidnapped in Mogadishu in late 2009 by several al-Shabaab gunmen. The men said they had orders to kill him because he had been seen greeting people who worked for the TFG when he passed them each day en route to work in southern Mogadishu. He managed to buy his way out of the killing by giving his assailants his shop and its contents—almost everything he owned—and leaving Mogadishu so they could pretend they had killed him.¹⁵¹

Threats and Attacks on Journalists and Humanitarian Workers

Targeted violence against journalists and aid workers in Somalia over the past few years has forced many to flee the country.

Journalists in particular continue to be targeted for death threats and killings. At least 19 journalists have been killed in Somalia since 2007, and at least nine of those deaths occurred in 2009. Some were targeted because of their work and others were victims of

¹⁴⁹ Human Rights Watch interview with I.A., Ifo refugee camp, October 18, 2009.

¹⁵⁰ Human Rights Watch interview with D.G., Ifo refugee camp, October 19, 2009.

¹⁵¹ Human Rights Watch interview with K.A., Ifo refugee camp, October 19, 2009.

general violence.¹⁵² In addition to those who were killed, other journalists have been wounded in assassination attempts or were caught in crossfire. Many more have been forced to flee the country because of death threats related to their work or attacks on their colleagues. All of this violence has taken a terrible toll on what was once one of Somalia's most vibrant social institutions, killing or driving away many of its best journalists.

A woman who worked as a technician for a radio station in Mogadishu told Human Rights Watch that she fled to Kenya after receiving anonymous phone calls in mid-2009 from people who claimed to be members of al-Shabaab. "They said, 'If you do not leave the job, we will kill you,'" she recalled. "They said, 'You are not entitled to work there.' Everyone at the station was under threat."¹⁵³ The New York-based Committee to Protect Journalists received dozens of communications from Somali journalists who said that their lives were under threat in 2009; many were looking for help to flee the country.¹⁵⁴

Humanitarian workers have also been targeted on such a scale that many aid agencies consider Somalia the most dangerous country in the world to work in.¹⁵⁵ According to the office of the UN Emergency Relief Coordinator, 47 aid workers were killed in Somalia in 2008 and 2009.¹⁵⁶ Humanitarian workers face a variety of other threats as well, from the broader trend of indiscriminate violence in conflict areas to al-Shabaab accusations of spying on behalf of western powers.¹⁵⁷ In early 2009 the World Food Program suspended delivery of food aid to a vast swath of southern Somalia controlled largely by al-Shabaab, citing the group's escalating attacks and harassment against its staff and "unacceptable demands" for payments.

On January 15, 2010, al-Shabaab fighters in Mogadishu kidnapped Nur Hassan Bare ("Boolis"), an employee of a nongovernmental organization called SAACID, which runs a

¹⁵² The Committee to Protect Journalists (CPJ) maintains a database that provides detailed account of all reported killings of journalists in Somalia. See <http://cpj.org/killed/africa/somalia/> (accessed January 23, 2010). CPJ determined that three of the nine journalists killed in 2009 were intentionally killed.

¹⁵³ Human Rights Watch interview with A.I., Ifo refugee camp, October 13, 2009.

¹⁵⁴ Email communication from Mohammed Keita, Committee to Protect Journalists, to Human Rights Watch, January 4, 2010.

¹⁵⁵ Human Rights Watch interviews with humanitarian officials, Nairobi, February and October 2009.

¹⁵⁶ ERC Key Messages, Somalia Issue #1, January 6, 2010, para. 5 (on file with Human Rights Watch).

¹⁵⁷ For a discussion of the ways in which poorly conceived international policy interventions in Somalia have exacerbated this problem, see below, The Role of Key International Actors.

feeding program in the capital. His body was found the next morning; he had been shot dead and his hands were tied behind his back.¹⁵⁸

Forced and Unlawful Recruitment

Parties to the conflict in Somalia gain new fighters through the use or threat of force and by unlawfully seeking recruits among children and refugees. Opposition forces, especially but not exclusively al-Shabaab, are expanding their ranks by threatening those who resist with death and at times carrying out their threats. Both insurgent groups and government forces are recruiting and using child soldiers to varying degrees, and have entered refugee camps—ostensibly demilitarized areas—in Kenya to enlist additional fighters.

Coercion, Threats, and Murder

Al-Shabaab has kidnapped and killed young men who refuse their offers to join the group as fighters. International humanitarian law prohibits all parties to armed conflicts from arbitrarily depriving any person of their liberty, including through abductions and forced recruitment. Parties must treat all civilians humanely—the arbitrary deprivation of liberty is incompatible with this requirement.¹⁵⁹

A 17-year-old girl from Kismayo described al-Shabaab recruiters repeatedly trying to enlist her two brothers. In May 2009 the recruiters dragged them out of their home as their mother pleaded for mercy. About three weeks later, the mother received a telephone call from a man saying al-Shabaab had killed one of the sons for refusing to join them. He said, “Come bury your son. We are doing you a favor by telling you where his body is. If your other son does not accept our orders, the same thing will happen to him.” The dead brother’s head had been half-severed from his neck with a wire and his body had been repeatedly stabbed, the girl said. She added that the family does not know if the other brother is dead or alive.¹⁶⁰

Human Rights Watch also interviewed several young men who fled Mogadishu because al-Shabaab or Hizbul Islam threatened to kill them for refusing to join their forces. All were initially approached by men who sought to persuade them to join by promising money and

¹⁵⁸ See “Somalia: aid worker killed in Mogadishu,” *Garowe*, January 17, 2010, http://www.garoweonline.com/artman2/publish/Somalia_27/Somalia_Aid_worker_killed_in_Mogadishu.shtml (accessed February 11, 2010). Additional documentation on file with Human Rights Watch.

¹⁵⁹ See article 3 common to the 1949 Geneva Conventions and applicable to non-international armed conflicts; see also ICRC, *Customary International Humanitarian Law*, rule 99 and accompanying text.

¹⁶⁰ Human Rights Watch interview with N.G., Nairobi, October 25, 2009.

the chance to fight for what they described as a “just and holy cause.” But when they rebuffed these offers they found that persuasion quickly gave way to threats.¹⁶¹

Human Rights Watch interviewed a 20-year-old man who hoped to become a teacher. One morning in late 2009 three members of Hizbul Islam approached him at his home in Mogadishu to propose a different line of work. He told Human Rights Watch:

They started offering me this position. “You will be a soldier, you look healthy and able. You will take part in fighting [our] enemies.” I refused. I said I am not interested in going to fight.... They said, “We do not accept that. You have three days to decide whether to join us or not.” I said, “Whether you give me one or three or ten days I have made my decision. I will not fight for you.” For 30 minutes they were trying to persuade me. Then they left. It really confused me. But even being unemployed I could not take such an offer. Before the end of the three days I left.¹⁶²

An 18-year-old fled to Kenya with his mother after he and his friends faced similar coercion from a group of al-Shabaab fighters in Mogadishu in September 2009.

I was with a group of boys—we were all idle and unemployed. We were at the soccer field. They approached us and said we should stop playing soccer, that it is a waste of time and that instead we should fight for Islam. At that moment we said we accepted and are ready to join—because at that moment if you tell them anything different you are risking your life. But afterwards I realized that I could no longer play football or even live in that area. So the next morning I shifted my whole family to the government side of Mogadishu. We moved from Wardigley to Sobe, where my stepmother was living.

They [the al-Shabaab members] called me to ask why I had I done this. I received three phone calls. They were persuasive the first two times, trying to encourage me to join them as a Muslim because the government is supported by infidels. But I was threatened the third time. They said, “You are a sympathizer of the infidels. We see your position and if we find you, expect the worst.”

¹⁶¹ Human Rights Watch also documented this pattern in 2008. See Human Rights Watch, *So Much to Fear*, pp. 66-69.

¹⁶² Human Rights Watch interview with K.D., Ifo refugee camp, October 18, 2009.

I am a Muslim. I am not interested in blowing myself up or killing people. My freedom was denied—I could not even move [around the city] without risking being arrested or kidnapped or attacked.¹⁶³

Recruitment of Children

All parties to the conflict in Somalia have recruited children as soldiers. Many Somali human rights activists and other observers allege that al-Shabaab has recruited children in a more deliberate and systematic manner than have the TFG or other armed groups.¹⁶⁴ The recruitment of children—and the fear of it—are widespread in many areas controlled by al-Shabaab.

International humanitarian law prohibits any recruitment of children under the age of 15 or their participation in hostilities by national armed forces and non-state armed groups.¹⁶⁵ Somalia has signed, but has yet to ratify, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. The Optional Protocol prohibits any recruitment by non-state armed groups of children under the age of 18; any forced recruitment or conscription of children under 18 by government forces; and the participation of children under 18 in active hostilities by any party.¹⁶⁶

¹⁶³ Human Rights Watch interview with K.G., Ifo refugee camp, October 19, 2009.

¹⁶⁴ Human Rights Watch interviews with Somali human rights activists; independent analysts; United Nations officials with agencies following human rights issues in Somalia; and western diplomatic officials, Nairobi, October 2009.

¹⁶⁵ See the Second Additional Protocol of 1977 to the Geneva Conventions of 1949 (Protocol II), applicable in non-international armed conflicts, art. 4(3)(c). Although Somalia is not a party to Protocol II, this provision, art. 77(2) of Protocol I, concerning international armed conflicts, and article 38 of the Convention on the Rights of the Child, are considered reflective of customary international humanitarian law. See ICRC, *Customary International Humanitarian Law*, rules 138. The Rome Statute of the International Criminal Court of 1998 lists “conscripting or enlisting children under the age of 15 years” into “armed forces or groups” or “using them to participate actively in hostilities” as war crimes (arts. 8(2)(b)(xxvi) and 8(2)(e)(vii)). The statute prohibits children’s active participation not only in combat but also in scouting, spying, and direct support functions. Rome Statute of the International Criminal Court (Rome Statute), U.N. Doc. A/CONF.183/9, July 17, 1998, entered into force July 1, 2002. Several UN Security Council Resolutions condemn the recruitment and use of children in hostilities, including Resolutions 1261 (1999), 1314 (2000), 1379 (2001), 1460 (2003), 1539 (2004), 1612 (2005), and 1882 (2009) on children and armed conflict. See United Nations Office of the Special Representative of the Secretary-General for Children and Armed Conflict, “Resolutions by the Security Council on Children and Armed Conflict,” undated, <http://www.un.org/children/conflict/english/resolutions.html> (accessed March 22, 2010).

¹⁶⁶ The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, raised the standards set in the Convention on the Rights of the Child by establishing 18 as the minimum age for any conscription, forced recruitment or direct participation in hostilities. Article 4 states that “armed groups that are distinct from the armed forces of a state should not, under any circumstances, recruit or use in hostilities persons under the age of eighteen.” See Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, adopted May 25, 2000, G.A. Resolution 54/263, Annex I, 54 U.N. GAOR Supp. (no. 49) at 7, U.N. Doc. A/54/49, vol. III (2000), entered into force February 12, 2002. Somalia signed the Optional Protocol in 2005. The African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), entered into force November 29, 1999, arts. 2 and 22(2), provides that states parties “shall take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain in particular, from recruiting any child.” Somalia signed the Charter in 1991.

Human Rights Watch interviewed several refugees who said they knew boys who had been recruited by al-Shabaab.¹⁶⁷ One young man from Kismayo said al-Shabaab recruited his 15-year-old brother in late 2008 and that the boy's subsequent desertion cost their uncle his life. The younger brother was initially ecstatic after joining al-Shabaab, convinced he would be fighting for a good cause. But several months later, after being wounded in one hand during a firefight in Mogadishu, he sold the AK-47 he had been given by his commander and deserted.

"After he was recruited, my brother told me, 'You are wasting your time with education. Come join the cause,'" the older brother recalled. "But when he came back injured he was so remorseful. He said, 'I have lost the use of my hand and if I tell them I am going to leave, they will kill me.'"

Al-Shabaab fighters came to the boys' house in Kismayo and demanded that their uncle—who had raised them since their father died—turn over either the boy or the gun. When the uncle could produce neither, they shot him dead.¹⁶⁸

One mother said al-Shabaab took her 12-year-old son and 14-year-old nephew from the *madrassa* (Islamic school) they attended in from the southern border town of Dhobley in April 2009 and killed her uncle for trying to find them. She told Human Rights Watch:

One day he did not come home from the *madrassa*. I went to the school and asked for him. Then my son called me. He said, "Mom, I am in Kismayo. I was taken by al-Shabaab to be recruited to fight. Please pray for my release." I have not heard from him since. I do not know if he is alive or dead. My brother's young son was taken as well. My brother went to find them. I was told al-Shabaab hanged him because he was looking for the boys. I became mentally confused. For two months, I went randomly from neighborhood to neighborhood [in Kismayo], searching for them. I feared for my own life. They text messaged me many times, saying, "If we see you looking for your boy we will kill you." Finally I turned back.¹⁶⁹

¹⁶⁷ Human Rights Watch interviews with, for example, F.D., A.O., and H.D., Nairobi, October 23-25, 2009.

¹⁶⁸ Human Rights Watch interview with A.D., location withheld, October 24, 2009.

¹⁶⁹ Human Rights Watch interview with F.U., Ifo refugee camp, October 19, 2009.

Two women from Bardheere said that they knew of several 14- and 15-year-old boys from the town whom al-Shabaab recruited with promises that they could earn up to US\$200 a month. “When they hear of money they feel they must join,” one of the women said.¹⁷⁰

Several parents from Mogadishu and southern Somalia said they confined their sons—some as young as 13 and others in their 20s—to the home to shield them from forced recruitment. A mother from a farm outside the town of Jilib said that she had forbidden her 15-year-old son from leaving the family farm for fear that he might be press-ganged into service. “Once you go to town from the farm with your son it may be that you will not come back with him,” she said.¹⁷¹

Girls as well as young women were also forcibly recruited to support roles in violation of international law. One woman living in the sprawling camps for internally displaced people along the road to Afgooye was 16 years old when she, along with several other teenage girls and young women, was coerced into “volunteering” to cook and clean for a group of al-Shabaab fighters. “In the camps a girl is very vulnerable,” she said. “When they ask you to volunteer your services, you can’t say no, you can’t ask for money, and you can’t even talk to your father if they think he worked for the government.” In mid-2009 she fled to Kenya.¹⁷²

TFG forces have also recruited underage fighters, though this appears to reflect a failure to discriminate between adults and children rather than a deliberate targeting of children. When the French government brought a group of several hundred TFG recruits for training in Djibouti in 2009, the trainers sent some of them back to Somalia because they were demonstrably underage.¹⁷³

Recruitment from Refugee Camps

The TFG and al-Shabaab have both recruited Somali refugees living in Kenya to return home and fight on their behalf. Some of the recruitment has occurred inside of northeast Kenya’s sprawling Dadaab refugee camps. International law does not prohibit recruitment of

¹⁷⁰ Human Rights Watch interview with A.K., Ifo refugee camp, October 13, 2009.

¹⁷¹ Human Rights Watch interview with A.H., Dagahaley refugee camp, October 17, 2009.

¹⁷² Human Rights Watch interview with N.U., Eastleigh, October 24, 2009.

¹⁷³ Human Rights Watch interviews in October 2009 with Kenyan-based sources including a Somali civil society leader who saw some of the underage recruits, as well as email correspondence with senior French government official in January 2010. On training generally including plans to train more TFG security forces in 2010 see “Training the Trainers,” *Africa Confidential*, vol. 51, no. 3, February 5, 2010, <http://www.africa-confidential.com/article-preview/id/3413/No-Title> (accessed February 11, 2010), saying 500 TFG personnel were trained in Djibouti in 2009 in two different groups. As discussed below, the European Union plans to train several hundred TFG forces in Uganda in 2010. See below, *The Role of Key International Actors - The European Union*.

refugees per se, but recruiting from within the confines of a refugee camp contravenes the principle recognized in international law that such camps should be “exclusively civilian and humanitarian in character.” This principle is derived from international humanitarian, human rights, and refugee law and is embodied in the guidelines of the UN refugee agency and UN Security Council resolutions.¹⁷⁴

Officials working in the camps and many refugees themselves confirmed to Human Rights Watch that al-Shabaab was recruiting young men but these efforts were clandestine and impossible to quantify.¹⁷⁵

One mother said al-Shabaab had recruited two of her sons from the camps in late 2008 and re-enlisted the younger one, who was 17 years old, days after relatives returned him to Kenya in late 2009 after a months-long search.¹⁷⁶

Recruiters working on behalf of the TFG openly conducted a massive drive inside the Dadaab camps in late 2009 for conscripts to fight al-Shabaab. This was done openly and with the direct cooperation of Kenyan authorities, despite denials from ranking Kenyan government officials. The recruiters gave false information to potential conscripts about their wages and mission, told youths who appeared younger than 15 to falsely state they were adults, and—to keep them from fleeing—confiscated their cell phones and identity cards, according to deserters, parents of conscripts, recruiters, and others who spoke with Human Rights Watch. The recruiters also refused to help distraught parents locate their children.¹⁷⁷ The father of one 17-year-old recruit described the condition of his son after he deserted:

His phone was shut off immediately after he disappeared. Finally after some days he escaped and called me on a borrowed phone. He was still many

¹⁷⁴ Human Rights Watch interviews with UNHCR officials, Dadaab, Kenya, October 2009. Guidelines of the Office of the UN High Commissioner for Refugees (UNHCR) aim to prevent the military recruitment of refugees in camps and settlements. The refugee agency's executive committee has called upon all countries to “ensure that measures are taken to prevent the recruitment of refugees by government armed forces or organized armed groups.” Ensuring the civilian character of refugee camps is essential for efforts to protect refugees, since the military use of camps—and the refugee population—by armed forces and non-state armed groups can make the sites vulnerable as military objectives and place the civilian population at increased risk. UN High Commissioner for Refugees, *Conclusion on the civilian and humanitarian character of asylum*, October 8, 2002, no. 94 (LIII) - 2002, <http://www.unhcr.org/refworld/docid/3dafdd7c4.html#1> (accessed March 22, 2010). Being recruited in a camp can also cost refugees and their families their refugee status and jeopardize their chances for third-country resettlement.

¹⁷⁵ Human Rights Watch interviews with humanitarian officials and refugees, Dadaab town and Dadaab refugee camps, Kenya, October 2009.

¹⁷⁶ Human Rights Watch telephone interview with A.U., Dadaab refugee camp, details withheld, October 28, 2009.

¹⁷⁷ “Kenya: Stop Recruitment of Somalis in Refugee Camps,” Human Rights Watch news release, October 22, 2009, <http://www.hrw.org/en/news/2009/10/22/kenya-stop-recruitment-somalis-refugee-camps>.

kilometers away. I found him lying under a tree. He was tired and starving and traumatized. Who are these people who would take my underage boy? These boys [in the camps] are vulnerable and it is easy for anyone to overcome them psychologically.¹⁷⁸

Human Rights Watch documented the Kenyan-backed recruitment effort in detail and called for Kenyan authorities to end it immediately. Our findings were verified in a March 2010 report by the UN Monitoring Committee on Somalia.¹⁷⁹ Subsequently, the UN High Commissioner for Refugees intensified an information campaign warning refugees that involvement in recruitment by any side to the conflict in Somalia could threaten both their own chances of resettlement and the chances of others in the camps, because resettlement countries might look unfavorably on Dadaab refugees as a whole.¹⁸⁰

At the time of writing, Kenyan security forces had reportedly trained the recruits as part of a 2,500-member militia of Kenyan Somalis and refugees for a possible TFG assault on al-Shabaab-controlled areas in southern Somalia including the city of Kismayo.¹⁸¹

¹⁷⁸ Human Rights Watch interview with M.M., father of deserter, Ifo refugee camp, October 15, 2009.

¹⁷⁹ See Report of the UN Monitoring Group on Somalia, March 10, 2010, paras. 204-208.

¹⁸⁰ Human Rights Watch interview with officials of the UNHCR, Geneva, December 2, 2010.

¹⁸¹ Human Rights Watch telephone interviews with journalists and independent analysts, Nairobi, January and February 2010.

The Role of Key International Actors

A broad range of international actors continues to play a direct—and in many ways counter-productive—role in the conflict in Somalia. Most key international actors in the region—notably the United Nations, the United States, the European Union, the African Union, and Ethiopia—have adopted a policy of uncritical support for the Transitional Federal Government. Nevertheless, the TFG remains weak and ineffectual, while al-Shabaab has grown stronger and more radicalized. At the same time, the humanitarian crisis has worsened, and civilians continue to suffer from the fighting and pervasive human rights abuses. Uncritical support for the TFG and the UN-backed African Union force in Somalia, AMISOM, has also hindered key actors in responding meaningfully and objectively to violations of human rights and international humanitarian law by the TFG and AMISOM.

United Nations Institutions

In Somalia, UN institutions have straddled two distinct and to some extent contradictory roles—bolstering the military and institutional capacity of the TFG while also serving as an impartial conduit for humanitarian aid to Somalia’s population. For example, while the World Food Program (WFP) struggled to negotiate access to populations in al-Shabaab-controlled areas of southern Somalia in 2009, the United Nations Development Program (UNDP) was training TFG police forces as part of a broader effort to help the TFG take control of Mogadishu.¹⁸² The UN’s dual roles make it difficult for humanitarian agencies—both inside and outside of the UN system—to maintain perceptions of neutrality that are a necessary precondition for their work.¹⁸³ Al-Shabaab forces have not hesitated to treat UN agencies working directly with the TFG as enemies.¹⁸⁴ In early 2010, WFP announced that it was suspending food aid to as many as one million people in areas of southern Somalia under the control of al-Shabaab, citing threats and unreasonable demands by al-Shabaab and other armed groups.¹⁸⁵

¹⁸² For a critical analysis of past UNDP efforts to support the TFG police, see Human Rights Watch, *So Much to Fear*, Appendix, p. 98.

¹⁸³ Human Rights Watch interviews with international humanitarian NGO and UN agency officials, Nairobi, October 2009.

¹⁸⁴ One of the targets of a coordinated wave of bomb attacks in October 2008 was the UNDP office in Hargeisa, Somaliland. Al-Shabaab forces have also raided several UN offices in southern Somalia under the apparent suspicion that some UN agencies were acting as spies on behalf of the TFG and hostile western governments. See, for example, “Militants raid UN compounds, ban 3 relief agencies,” Associated Press, July 20, 2009, <http://abcnews.go.com/International/wireStory?id=8128074> (accessed March 1, 2010).

¹⁸⁵ See Daniel Wallis, “WFP suspends operations in much of southern Somalia,” Reuters, January 5, 2010, <http://www.reuters.com/article/idUUSTRE6041GS20100105> (accessed March 22, 2010).

The UN's Special Representative of the Secretary-General for Somalia, Ahmedou Ould-Abdullah, has had a profound impact on shaping international policy towards Somalia. Ould-Abdullah was the driving force behind the Djibouti peace process, which brought TFG President Sharif and his wing of the opposition into the TFG in late 2008. But in Human Rights Watch's view, his uncritical backing of the TFG and AMISOM has led his United Nations Political Office for Somalia (UNPOS) to categorically reject evidence of serious abuses by either party—effectively causing the UN system as a whole to ignore those abuses.

The UN Office of the High Commissioner for Human Rights has integrated its work on Somalia into UNPOS, which has set up a small human rights unit that is theoretically responsible for monitoring and reporting on human rights abuses in Somalia along with other activities. But the unit has engaged in virtually no human rights monitoring and has produced no public reporting on human rights issues. Instead, it has focused on building the capacity of TFG “institutions” that exist largely on paper.¹⁸⁶

This problem is partly a function of the human rights unit's acute shortage of professional staff. But in Human Rights Watch's view it also reflects UNPOS' reluctance to acknowledge abuses by TFG and AMISOM forces. In fact Special Representative Ould-Abdullah has reacted angrily to allegations that TFG or AMISOM personnel have committed abuses, even in situations where his office does not possess evidence that contradicts those allegations. In February 2009, for example, Ould-Abdullah rejected credible allegations that AMISOM forces had fired indiscriminately on a crowd of civilians before there had been any opportunity to verify the facts, and compared Somali journalists who reported on the incidents to government propagandists who helped incite the 1994 genocide in Rwanda.¹⁸⁷

The African Union

The African Union fields the AMISOM forces that are in Mogadishu to protect the transitional government and facilitate the provision of humanitarian assistance.¹⁸⁸ Only Uganda and

¹⁸⁶ Human Rights Watch interviews with independent analysts, international humanitarian organizations, and UN agency and UNPOS human rights unit officials.

¹⁸⁷ “Somalia: New Violence Highlights Need for Independent Inquiry,” Human Rights Watch news release, February 5, 2009, <http://www.hrw.org/en/news/2009/02/05/somalia-new-violence-highlights-need-independent-inquiry>. Ould-Abdullah said that, “What happened is to divert attention from what is going on here, and as usual to use the media to repeat Radio Mille Colline, to repeat the genocide in Rwanda.” Ibid.

¹⁸⁸ AMISOM's mandate encompasses several partly overlapping tasks: to protect TFG officials, institutions and infrastructure; to bolster the capacity of TFG security forces; to contribute to creating the necessary security conditions for the provision of humanitarian assistance; and to protect its own installations and personnel. UN Security Council, Resolution 1744 (2007), S/RES/1744 (2007), <http://www.un.org/News/Press/docs/2007/07/07021744.html> (accessed February 11, 2010). In January 2010 the UN Security Council extended AMISOM's mandate through January 31, 2011. The Security Council renewed AMISOM's

Burundi have contributed troops to AMISOM; other countries' pledges of eventual support have not yet materialized into more boots on the ground.¹⁸⁹

After a February 2009 incident where AMISOM forces allegedly fired indiscriminately into crowds of people in Mogadishu after coming under attack, AMISOM officials launched an inquiry—the first and only time this has happened. That inquiry was ultimately abandoned and responsibility for the matter was passed to African Union officials in Addis Ababa, where it has reportedly languished without further action.¹⁹⁰

AMISOM, as previously noted, does not provide compensation for civilian casualties. However, Uganda in a statement to the UN Security Council in November 2009 signaled its willingness to consider no-fault compensation systems for civilian casualties and property damage and called for the creation of such systems in all conflict zones.¹⁹¹

The United States

Obama administration officials have repeatedly declared their intention to review Bush-era policies on Somalia. To date there has been no meaningful shift in that policy. The United States continues to provide far more humanitarian assistance to Somalia than any other donor. But US government priorities remain focused on bolstering the TFG and combating the threat of international terrorism linked to al-Shabaab. US government actions in south/central Somalia have continued to reflect these priorities.

In 2009 the US government sent approximately 40 tons of arms and ammunition—including mortars and mortar shells—to the TFG.¹⁹² The US complied with the requirements of the UN

mandate on January 28, 2010. See UN Security Council, Resolution 1910 (2010), S/RES/1910 (2010), <http://www.unhcr.org/refworld/pdfid/4bb1b3cb2.pdf> (accessed February 1, 2010).

¹⁸⁹ Nigeria, for instance, has repeatedly pledged to send troops to join AMISOM but has not proceeded with a concrete proposal. In early 2010 Djibouti announced its intention to send 450 troops to Mogadishu as part of AMISOM but as of this writing it was uncertain whether this would happen. See Duncan Miriri, “Djibouti says to commit 450 troops to Somalia,” Reuters, January 28, 2010, <http://www.reuters.com/article/idUSLDE6oRoQM> (accessed March 1, 2010).

¹⁹⁰ Human Rights Watch interview with African Union official, late 2009.

¹⁹¹ In a statement to the UN Security Council in November 2009, Benedict Lukwiya, the UN delegate from Uganda, called on all member states to “embrace the concept of making amends ... in the interests of mitigating suffering and promoting humanity.” See UN Security Council Meeting on Protection of Civilians in Armed Conflict, November 11, 2009, S/PV. 6216, <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/POC%20SPV%206216.pdf> (accessed March 3, 2010), p. 27.

¹⁹² In May 2009 the US government sent letters to the UN sanctions committee that monitors the arms embargo on Somalia requesting an exemption allowing it to ship the weapons and ammunition to Somalia. The letter stated that the US government intended to ship, among other weaponry: 7.62mm, 12.7mm, RPG-7 and 81/82mm mortars; rifle-propelled grenades; and machine guns. Letter on file with Human Rights Watch. See also Elizabeth Dickinson, “Arming Somalia,” *Foreign Policy*, September 10, 2009, http://www.foreignpolicy.com/articles/2009/09/10/arming_somalia?page=full (accessed February 11, 2010).

arms embargo by obtaining an exemption for this shipment, but the action still aroused considerable concern. This was especially true with regard to the US provision of mortars— weapons that no party to the fighting in Mogadishu has used in accordance with the laws of war. Civil society groups, independent Somalia analysts, media, and the UN Monitoring Group on Somalia also allege that some US-supplied weapons are sold to insurgents on the black market.¹⁹³

In September 2009 US special operations forces attacked and killed Saleh Ali Saleh Nabhan, an al-Qaeda-linked militant accused in the 2002 bombing of an Israeli-owned hotel in Kenya.¹⁹⁴ The strike mirrored repeated attempts by the Bush administration to kill key terror suspects and al-Shabaab leaders, although in this case US forces caused no civilian casualties when they attacked Nabhan from helicopters along a deserted stretch of road in al-Shabaab controlled territory near Barawe, south of Mogadishu. Several Bush-era aerial drone strikes in populated areas of Somalia had killed civilians and damaged property, prompting widespread anger.¹⁹⁵

The United States should stop supplying the Transitional Federal Government with mortars until it can ensure they are not being used indiscriminately against civilians.

The European Union

European Union policy towards Somalia is centered on efforts to bolster the capacity of the TFG and support humanitarian relief efforts. The EU has announced plans to send up to 200 trainers to Uganda to train roughly 2,000 members of the TFG security forces in 2010.¹⁹⁶ The

¹⁹³ Human Rights Watch interviews with Somali civil society leaders, UN officials, and Somalia researchers, Kenya, October 2009. See also Amnesty International, “International Military and Policing Assistance Should be Reviewed,” AI Index: AFR 52/001/2010, January 21, 2010, <http://www.amnesty.org/en/library/asset/AFR52/001/2010/en/86225a8e-1db3-427c-a2ca-03adb632e87/af520012010en.pdf> (accessed December 10, 2009) and Elizabeth Dickinson, “Arming Somalia.” A December 2008 report by the UN Arms Monitoring Group on Somalia describes substantial diversions of arms intended for the TFG to opposition groups. See United Nations Security Council, Report of the Monitoring Group on Somalia submitted in accordance with UN Security Council Resolution 1811 (2008), S/2008/769 (2008), <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Somalia%20S2008%20769.pdf> (accessed December 10, 2009). “Arms leakage,” mostly ammunition, continued in 2009. See Report of the UN Monitoring Group on Somalia, S/2010/91, March 10, 2010, http://www.reliefweb.int/rw/RWFiles2010.nsf/FilesByRWDocUnidFilename/MUMA-83N2WN-full_report.pdf.

¹⁹⁴ See Jeffrey Gettleman and Eric Schmitt, “U.S. Kills Top Qaeda Militant in Southern Somalia,” *New York Times*, September 14, 2009, http://www.nytimes.com/2009/09/15/world/africa/15raid.html?_r=1 (accessed March 11, 2010).

¹⁹⁵ Jennifer Daskal and Leslie Lefkow (Human Rights Watch), “Off Target: When missile strikes at alleged terrorists go awry, US policy takes a hit,” commentary, *Los Angeles Times*, March 28, 2008, <http://articles.latimes.com/2008/mar/28/opinion/oe-daskal28> and Human Rights Watch, *So Much to Fear*.

¹⁹⁶ See “EU Agrees to Train Somali Troops,” *BBC News Online*, January 25, 2010, <http://news.bbc.co.uk/2/hi/8479564.stm> (accessed February 11, 2010). Spain is to take the lead on this training program, with Spanish Colonel Ricardo Gonzales Elul in charge of the mission. “Training the Trainers,” *Africa Confidential*, February 5, 2010, <http://www.africa-confidential.com/article/id/3413/Training-the-trainers> (accessed March 4, 2010).

EU also continues to be supportive of UN efforts to strengthen the TFG police force through UNDP training. The EU should ensure that human rights and international humanitarian law are core elements of its training of TFG security forces.

Ethiopia and Eritrea

Ethiopia has played a far less direct and central role since withdrawing the last of its military forces from Somalia at the beginning of 2009. However, Addis Ababa continues to regard Somalia as a source of insecurity, not least because it fears al-Shabaab and other groups could try to expand their reach to Ethiopia's own troubled Somali Region.¹⁹⁷ As of early 2010 Ethiopia was reportedly providing training to Ahlu Sunna Waljamaca fighters inside Ethiopia, viewing the group as an important bulwark against al-Shabaab or Hizbul Islam expansion into central Somalia.¹⁹⁸

Eritrea continues to support armed opposition groups in Somalia—a course of action that largely reflects the government's broader policy of seeking to undermine Ethiopian interests wherever possible throughout the region. In 2009 the UN Security Council imposed sanctions and an arms embargo on Eritrea's government in response to its support for al-Shabaab and other opposition groups in Somalia.¹⁹⁹

¹⁹⁷ The Ethiopian government has been fighting a long-running counterinsurgency campaign against the Ogaden National Liberation Front (ONLF) in its eastern Somali Region for several years. See Human Rights Watch, *Collective Punishment: War Crimes and Crimes Against Humanity in the Ogaden Area of Ethiopia's Somali Region*, ISBN: 1-56432-322-6, June 2008, <http://www.hrw.org/en/reports/2008/06/11/collective-punishment>.

¹⁹⁸ Human Rights Watch telephone interviews with independent analyst, Nairobi, January 2010.

¹⁹⁹ UN Security Council, Resolution 1907 (2009), S/RES/1907 (2009), http://www.fas.org/programs/ssp/asmp/S_RES_1907_2009.pdf (accessed February 11, 2010). See also Colum Lynch, "UN Security Council orders arms embargo on Eritrea," *Washington Post*, December 24, 2009, <http://www.washingtonpost.com/wp-dyn/content/article/2009/12/23/AR2009122302977.html> (accessed March 1, 2010).

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Harsh War, Harsh Peace

Abuses by al-Shabaab, the Transitional Federal Government, and AMISOM in Somalia

Somalia is mired in a brutal armed conflict between the Transitional Federal Government (TFG) and armed opposition forces that now control most of the country. In Mogadishu, the capital, mortars fired indiscriminately by all sides are killing civilians and ravaging the city. Meanwhile, much of southern Somalia is controlled by the Islamist group al-Shabaab, which has brought a relative degree of stability—but also brutal repression and draconian punishments that it justifies in the name of Sharia (Islamic law). *Harsh War, Harsh Peace*, based on over 70 victim and eyewitness interviews, documents these devastating patterns of abuse, which are fueling a massive humanitarian crisis.

Al-Shabaab, some of whose leaders have links to al-Qaeda, rules largely through coercion and fear—killing alleged traitors, recruiting child soldiers, and whipping people who violate even minor edicts. The brunt of repressive measures falls on women, whom al-Shabaab authorities routinely flog or jail for failing to wear particularly bulky *abayas*, a garment that covers a woman's body from head to toe, or for work that brings them into contact with men.

In Mogadishu, all sides to the conflict—including African Union troops deployed to protect the TFG—have violated the laws of war by firing indiscriminately in civilian areas.

Somali civilians continue to bear the brunt of regional and international policy failures to protect human rights. Human Rights Watch calls on foreign actors to urgently reevaluate their policies toward Somalia and help end the impunity that fuels the worst abuses.

An al-Shabaab fighter stands guard during a public flogging in the town of Bula Marer, Somalia.

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