



ORGANISING AND RESISTING:

Somali Trade Unions Advancing Human and Workers' Rights

REPORT OF HUMAN AND TRADE UNION RIGHTS IN SOMALIA IN 2017

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ACKNOWLEDGEMENTS

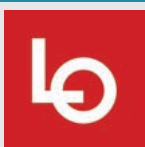
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PREFACE

The human rights situation in Somalia must be addressed urgently as it has reached highly dangerous levels, principally the relentless attacks on fundamental rights of freedoms of association, expression and peaceful assembly. These rights are inalienable but, in Somalia, they are frequently violated and, most of the times, with impunity.

Journalists and trade unions are the prime targets for these violations as they are consistently denied many of their basic human rights. There are numerous documented cases showing the National Union of Somali Journalists (NUSOJ) and the Federation of Somali Trade Unions (FESTU) being intimidated by government officials through campaigns to de-legitimise, stigmatise and even deny them the right to freely appoint their leaders, and in these cases the government itself attempts to appoint unions' leaders or prevent union members from engaging in normal legitimate trade union activities.

This report includes ample documents proving the gross encroachments on fundamental human rights. I join the many voices worldwide that have been calling for these attacks on journalists and trade unions to end forthwith.

According to all of this, in my opinion it is right and proper to ask the Somali government to uphold international law, including international conventions and human rights laws and implement the decisions of the International Labour Organisation (ILO) on freedom of association case 3113. The European Union has full responsibility in ensuring that aid to Somalia is contingent, among many things, on the full respect for ILO conventions and international human rights law.

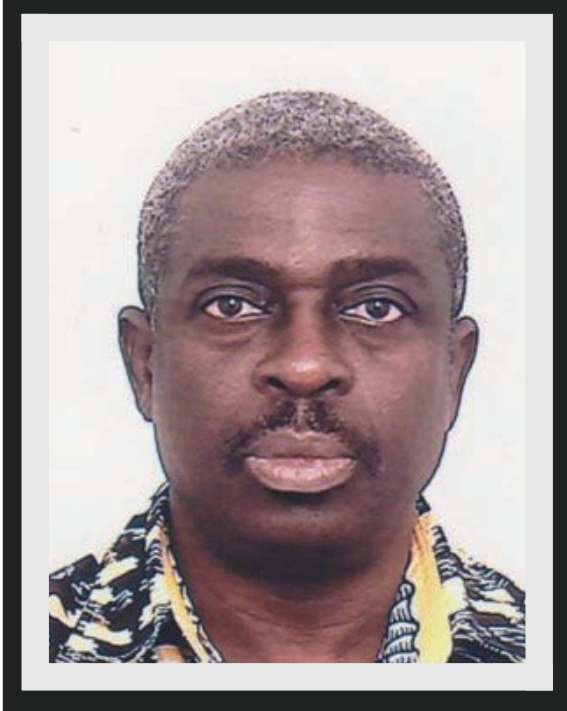
We all applaud the spirit and tenacity of the free and independent trade unions led by the Federation of Somali Trade Unions, that refused to be intimidated and continued to advocate for a safe and enabling environment. NUSOJ and FESTU have become symbols of the resistance to the repression of human rights in Somalia.

I commend the International Trade Union Community for their steadfastness in expressing solidarity with FESTU and NUSOJ, in particular the Italian, Danish, Swedish and British trade unions that have campaigned relentlessly in support of human rights for trade unionists in Somalia.

Hon. Pier Antonio Panzeri MEP
Chair, European Parliament for Human Rights Sub-Committee



INTRODUCTION



Year in year out, trade unions in Somalia have been the target of an incessant onslaught. Overt and covert pressure is continuously brought to bear on trade unionists by the authorities and other oppressive forces. The deteriorating human and trade union rights situation in Somalia demands that particular ongoing attention be given to the plight of labour rights activists and unionists since the country cannot afford to have them go underground.

In 2017, trade unions, under the ambit of the Federation of Somali Trade Unions (FESTU), have been under fire, be they members of unions, union activists and officials defending workers' interests and denouncing human rights violations, or taking independent and impartial decisions against the government. FESTU and its affiliated unions are a visible component of the organised civic movement in Somalia who are boldly, tenaciously and publicly standing up and speaking out for the protection of human rights. They regularly speak truth to power, and are unafraid to confront privilege and power.

There is a wider, deliberate, systematic and sustained general attack on the independent trade unions, the objective being to manipulate them, reduce their independence and weaken the collective voice of workers that is vital for the restoration of the rule of law and democracy. Acts of reprisals have been followed by smear campaigns orchestrated by some government officials and relayed by certain pro-government media. Unbridled acts of violations have been reinforced by indifference of some internationals who want to be favoured by the Somali government.

Perpetrators of politically motivated human rights abuses against workers and their trade unions in Somalia have generally acted with total impunity that is self-perpetuating and fuels the ability of perpetrators to continue to further commit human and trade union rights violations.

Thus, the authorities openly violate freedoms of expression, association and assembly guaranteed by the International Covenant on Civil and Political Rights, the International Labour Organisation (ILO) Convention 87 on freedom of association and protection of the right to organise, ratified by Somalia in 2014, and also the African Charter on Human and People's Rights.

The International Community must continue to play its important role of exercising due diligence that defines the level of action and effort it must make for Somalia to fulfill its responsibility to comply with its international human rights obligations; and to prevent, and where appropriate, investigate and punish acts that impair any of the rights recognised under international human rights law such as trade union rights; and to restore the rights violated and ensure that those whose rights have been violated obtain redress and reparation.

Very much alarmed by the increasing violations of the rights of human and trade union rights defenders in this context, ITUC-Africa stands in full solidarity with its affiliate in Somalia, FESTU, and all independent trade unions.

Mr. Kwasi Adu-Amankwah

General Secretary

African Regional Organisation of the International Trade Unions Confederation (ITUC-Africa)

EXECUTIVE SUMMARY

This is the annual report of the Federation of Somali Trade Unions (FESTU) on the latest developments regarding human and trade union rights in the country during 2017. The situation remains dire, despite the obstinacy of the free and independent trade unions of Somalia to defend their right to organize freely and international pressure for government actions and remediation.

Trade union meetings were disrupted, union leaders were vilified and harassed, union busting has increased and governmental authorities are still pursuing the unlawful path to take over an independent trade union. The authorities have been subverting administrative proceedings into a political move to silence free trade unions. Trade union leaders were provisionally denied their freedom to travel outside the country, and the system of impunity remains untouched, notwithstanding change of government in February 2017.

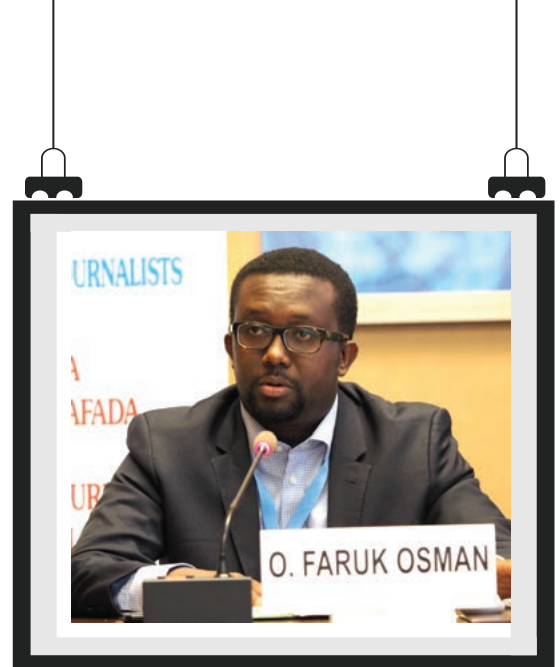
Despite undue restrictions on the right to freedom of association and blatant attacks on Somalia's independent trade unions, many workers in Somalia have courageously formed such unions as well as a workers' national trade union centre. They continue to defend their trade unions in order to protest unpaid wages, precarious working conditions, staggering inflation, poor living conditions and clampdown on civil liberties.

By criminalising legitimate trade union activities and interfering with the work of independent trade unions, the Somali authorities are flagrantly violating their human rights obligations under international law. The International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), both of which Somalia has ratified, impose an obligation on the Somali authorities to respect and protect the rights to freedoms of expression, association and peaceful assembly, as well as the right to form and join trade unions of one's choice. Only by ceasing unjustifiable interference with the exercise of the right to freedom of association can the Somali government and fulfil its treaty obligations under international human rights law.

Workers' rights are human rights. FESTU and its affiliated unions are striving to ensure workers' right to establish and run their own independent trade unions and bring about a day where all persons in the country are able to enjoy their economic, social and cultural rights, including the right to just and favourable conditions of employment, and an adequate standard of living for oneself and one's family.

Somali trade unionists are also protected under the UN Declaration on Human Rights Defenders, which highlights the obligation on states to respect the right to defend human rights, which includes trade union rights, and protect human rights defenders from harassment, arbitrary arrest and detention, torture and other ill-treatment. The failure or lack of enthusiasm by the government to implement recommendations of the ILO fosters impunity on the international stage.

FESTU believes the International Labour Organisation (ILO) should conduct its own investigation to ensure an effective probe that could help to end the climate of fear and impunity, bring perpetrators to justice, and ensure the safety and freedom of the trade union movement in Somalia.



Mr. Omar Faruk Osman
General Secretary | Federation of Somali Trade Unions (FESTU)
Secretary General | National Union of Somali Journalists (NUSOJ)



RESTRICTIONS ON FREEDOM OF ASSOCIATION AND RIGHT TO ORGANISE

Authorities in the Somali federal government and regional administrations have tried to tightly control the space for worker organization and freedom of association, especially when such a union organization is opposed / objected by an official of government. The authorities are adopting a series of tactics to limit rights or retaliation against trade union leaders and workers' activists who openly defend their rights and interests.

The sections below detail obvious retaliation against trade union leaders, labour activists, and workers, including threats of, or actual dismissal from, places of employment and the government tailing of activists. Authorities instituted direct or indirect legal action against the labour movement, in apparent retaliation for their union rights activism, including by bringing criminal charges against them.

Threats and Retaliation Against Trade Union Leaders

Leading independent trade union and worker activists within the Federation of Somali Trade Unions (FESTU) described how incidents of interference, harassment, and intimidation by government authorities contribute to a restrictive environment for trade union activism in Somalia.

Trade union leaders interviewed for this report described how their efforts to organise workers into active unions led to pressure on trade union members to leave the union, sometimes under threat of dismissal, and how, in some cases, punitive actions were taken against outspoken activists. In a handful of cases, trade union leaders said authorities have threatened them with action from law enforcement for "organising unauthorised activities", apparently in retaliation for their trade union activism.

Three organisers at the Agriculture and Food Workers' Union (SAFWU), were ordered by an official at the Federal Ministry of Agriculture and Irrigation to "stop enlisting new union members because their organising activities are illegal." The official said the Ministry had not "permitted their trade unions" and therefore "cannot conduct trade union organising without consent of the Ministry." In addition to this action from Federal Ministry of Agriculture and Irrigation, regional ministries of agriculture in Hirshabelle State, Jubbland State and Southwest State were informed by the Federal Ministry of Agriculture and Irrigation to bar SAFWU from operating in their regions because it is a union not approved by the Federal Ministry.

Union officials from the Somali Telecommunication and Post Workers' Union in Kismayo of Jubbland State, and Baidoa of Southwestern State said that local government officials are regularly spying on them to know what they are organising. Authorities warned trade unionists of serious consequences should they form trade union branches not approved by the local authorities. In July 2017, a local activist who was organising a union branch in Kismayo of the same telecommunications union was ordered to leave Kismayo and forced to flee to Mogadishu. Kismayo authorities said that the activist is at odds with local administration, thus he was told to "migrate and find another city to live".

Officials at the Federal Ministry of Information, Culture and Tourism ordered their guards to prohibit two union activists from the National Union of Somali Journalists, NUSOJ - namely Abdi Adan Guled and Mohamed Nur - from entering the Ministry's compound. The grounds, where the government-controlled television, radio and news agency are based, were declared off-limits to the unionists in order to impede them from organising media workers to defend their interests after there had been deep salary cuts.

Under international labour and human rights law, workers should be free to protect their economic and social interests, form unions, and bargain for better protection of their rights without fear of retaliation. These standards provide that authorities and employers are prohibited from mounting anti-union campaigns that interfere with free worker organising or retaliating against workers for supporting a union. Any retaliation by the authorities or by businesses for engaging in legitimate trade union activities is a violation of workers' rights.

International law requires Somalia to outlaw such conduct and sanction perpetrators with meaningful and deterrent penalties. These standards are enshrined in International Labour Organisation (ILO) Convention 87, on the Freedom of Association and Protection of the Right to Organise Convention, and ILO Convention 98, or the Right to Organise and Collective Bargaining Convention, as well as the United Nations International Covenant on Economic, Social, and Cultural Rights. The Federal Republic of Somalia ratified Conventions 87 and 98 in March 2014. However, Somali government's above-stated actions do not meet these international legal provisions.

Sackings or Threats of Sacking Apparently Linked to Union Activity

Independent trade union leaders in three cities where researchers from FESTU conducted research for this report said that managers, or management-level employees with the help of authorities, pressured workers to leave trade unions, or dissuaded them from joining a trade union, sometimes under threat of sacking. The federation also documented some instances in which corporations fired employees following their union-related activities or worker activism.

In one case, Mohamed Hussein Ali, a trade union member of a major privately-owned electricity company in Mogadishu, said he brought together many workers and persuaded them to join the electrical workers union. One morning, he distributed union membership forms and cards after a staff meeting. A manager scolded workers, forced them to return membership forms or took them away. Hussein and other employees were given a "last warning" that they would be fired if they are seen again meeting and talking about a "union or similar thing".

Another trade union activist, Ibrahim Ahmed Ali, said when they formed a trade union branch at a company, they informed the management about their decision. However, the management reacted aggressively and called a meeting to tell workers they could not form a trade union which has no approval of the government. The manager threatened that should a worker want to form a union, he must not come back to the premises and his job is terminated automatically.

Media workers employed by the Ministry of Information of the Federal Government of Somalia, who are working for government-controlled Somali National Television (SNTV), Radio Mogadishu and National News agency (SONNA), are barred from joining the national journalists' union. That is because the Minister of Information and other senior management of SNTV, Radio Mogadishu SONNA directly and indirectly threatened media workers that they would lose their jobs or salaries would be withheld should they join the unauthorised union.

The Ministry pressurised working journalists to join and support the journalist union created by the Ministry. State media journalists are even afraid to meet leaders of the independent journalists' union in the open to avoid reprisal. In 2017, two journalists who are believed to be members of NUSOJ were put on forced leave and side-lined from staff activities.

Mohamed Hassan, a hotel worker, received numerous threats and attacks. Hassan was pressured to resign from the chairmanship of the local union branch, under pressure that he would be sacked. Other hotel workers were discouraged from joining the union, and the security guards of the hotel were threatening the workers. Workers in three other hotels were also told by their respective managements not to join a union branch headed by a worker from another hotel. This was a divide-and-rule strategy in which workers were discouraged from joining their own union of choice in the context of competition between hotels.

One trade union leader, who cannot be named for fear of retribution, managed to recruit 23 co-workers. He wanted to organise a meeting for them after working hours. The department manager nevertheless declined to allow the union leader and the workers to use a meeting room at the workstation. They met in one of the workers' home instead.

International labour and human rights laws, including International Labour Organization conventions, similarly prohibit such actions. ILO Convention 98 explains: "Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment."





VIOLETIONS OF THE RIGHT TO FREEDOM OF ASSEMBLY

Although peaceful assembly is guaranteed in Somalia's provisional Constitution and is a fundamental right protected under Article 21 of the International Covenant on Civil and Political Rights, the Somali government places heavy restrictions on the right to peaceful assembly when it comes to trade unions which do not seek approval of government bodies.

Unions and workers who attempt to exercise their right to express dissenting views through peaceful meetings or gatherings encounter interference by government bodies. Security forces disband union meetings or even prevent them from gathering altogether.

On 23 September 2017, the Ministry of Information ordered security forces to stop a workshop on freedom of expression, media law and criminal defamation which was organised by the National Union of Somali Journalists. NUSOJ officials explicitly insisted that the activity was in line with the constitutional rights of NUSOJ and its members to meet without approval from any government authority as dictated by the constitution of the country and shall not relinquish their constitutional and fundamental right to freedom of peaceful assembly.

Officials at the Ministry of Information argued through security forces that the workshop was coinciding with the presentation of a revised media bill to the Federal Parliament by the Minister of Information (of that time), Mr. Abdirahman Omar Osman and was therefore disturbing government efforts to present the bill. The union insisted on continuing the workshop and security forces left the venue.

On three occasions in August 2017, November 2017 and February 2018, FESTU and two of its affiliated unions recorded instances where the Diplomatic and Sahafi hotels, both located in Mogadishu, had received telephone calls from government officials saying that the trade unions did not have permission to gather and hold public meetings, and their reservations should be cancelled. The trade union organisations demanded written orders and said those who wanted to issue these orders should come to the unions instead of approaching service providers. But being worried of being pictured/videoed, the government officials opted not to approach the unions. Thanks to the unions' insistence, the legitimate union meetings took place.





On 30 May 2017, the Office of the Attorney General delivered a summons to the Secretary General of the National Union of Somali Journalists (NUSOJ), Omar Faruk Osman, who is also the General Secretary of FESTU. In the summons, there were two accusations:

- You (Omar Faruk Osman) organised on 3 May 2017 the commemoration of World Press Freedom Day without approval of the Ministry of Information.
- You (Omar Faruk Osman) issued on 6 May 2017 an abusive statement as NUSOJ in which you defamed Minister of Information of Federal Government of Somalia, which was widely distributed.

The Attorney General Office's letter specified that Osman had to appear before them on 31 May 2017, at 10 a.m. Upon failure to appear, they would proceed with criminal prosecution as they stated in the summons. On 31 May 2017, Osman and his lawyers went to the Office of the Attorney General and were interrogated on the two accusations. Osman and his lawyers categorically stated that holding a NUSOJ event on World Press Freedom Day was absolutely in line with the constitutional rights accorded to Somali citizens by the highest law of the land and international human rights laws.

Osman and his lawyers quoted Article 20 of the Provisional Constitution of Somalia which stipulates:

"Every person has the right to organise and participate in meetings, and to demonstrate and protest peacefully, without requiring prior authorisation."

Regarding alleged defamation of the Minister of Information, the NUSOJ Secretary General and his lawyers strongly denied it. They made clear that the union strongly rejected the attempts by Minister of Information to sneak an undemocratic media law into force, and that it is the constitutional right of the union to protest and challenge the Minister.

Given that the Minister and Ministry of Information were both explicitly cited in the two accusations, it was obvious that the Ministry was behind this attempt to take legal action against union leadership.

The federal government of Somalia should ensure that workers, including journalists, have the right to express their views peacefully and without undue restrictions or interference, including through peaceful assembly, gatherings, and protests. To that end, the top leaders of the Somali government should take steps to order officials who are committing these rights violations to stop undue restrictions on freedom of assembly, and amend regulations on the right to peaceful assembly in accordance with the International Covenant on Civil and Political Rights, to which Somalia is a party.

CRIMINALISATION, STIGMATISATION AND DELEGITIMISATION

The election of President Mohamed Abdullahi “Farmaajo” Mohamed, who assumed office in February 2017, gave rise to hopes both in Somalia and internationally that the human and trade union rights situation in Somalia might improve. In reality however, Somalia's ministries and security apparatus have been ramping up already suffocating levels of repression against the country's independent trade unions. The continued repression against trade unionists has dealt another heavy blow to Somalia's embattled human rights movement, a movement most victimised by State institutions.

It is illegal for government bodies or officials of legal, political and public offices to attack trade unions, to impede rightful trade union activities that are meant for the defence of workers and trade union rights.

Since 2017, undue restrictions on the right to freedom of association and attempts to take over independent trade unions continued in Somalia. However, many workers have courageously stood up to remain in their unions as well as workers' support organisations. They have been driven to do so as a result of unpaid wages, precarious working conditions, staggering inflation and poor living standards.

Workers defying the oppression of independent trade unions are paying a high price for their bravery. Trade unionists have continued to face harassment by intelligence and security officials, as well as job dismissals at both public institutions and private companies for their legitimate trade union activities. Yet independent workers' organisations have rarely been more needed: growing safety problems, accumulating unpaid wages and precarious jobs have left millions of poorly paid people in Somalia struggling to survive.

These workers and their trade unionists are human rights defenders, as they are striving to ensure the right of everyone to form and join trade unions and enjoy just and favourable conditions of employment, occupational safety and an adequate standard of living, including access to adequate services.

On 13 August 2017, immigration officials at Mogadishu International Airport stopped a Somali delegation of 13 trade union representatives on grounds they had received instructions from the Federal Ministry of Information which told them that the delegation did not have “permission” to leave the country. The delegation from FESTU-affiliated unions were invited to a trade union exchange programme in Ankara, Turkey, by the HAK-IS Trade Union Confederation.

FESTU protested this illegal restriction of freedom of movement, and the delegation was allowed to travel the next day, after rapid intervention by the Federal Minister for Human Rights and Women Affairs, Ms. Deqa Yassin; the Deputy Minister of Internal Security, Mr. Abdinasir Said Muse, and the Director-General of Immigration and Naturalisation Directorate, Colonel Mohamed Adan Jim'ale.

Meanwhile, trade unions have been appealing to President Farmaajo and his administration to take meaningful steps to stop these abuses. On the contrary, Ministries as well as senior government officials have continued to build on their previous abuses and committed fresh violations. Simply because of their legitimate trade union activities, workers' rights defenders have been sacked without justification or threatened to be sacked for trade union work; attacked by security forces; subjected to reprisals for complaining about unpaid wages; and arbitrarily interrogated for exercising fundamental human rights.

The criminalisation of trade unions and trade unionists in Somalia takes place against a backdrop of ongoing smear campaigns against the trade union leadership.



The authorities routinely portray trade unionists in official communications and state media outlets as “government rejectionist”, “anti-system”, “parallel minister”, “traitor”, “criminal”, “fraud”, “economic subversion”, “corrupt” or “destabilising element”.

Impact of attacks on trade unions and unionists

Statements of this nature are not only intended to delegitimise the work of trade unions and their leaders, generating an adverse environment for the defence of human and trade union rights, but also constitute the prelude to an initiation of unfounded criminal accusations and judicial proceedings against them.

The current ongoing stigmatisation campaign is mainly focused on attacking the image of the trade union movement as well as questioning or defaming personal and professional integrity of trade unionists, and these actions are used to delegitimise unions.

The principal source of stigmatisation was high-ranking government officials, headed by Ministers and certain close advisors. These accusations favoured the creation of a polarised climate of hostility against trade unionists. The stigmatisation affects the reputation and good name of individual trade unionists, and this can have a very marked effect.

Criminalisation processes not only constitute intimidation and humiliation but also created for trade unionists a situation of fear, uncertainty, defencelessness, vulnerability and isolation that can have significant impact on the health and financial capacity of the targeted trade unions. Union activists experience intense feelings of anxiety and shame as well as guilt and concern about the impact the disparaging comments.

The isolation and discouragement of the victim of criminalisation of trade unions distances him/her from the trade union movement or rights advocacy community in which he/she has worked and from the people with whom, ordinarily, they would collaborate.

The stigmatising assertions against trade unionists can violate the right to humane treatment, the right to honour and dignity, and the presumption of innocence. The repetition of those assertions exacerbate the climate of hostility, intolerance and rejection which could lead to the impairment of a trade union leader, physical or otherwise. It can increase his or her vulnerability and put at risk or violate his or her right to life, personal safety, or other rights.





ALARMING PHENOMENON OF UNION-BUSTING

Trade unions face multiple strategies by the authorities and non-state actors to obstruct legitimate trade union work or weaken free and independent trade union movements after government officials failed to take them over.

Senior government officials have approached members of the Federation of Somali Trade Unions or leaders of affiliated unions to urge them to resign from their official trade union positions in exchange for “lucrative” jobs. Among the job offers: an advisor to a Minister, whose salary would be paid by donors.

Another tactic: an attempt to tear apart the union by creating a sweetheart union where the government will give recognition and support. Since May 2017, seven senior union leaders with the federation have been approached by senior government officials in a bid to weaken the union’s cohesion.

In a move to undermine the legitimacy of trade unions, the Minister of Information conditioned his recognition of the National Union of Somali Journalists on a written request from 10 media owners (employers) addressed to the Minister.

This effectively pushed an independent journalists’ union to be subject to the mercy and approval of media employers. This once again underscores the determination of a government arm (Ministry of Information) struggling to bring a free union under employers’ control after the Ministry failed to take over the same union.

In a bid to choke trade unions from carrying out their day-to-day activities, authorities directed banks in Mogadishu to compel trade unions to obtain letters of approval from a relevant Ministry to open a bank account. This forces a union to approach a Ministry that does not want the union’s existence, effectively stifling the financial capacity of the union to collect dues through its bank account and keep its resources in the bank.

For instance, despite lack of legal powers, the agricultural workers union must obtain a letter from the Ministry of Agriculture and the journalists’ union must get a letter from the Ministry of Information.

The current government provides regular monthly payments to television network and radio stations, and on the basis of this subsidy, the Ministry of Information pressures media employers who receive these funds to order their media workers to withdraw from the membership of the National Union of Somali Journalists. Through that pressure, it also imposes a media blackout on coverage of outspoken independent trade union leaders

SYSTEM OF IMPUNITY

During the transitional federal government as well as the formation of a Federal Government under different leaderships, abominable human rights violations have been committed against workers and their trade unions by both state and non-state actors, with no redress for victims.

The fact that human and trade union rights violations and impunity are alive and well in Somalia is not because there is a dearth of information on who committed or was responsible for these basic human rights abuses against the independent civil society movement, especially free trade unions. As the well-publicised reports indicate, what is lacking is a concerted systemic way of dealing with those responsible.

A key problem is the lack of political will by the government to prosecute known violators of human rights, cases that have been extensively documented by local and international trade unions, journalists and the United Nations such as the ILO and UN Special Mandate Holders. The problem of impunity will not be resolved until the political leadership clearly demonstrates that no one is above the law.

Somalia’s culture of impunity starts with the fact that no single civil servant, or someone holding a ministerial position, has been called to account for abusing public office to deprive citizens’ constitutional and fundamental rights. This culture of impunity is prevalent in all phases of the public administration. It was and continues to be the single most important obstacle to efforts to establish the rule of law and good governance in Somalia.

Governmental institutions including Ministries face huge challenges caused by the devastation of the civil war and ensuing security challenges, as well as the lack of resources and funds allocated to public administration. However, the lack of accountability of governmental bodies for human rights violations and crimes committed against trade unions cannot be solved solely by an infusion of material resources and funds for technical training.

In that lack of accountability, the trade union movement sees not only a culture but a system of impunity. President Mohamed Farmaajo and Prime Minister Hassan Khairé inherited this deep-rooted system which is drawing opprobrium as a human rights-abusing system. Under the system, those implicated in the abuses got senior governmental appointments and those senior civil servants who are architects of the rights abuses remain in their positions where they have not faced any disciplinary action or sanctions for their repressive actions.

Some leaders and government officials, allied to powerful “power brokers”, perpetuate these violations and even refuse to act to eliminate impunity because they are protected by anti-trade union “powerbrokers”. Sometimes, unions observe a culture of condoning within the government due to fear, where those who are more independent do not want to intervene because they want to protect their jobs.





RINGING VICTORY AT THE UNITED NATIONS

The United Nations' specialised agency for labour, the International Labour Organisation (ILO) Governing Body, in November 2017 unanimously approved a new set of recommendations addressed to the government of Somalia over the complaint of egregious violations of freedom of association and trade union rights.

Known as case 3113, the complaint was filed by the Federation of Somali Trade Unions (FESTU) and the National Union of Somali Journalists (NUSOJ) with the support of the International Trade Union Confederation (ITUC).

At the 331st Session of the ILO Governing Body, meeting in Geneva, the ILO reiterated its previous recommendations which directed the Somali government "to abide by the ruling of the Supreme Court concerning the leadership of the NUSOJ. It urges the Government to refrain from any further interference in the NUSOJ and FESTU internal affairs. It calls on authorities to ensure that the elected leaders of the unions – in particular Mr. Omar Faruk Osman, until otherwise indicated by the union members themselves – are free to exercise the mandate given to them by their members in accordance with the unions' by-laws. The Committee trusts that the Government will recognise the leadership of the NUSOJ and the FESTU under Mr. Osman without delay."

It was a major victory for Somalia's free and independent trade union movement, where their authenticity and legitimacy were reaffirmed by the UN's tripartite body of governments, employers and trade unions. The ILO called on the Somali government "to rapidly provide information on the measures taken to ensure that FESTU and NUSOJ "can fully develop their trade union activities without hindrance, and that independent judicial inquiries are promptly instituted in the event of any complaints of threats or acts of violence against trade union members and leaders." The aim is "to fully uncover the underlying facts and circumstances, identify those responsible, punish the guilty parties, and prevent the repetition of such acts."

The Somali government met the ILO committee on freedom of association and provided oral explanations, followed by written communications on this case.

The ILO confirmed that it received a communication from the Somali government that it "guided concerned authorities to comply with the recommendations of the Committee."

The ILO said the government "acknowledged that FESTU, led by Mr. Omar Faruk Osman, is the most representative workers organisation in the country." It "requested the assistance of the ILO to facilitate a constructive dialogue and to find a solution to the long-standing dispute in a harmonious manner."

It was conspicuous that the government lost its case at the ILO given that it was not able to grasp that only trade union members have the constitutional power to elect or remove their leaders. Government officials wrongly maintained that anyone who claims to be a "journalist," or they considered to be a journalist, has the right to participate in the election or removal of the leadership of NUSOJ. It was evidently clear in the Supreme Court ruling of February 2016 that non-union members were used to remove the union leaders from office and that the government spearheaded the effort to organise its own union elections.

Furthermore, the ILO's decision de facto refuted the letter which the Ministry of Information obtained from the Supreme Court on 20 July 2016 to legitimise the leadership of "NUSOJ" it created. The letter was addressed to the Ministry of Information, as if the union was under the control of the Ministry, when in reality the union was independent from any government control. The union was not asked by the court to defend its case and the letter was issued upon the request of the Ministry of Information.





MASSACRE IN MOGADISHU

The Federation of Somali Trade Unions (FESTU) was deeply shocked by the horrific massacre of hundreds of innocent people in the massive blast of a truck full of explosives and landmines on 14 October 2017 at KM5 junction in southern Mogadishu - one of the busiest areas in the capital. It was the most powerful terrorist bombing ever to hit Mogadishu.

Trade unionists visited KM5 junction as well as Mogadishu's two main hospitals, Madina Hospital and Digfeer hospital (Erdoğan Hospital). Unionists were informed by the medics and officials that more than 500 people were killed in this horrific attack and more than 600 people were wounded.

The majority of those massacred and wounded were workers. They were hotel and petroleum workers as KM5 is the base for several petroleum companies. The victims also included informal economy workers selling fresh vegetables, milk, stationery and consumer electronics. Transport workers as drivers and conductors were among the dead.

FESTU headquarters is 400 metres away from where the incident happened. The entire office was shaken, windows/mirrors shattered, and electricity and internet were cut off. Leaders of affiliated unions of FESTU donated blood to victims. The Federation appealed to its members to donate blood for their fellow injured workers in dire need.

We express our sympathies with the bereaved families and pray for the departed souls. We send our condolences to working people who have lost their loved ones and to all the Somali people who are trying to come to terms with this massive tragedy.

ILO CONDEMNS MOGADISHU MASSACRE



ILO CHIEF RECEIVES SOMALI TRADE UNION DELEGATION

The Director-General of the International Labour Organization (ILO) Mr. Guy Ryder met on 8 June 2017 at his office with a delegation from the Federation of Somali Trade Unions (FESTU) on the margins of the 106th session of the International Labour Conference in Geneva.

The FESTU delegation, headed by its General Secretary Omar Faruk Osman and accompanied by its National Treasurer Mohamed Mohamud, discussed with the ILO Director General and other senior ILO officials about the unjust situation in which free trade unions are currently operating in Somalia, precarious working conditions of Somali workers and lack of tripartite social dialogue that creates constant conflict between the ILO's tripartite constituency in Somalia.

They expressed concern over the authorities' deliberate encroachment on ILO's fundamental conventions on freedom of association and union organising as well as the frozen process of validating the Decent Work Country Programme.

The ILO Director-General assured the FESTU delegation that he is closely following with serious concern the situation in which FESTU and its affiliated unions are operating in Somalia. He reiterated ILO's continued support and cooperation with FESTU to advance workers' rights and application of ILO's international labour standards in Somalia.

He said there is a very clearly detectable convergence in the priorities and ambitions of FESTU with ILO objectives.

The FESTU delegation also conversed with the ILO Director-General about the implementation of decisions and recommendations by the ILO Governing Body and its Committee on Freedom of Association, concerning Somalia, in order to safeguard human and trade union rights and the international human rights laws.

Mr. Ryder said the ILO is striving for the implementation of its decisions, especially those coming from its executive arm, the Governing Body, to protect the rights and freedoms of free and independent trade unions, which are simply based on international conventions that Somalia ratified.

The ILO Director-General noted that the decent work agenda is the best approach to address the chronic problem of unemployment and underemployment in Somalia, and the ILO will strive to revive the process to validate the decent work programme with genuine tripartite partners that the ILO recognises.

The International Labour Conference (ILC) is the ILO's highest decision-making body. It meets annually in June, bringing together tripartite delegations from the organisation's 187-member States.

ILC sets labour standards, settle disputes between governments, unions and employers, and develop policies and work programmes to promote decent work for all.



THE RIGHT TO DEFEND TRADE UNION RIGHTS

In Somalia, defending and advocating trade union rights is not considered a human right that is supposed to be protected or even worth respecting and defending. This leads some government officials to attack trade unions, to deny workers and trade union organisations their fundamental rights of freedom of association.

Workers' rights are human rights, just as trade union rights are human rights. They are rights protected by the Constitution of Somalia and guaranteed by the International Human Rights Law and International Labour Standards that Somalia ratified.

International human rights law and standards establish and protect the right to defend human rights as an autonomous and independent right. The UN Human Rights Defenders (HRDs) Declaration recognises this.

According to the declaration: "Everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels".

The HRDs Declaration also establishes that states bear the ultimate responsibility to protect HRDs such as trade unionists, to prevent and effectively address allegations of human and trade union rights violations and abuses committed against workers and related to trade unionists' legitimate human rights work, and to ensure that they can carry out their work in a safe and enabling environment.

Article 22 of the International Covenant on Civil and Political Rights (ICCPR) guarantees individuals "the right to freedom of association". Somalia, a member of the International Labour Organization (ILO), has ratified – and thus should abide by – ILO core conventions, including both conventions relating to Freedom of Association and Protection of the Right to Organise (C87), and the Right to Organise and Collective Bargaining (C98).

The ILO requires the Somali government to refrain from punishing workers for trying to organise unions and enforce mechanisms that deter employers or governmental authorities from taking action against union organisers.

ILO CHIEF FOR AFRICA CONDUCTS FIRST-EVER MISSION TO SOMALIA



The ILO Assistant Director-General and Regional Director for Africa, Ms. Cynthia Samuel-Olonjuwon, on 20 February 2018 visited Mogadishu. It was the first such high-level mission from the United Nations' labour agency.

During her visit, Ms Samuel-Olonjuwon met with the General Secretary of FESTU, Mr. Osman and other leaders of the federation during which they conferred on a wide range of issues. They included the current state of trade unions, ongoing legal reforms of the labour code and civil servants law, egregious abuses of the right to freedom of association and trade union rights, the decent work agenda, Somalia's international obligation to comply with International Labour Standards, and decisions of the ILO governing body on Somalia.

In particular, Mr. Osman conveyed the labour unions' appreciation of the ILO for supporting FESTU and its affiliated unions in a bid to bolster the emerging free trade union movement. He lauded the ILO's decision to move its Somalia office to Mogadishu from Nairobi. The General-Secretary hailed the ILO's aim to strengthen engagement with and support to Somalia's tripartite partners.

On a related note, Mr. Osman requested the restoration of ILO's standard-setting role in Somalia's rebuilding efforts by realising the ILO core mandate in the country so that key issues of social dialogue, collective bargaining, the observance of international labour standards and respect for free and independent trade unions are institutionalised and preserved.

In response, Ms. Samuel-Olonjuwon restated the commitment of the ILO to continue its support for FESTU and noted the ILO's intensified programmatic engagement with Somalia, which will benefit the Somali nation, particularly its tripartite constituency.

Accompanying Ms. Samuel-Olonjuwon was the ILO Country Director for Somalia, Ethiopia, Djibouti and Sudan, Mr. George Okutho. Mr. Osman was accompanied by FESTU Vice President Nasro Haji Ahmed and FESTU Treasurer Mohamed Mohamud. The ILO mission also held discussions with a delegation led by the Somali Federal Minister of Labour and Social Affairs, Mr. Salah Ahmed Jama.

Since its inception, FESTU - an umbrella organisation of 12 unions - has been at the forefront of advocating organised workers' rights in Somalia. It has made significant strides defending workers' rights, championing progressive legal reforms, promoting social dialogue and occupational safety. It has been a firm supporter of gender equality, speaking out against exploitation of workers.

CONCLUSION AND RECOMMENDATIONS

Since its inception, FESTU - an umbrella organisation of 12 unions - has been at the forefront of advocating organised workers' rights in Somalia. It has made significant strides defending workers' rights, championing progressive legal reforms, promoting social dialogue and occupational safety, as well as making concerted efforts to mobilise, galvanise and involve her members and the general public to advance and complement nation building efforts. It has been a firm supporter of gender equality, speaking out against exploitation of workers. The organisation has resolved to continue to do these without let or hindrance and despite the odds.

RECOMMENDATIONS:

To the Federal Government of Somalia:

1. Remove all unjustifiable restrictions on the peaceful exercise of the internationally Recognized rights to freedom of association and freedom to assembly and express.
2. Respect the right of workers to establish and join the trade union(s) of their choice and peacefully assemble and associate with others without government interference.
3. Accept comments and recommendations from the International Labour Organization (ILO) on draft bill on civil servants to allow public sector workers to create and join trade unions of their choice.
4. Amend Somalia's labour code of 1972 in line with international standards to comply with Somalia's international obligations regarding freedom of association.
5. Implement in good faith the recommendations from the ILO Committee of Freedom of Association concerning case 3113.

To the International Community:

1. Speak out against Somalia's intimidation, stigmatisation, de-legitimisation and harassment of trade union organizations and activists. Conduct an assessment of the Somali government's steps to uphold the rights to freedom of assembly, expression, and association under international law and publicize the findings.
2. Step up strategic and public contacts with Bahraini civil society in Somalia and abroad.
3. Urge the Somali government to accept and implement in good faith the ILO conclusions and recommendations.
4. Call on Somali authorities to cooperate with and grant immediate access to the United Nations special rapporteurs on freedom of expression, freedom of assembly and association, and human rights defenders.

To the member states of the European Union, European Parliament and European Commission

In line with commitments made in the EU Strategic Framework on Human Rights and Democracy, the European Union (including EU Member States, European EAS, European Commission, and European Parliament) should:

1. Speak out against Somalia's intimidation, stigmatisation, de-legitimisation and harassment of trade union organizations and activists.
2. Conduct an assessment of the Somali government's steps to uphold the rights to freedoms of assembly, expression, and association under international law and publicize the findings.
2. Step up strategic and public contacts with trade union in Somalia.
3. Call on Somali authorities to cooperate with and grant immediate access to the United Nations special rapporteurs on freedom of expression, freedom of assembly and association, and human rights defenders.
4. Organise discussions in the European Parliament on the human rights situation in Somalia.

About FESTU

The Federation of Somali Trade Unions (FESTU) is the voice of Somali workers and their trade unions. It envisions a society where Somali workers enjoy their rights, have access to social justice and equality, and where conditions of work help eradicate poverty and vulnerability.

Its mission is to promote the growth of the trade union movement in Somalia and thereby contribute to the realisation of workers' rights, social justice and improved working conditions through education, networking, research, organising, advocacy, policy engagement and trade union solidarity.

Representing workers of Somalia, FESTU represents the Somali labour movement in regional, continental and international meetings, and to promote friendship, cooperation, solidarity and fraternal understanding with other trade union movements, progressive institutions and mass organizations whose aims and principles coincide with those of the Federation.

FESTU is a member of the International Trade Union Confederation (ITUC) and the African Regional Organisation of International Trade Union Confederation (ITUC-Africa).

For more information, please visit our website: <http://www.festu.org>

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