THE HIDDEN US WAR IN SOMALIA:

CIVILIAN CASUALTIES FROM AIR STRIKES IN LOWER SHABELLE

AMNESTY INTERNATIONAL

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Cover photo: *The streets are seen through the windshield of an armored personnel carrier (APC) during a routine AMISOM patrol in the recently reclaimed town of Qoryooley, Lower Shabelle, Somalia, April 29, 2014 ©*

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Map of Somalia

Map of the Lower Shabelle region

GLOSSARY

WORD	DESCRIPTION
USA/US	The United States of America
IHL	International Humanitarian Law
NIAC	Non-International Armed Conflict
HVT	High Value Target
AMISOM	African Union Mission in Somalia
DOD	US Department of Defense
AFRICOM	United States Africa Command
NGO	Non-Governmental Organization
TFG	Transitional Federal Government
ICU	Islamic Courts Union
IED	Improvised Explosive Device
VBIED	Vehicle-Borne Improvised Explosive Device
UN	United Nations
AU	African Union
AP	Additional Protocol
ICRC	International Committee of the Red Cross
AUMF	Authorization for Use of Military Force
UAV	Unmanned Aerial Vehicle
AAH	Area of Active Hostilities
CLT	Common Launch Tube
SOCOM	US Special Operations Command
SIGINT	Signals Intelligence

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1. EXECUTIVE SUMMARY

> **"The noise of the plane was louder than before...The weeks before it used to come and leave, only that night it was not leaving. It was coming and coming and coming... when the noise [of an airstrike] happened everything ceased… I was so frightened. I couldn't keep watch on the farm at all. I went under the shelter of the tree and hid… These three young men were not expecting to be killed by a plane, and we did not expect the world to be silent."**
>
> Liban, a farmer from Darusalaam village, Lower Shabelle.

Since April 2017, the United States of America (USA) has dramatically increased the number of air strikes – from manned aircraft and unmanned drones – it has launched in Somalia, tripling the annual rate of attacks and, in 2018, outpacing US strikes in Libya and Yemen combined. Despite this escalation, the US government claims that it has not killed any civilians in Somalia during this period. In this report, Amnesty International provides credible evidence to the contrary. The report investigates five incidents in Lower Shabelle, Somalia, in which 14 civilians were killed and eight injured. It provides credible evidence that US air strikes were responsible for four of these incidents and that the fifth was most plausibly caused by a US air strike. In the incidents presented in this report, civilians were killed and injured in attacks that may have violated international humanitarian law (IHL) and could, in some cases, constitute war crimes. The seriousness of the allegations underscores the need for the USA and Somalia to conduct urgent and transparent investigations.

The conflict in Somalia between Somali government forces and Al-Shabaab, an armed group which controls significant territory in the country, is a non-international armed conflict (NIAC) under international law. Amnesty International considers the USA to be a party to this NIAC. Since at least 2016 it has claimed that its military operations are conducted at the request of the Government of Somalia, under the right of collective self-defense. However, when asked by Amnesty International, US Africa Command (AFRICOM) refused to confirm or deny whether the US is at war in Somalia. This refusal is consistent with testimony given by General Thomas D. Waldhauser, the commander of AFRICOM, to Congress in March 2018, when he was asked if the USA was at war in Somalia and responded, "I wouldn't characterize that we're at war. It's specifically designed for us not to own that."

In 2011, the USA launched its first drone strike in Somalia against Al-Shabaab, which controls large swathes of south-central Somalia, including of the Lower Shabelle region which surrounds the capital, Mogadishu. Between 2011 and March 2017, air strikes were infrequent. American airpower was originally used only to target "high value targets" (HVT, i.e. known 'terrorists' who the administration argued posed a threat to the USA) and were justified initially as part for the global war on Al-Qa'ida and associated forces, and then, beginning in 2016, to support operations by the African Union Mission in Somalia (AMISOM), a United Nations (UN) and African Union-authorized peace enforcement force based in the country. In March 2017,

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President Donald Trump issued a directive designating parts of Somalia an "area of active hostilities" (AAH), after which the number of reported air strikes increased dramatically.

The directive has not been made public, but reports indicate it weakened the protections afforded to civilians in Somalia, increasing the likelihood of their death or injury in US military operations. Previously, under the 2013 'Presidential Policy Guidance' (PPG), which established the operating procedures for action "against terrorist targets outside the United States and areas of active hostilities" and governed all air strikes in Somalia until the AAH directive, for an air strike to be approved in Somalia, there needed to be "near certainty" that the target – "an identified HVT or other lawful terrorist target" – was present and civilians would not be killed or injured. Now, the content of the directive supersedes the PPG and reportedly gives US forces the greatest latitude to carry out strikes as is allowable under the USA's interpretation of IHL. As a result, those planning or deciding an attack are, according to the USA's own standards, permitted to target anyone who they are 'reasonably certain' is formally or functionally a member of a non-state armed group, regardless of whether he or she is directly participating in hostilities. Civilian fatalities and injuries are now permissible if they are lawful under IHL.

Moreover, in a meeting with Amnesty International, retired Brigadier General Donald Bolduc, who served as Commander, Special Operations Command Africa, from April 2015 until June 2017, but did not oversee any of the five incidents detailed in this report, said that since the issuance of the AAH directive, individuals are now considered to be lawfully targetable based solely on four criteria: age, gender, location, and geographical proximity to Al-Shabaab. According to General Bolduc, all military-aged males observed with known Al-Shabaab members, inside specific areas – areas in which the US military has deemed the population to be supporting or sympathetic to Al-Shabaab – are now considered legitimate military targets. In reply to a request for an official response on General's Bolduc's assertion, AFRICOM stated that: "BG Buldoc's [sic] purported articulation of targeting standards does not accurately reflect the targeting standards of AFRICOM or [Department of Defense]." However, if General Bolduc is accurate in how the policy is practically applied during operations, then US forces appear to be acting in violation of IHL, as well as the US's own laws and policies regarding who is lawfully targetable during conflicts.

Despite this broadening of the strike mandate, a weakening of civilian protections, and a significant uptick in air strikes, the Department of Defense (DoD), in a June 2018 report to the US Congress, stated that its military operations – including air strikes – in Somalia in 2017 had resulted in zero civilians killed or injured. A series of AFRICOM press releases, and a response from a DoD spokesperson to a specific request from Amnesty International in March 2019 asserted the same about the USA's 2018 military operations.

This report investigates US strikes carried out in the Lower Shabelle region of Somalia. According to The Bureau of Investigative Journalism, a media organization which tracks and compiles strike data, the US military conducted at least 25 air strikes in Lower Shabelle between April 2017 and December 2018.

Security concerns and access restrictions prevented Amnesty International from conducting on-site investigations and severely limited the organization's ability to freely gather testimonial and physical evidence. All interviews took place in-person or over encrypted voice calls placed from phones located outside Al-Shabaab-held territory.

Despite the difficulties, Amnesty International interviewed 65 witnesses and survivors of five alleged US air strikes carried out during this period. Amnesty International interviewed a further 77 witnesses and survivors of other alleged US air strikes in Somalia which are not detailed in this report. In addition to this first-hand testimony, the report draws on several types of evidence, including analysis of satellite imagery and data, photographic material, interviews with government officials, medical personnel and other experts, and an open-source investigation including analysis of traditional and social media, academic articles, and reports from NGOs and international bodies.

While Al-Shabaab controls the areas of Lower Shabelle where the attacks in this report took place, and members of Al-Shabaab were present in relatively large numbers in parts of Lower Shabelle that were attacked, in some cases the rural areas and villages attacked had no evident Al-Shabaab presence at the time of the attack.

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The five incidents investigated in this report fall into two categories. The first category includes two incidents in which the US military appears to have targeted suspected Al-Shabaab members riding in vehicles, killing civilians near the targeted vehicle. On 16 October 2017, a US armed drone targeted a suspected Al-Shabaab vehicle travelling between the towns of Awdheegle and Barire. The first of two strikes missed the apparent target, killing two civilians, and injuring five civilians, including two children, who were residing in the Farah Waeys settlement next to the road at the time of the attack. The second strike destroyed the vehicle and killed the suspected Al-Shabaab fighters inside. On 6 December 2017, five civilians, including two children, were killed when a truck carrying suspected Al-Shabaab fighters exploded in the isolated hamlet of Illimey. The explosion injured a further two civilians, including an 18-month-old girl. All those in the vehicle were also killed. Based on the evidence presented in this report, Amnesty International believes that the explosion was most plausibly caused by a US air strike. In these two incidents, it appears that US forces had ample opportunity to avoid civilian deaths and injuries, by taking feasible precautions, as required by IHL, including by carrying out the attack before the vehicle entered, or drove by, the civilian areas.

The second category includes three incidents in which civilians were killed apparently either after being mistakenly identified as Al-Shabaab fighters or another lawful military objective, or incidentally in a strike against a lawful military objective. The misidentification appears to have occurred either because the target was wrongly identified as a specific individual or individuals or because the target was wrongly targeted by a "signature strike" where the victim's identity was unknown by US forces, but their actions, as viewed from the air, were perceived to fit a suspicious pattern of behaviour. On 12 November 2017, three civilian farmers were killed by a US air strike outside the village of Darusalaam as they camped out on the edge of a road. They had been irrigating their farm late into the night, a practice that is common at night in the region, where farmers rely on flood irrigation from the nearby Shabelle river. They were armed with nothing more than their farming tools. On 2 August 2018, a US drone strike killed three civilians, including two well-diggers and an employee from Hormuud Telecommunications Company, as they drove a vehicle in a rural area near Gobanle village. Also in the vehicle was a suspected Al-Shabaab member, who was also killed and whose presence may have led US forces to wrongly conclude that the civilians in the vehicle were also Al-Shabaab. In the most recent attack documented by Amnesty International, in the early hours of 9 December 2018, US forces conducted an air strike near the village of Baladul-Rahma. One civilian farmer was killed and another injured as they irrigated their farm. In these three instances, civilians who were not directly participating in hostilities either appear to have been misidentified and then targeted and killed or killed incidentally. These attacks either targeted civilians, or those who planned the attack failed to take adequate measures to verify that the objectives were not civilian in nature, or those who carried out the attack failed to cancel or suspend the attack when it became apparent that it was wrongly-directed or that the attack may be disproportionate. As a result, the attacks appear to violate the principle of distinction or proportionality.

US military operations are shrouded in secrecy. Although AFRICOM proactively issues press releases on some air strikes, others are only publicly acknowledged after AFRICOM receives a request for information on specific strikes. If no one asks questions, strikes may remain undisclosed, meaning the actual number of strikes conducted in Somalia is likely higher than current numbers suggest. Furthermore, AFRICOM's reports often leave out crucial details, including information about the location and the intended targets, making it difficult to assess a strike's compliance with international law.

On 15 February 2019, Amnesty International requested an official response from the USA to allegations in this report. On 12 March 2019, AFRICOM confirmed that US forces had conducted air strikes corresponding to the dates and locations of four of the incidents in this report. With respect to the allegations of civilian casualties in each of these incidents, AFRICOM stated they "do not appear likely based on contradictory intelligence that cannot be disclosed because of operational security limitations". In regard the incident in the hamlet of Illimey on 6 December 2017, AFRICOM stated that it did not match "AFRICOM records in regards to times, dates, and locations of lethal strikes".

Amnesty International's research points to a failure by the US and Somali governments to adequately investigate allegations of civilian casualties resulting from US operations in Somalia. A lack of transparency characterizes all aspects of US air strikes in Somalia, including the process employed by AFRICOM to assess the credibility of allegations of civilian casualties, and, when an allegation is deemed credible, how this is

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then investigated. On 12 March 2019, AFRICOM provided Amnesty International with a description of its procedure for reviewing civilian casualty allegations. The description does not provide information about the practical application of the guidance however, including on how it was applied to the incidents in this report, and does not contain clear criteria for assessing credibility of allegations. Furthermore, the US and Somali governments do not have adequate accountability mechanisms in place in Somalia for reporting and responding to allegations of civilian casualties, including an accessible means for survivors and families of victims to self-report their losses.

A failure to investigate adequately denies individuals and families the right to justice, accountability and reparation, including compensation and guarantees of non-repetition.

In this context, Amnesty International is calling on the Government of the USA to:

- Conduct thorough, transparent, independent and impartial investigations into all credible allegations of civilian casualties of air strikes and other military operations in Somalia, including those documented in this report. Where there is sufficient admissible evidence of crimes, bring suspected perpetrators to justice in fair trials without recourse to the death penalty;
- Acknowledge civilian casualties caused by US attacks and offer compensation and explanation to survivors and families of civilians killed in US strikes regardless of whether the casualties were caused by a lawful attack;
- Provide victims of violations of international humanitarian law by US forces, and their families with access to justice and to full reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition from the US government.
- Implement an effective mechanism to ensure a safe and accessible means for families and communities to self-report civilian casualties arising from US air strikes and other military operations;
- Ensure the planning and execution of attacks fully respects international humanitarian law, including by reviewing its criteria for selecting targets, its definitions of “combatant” and “non-combatant”, practices such as “signature strikes,” and whether all feasible precautions to spare civilians are being taken.

Amnesty International is also calling on the Government of Somalia to:

- Conduct its own thorough, transparent, independent and impartial investigations into allegations of civilian casualties resulting from US air strikes;
- Seek reparations from the US government for survivors and families of victims of US air strikes;
- Implement an effective mechanism to ensure a safe and accessible means for families and communities to self-report civilian casualties arising from US air strikes and other military operations.

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2. METHODOLOGY

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This report investigates five incidents in Lower Shabelle, Somalia, between April 2017 and December 2018 where civilians allegedly were killed by US air strikes. The report draws on significant first-hand testimony from witnesses and survivors from each of the five strikes. The report also draws on several other types of evidence including analysis of satellite imagery and data, photographic material, interviews with medical personnel and other experts, and an open-source investigation including an analysis of traditional and social media, academic articles, and reports from NGOs and international bodies.

The research for this report took place in an environment that was extraordinarily hostile to human rights research. Security concerns and access restrictions prevented Amnesty International from conducting on-site investigations and severely limited the organization's ability to freely gather testimonial and physical evidence.

The strikes all took place in areas controlled by Al-Shabaab. Al-Shabaab severely restricts national and international human rights investigators and journalists operating in areas under its control, and civilians living in its territory are forbidden from speaking freely with investigators and journalists. Moreover, the group monitors and restricts the movements of civilians, especially in and out of its territory. Al-Shabaab bans all smartphones that have the capability to take photographs, record audio, or access the internet in areas under their control.[1] According to people from Al-Shabaab territory interviewed for this report, the penalty for violating these rules can be severe and even fatal, especially in cases where Al-Shabaab believes the individual to be spying.

Given the lack of access and the serious risks facing civilians who attempt to share information, researchers investigating the impact of the conflict on the population in Al-Shabaab-controlled territory face numerous impediments. To overcome access restrictions and to minimize the risks to Amnesty International staff, interviewees and their communities, the research for this report was conducted from government-controlled areas in-person in Somalia and remotely, from outside of Somalia.

In addition to the risks associated with Al-Shabaab, mobile communications within and from Al-Shabaab territories are reportedly monitored by the US and Somali governments.[2] Information from these communications can be used to direct attacks inside Al-Shabaab territory. To reduce the likelihood of being monitored by Al-Shabaab or by the US and Somali governments, all interviews took place in-person or over encrypted voice calls from phones outside of Al-Shabaab territory.

Many interviewees were afraid of reprisals from Al-Shabaab or the Somali government if they were identified as having spoken to Amnesty International. As a result, information that could identify interviewees, or members of their communities, as having spoken with Amnesty International has been removed from the report but remain on file with Amnesty International. This includes age, gender, occupation, and relationship to the victims and survivors. The names of all victims in the report are real. Pseudonyms have been used in

[1] Amnesty International in-person and telephone interviews, dates and locations withheld for security reasons.
[2] Congressional Research Service, *The September 2013 Terrorist Attack in Kenya: In Brief,* 14 November 2013, https://fas.org/sgp/crs/row/R43245.pdf and; The Drive, *The U.S. Army's Newest Spy Plane Is in Action in Africa and Latin America*, 20 March 2017, http://www.thedrive.com/the-war-zone/8443/the-u-s-armys-newest-spy-plane-is-in-action-in-africa-and-latin-america

all cases when quoting people who were interviewed. Specific dates and locations of interviews have also been withheld for security reasons.

The investigation was carried out by four Amnesty International researchers, along with staff experts in remote sensing and photographic and video verification, and members of Amnesty International's Digital Verification Corps.[3] Amnesty International also hired individuals living in Somalia with extensive networks of contacts to locate survivors and witnesses and gather information about specific air strikes. For a strike to be included in the report, testimonial evidence had to be deemed sufficient and credible by Amnesty International researchers and needed to be corroborated by testimony from individuals identified by at least two independent entry points into the strike-affected population.

In instances where significant testimonial information obtained from an individual could not be corroborated, the entire testimony was excluded from the report and did not form any part of the factual basis for any of the report's conclusions. Amnesty International researchers also determined that numerous interviewees knowingly and wilfully provided false information. Their testimonies, along with *all* other testimonies from interviewees brought from the same sources, even if the underlying information appeared reliable, were likewise excluded from the report.

Between August 2018 and February 2019, Amnesty International interviewed 65 survivors and witnesses of the five incidents documented in this report. Amnesty International interviewed a further 77 survivors and witnesses of a further 15 alleged US air strikes in Somalia which are not detailed in this report. Amnesty International also interviewed staff from international organizations, members of the US military and US State Department, Somali government officials, journalists, humanitarian workers, and local human rights monitors.

Amnesty International interviewed survivors and witnesses individually. Interviews generally lasted between 30 minutes and two hours. Interviews with survivors and witnesses were conducted in Somali and Garre languages, often with interpretation from Somali or Garre languages to English.

Potential interviewees were informed about the nature and purpose of the research, as well as how the information they provided would be used, before deciding to meet with Amnesty International researchers. This information was shared again by Amnesty International researchers before the start of each interview. Oral consent was obtained from each interviewee at the start of interviews. Interviewees were also given the option – both before and at the end of the interview – to choose not to have their names included in the report. No incentives or monetary compensation were provided to interviewees in exchange for their accounts. Individuals were told that they could end the interview at any time and that they could choose whether to answer any specific question.

Some of the villages or hamlets referenced in this report do not appear on any publicly available map. The locations of these villages were determined by interviewing residents or former residents of the villages who described the geography of the village and the surrounding area in enough detail to allow Amnesty International to identify the village in high resolution satellite imagery.

People's ages in the report are based on information provided by the interviewee. Referenced ages are often approximations.

On 11 July 2018, Amnesty International filed a Freedom of Information Act Request with US Africa Command and US Air Forces in Europe & Air Forces Africa, asking for "all after action reports, debriefings, lessons learned, strike logs, mission summaries, white papers, research reports, and other documents related to air strikes accomplished in Somalia between 1 Jan 17 and 1 Jul 18." Other than an

[3] The Digital Verification Corps is a network of volunteers trained in discovering and verifying audio-visual content sourced from social media. Established in 2016 with volunteers based at three universities (University of California, Berkeley (USA), Pretoria (South Africa) and Essex (UK)), the network has grown to include Toronto (Canada), Cambridge (UK) and Hong Kong University. After the initial verification work by the trained volunteers, Amnesty International staff experts make the final determination of whether the digital content is sufficiently verified to be relied on in the organization's investigations.

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acknowledgement of receipt, Amnesty International had not, at time of printing, received a substantive reply to this request.

On 15 February 2019, Amnesty International formally requested an official response, from AFRICOM, to the allegations in this report. On 12 March 2019, AFRICOM provided a formal response to some of Amnesty International's questions. On 13 March 2018, a DoD spokesperson provided an email response to some of the questions that Amnesty International put to AFRICOM. Relevant portions of Amnesty International's request and AFRICOM's response have been included in the report.

On 7 March 2019, Amnesty International formally requested an official response, from the Government of Somalia, to the allegations in this report. At the time of printing, the government had not replied.

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3. BACKGROUND

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3.1 BACKGROUND ON SOMALIA

A former Italian colony and British protectorate, the Federal Republic of Somalia was formed in 1960 and lies on the eastern horn of Africa, sharing borders with Kenya, Ethiopia and Djibouti. Somalia is currently composed of five Federal Member States: Jubaland,[4] South West,[5] Galmudug,[6] Hirshabelle[7] and Puntland.[8] Puntland, in north eastern Somalia, declared itself a semi-autonomous state in 1998, but recognizes its status as a constituent part of Somalia. Somaliland, an area in north-western Somalia, declared independence from Somalia in 1991; however, its independence has not been formally recognized by any country.[9]

The Lower Shabelle region, the focus of this report, forms part of the South West state. It sits to the west, southwest and northwest of the capital, Mogadishu, and is home to around one million people,[10] most of whom live in rural areas. The region is home to many nomadic and semi-nomadic people, as well as many who are sedentary. Much of the population lives on the banks of the Shabelle River, which serves as an important source of livelihood, providing water for livestock and the irrigation of farms. More than 100,000 people are currently internally displaced in the region due to drought, flooding and conflict.[11]

Lower Shabelle is the gateway to Mogadishu and is a very fertile region making it one of the most strategic regions in Somalia. Since the collapse of the Somali government in 1991, the region has been characterized by inter-clan conflict over land ownership and political power. Since 2012, AMISOM alongside Somali government forces have taken over key towns from Al-Shabaab which had controlled the region since 2008. Due to these shifting political dynamics and the introduction of the federal system in Somalia in 2012, powerful clan militias started fighting to control the region and its resources, their alliances shifting frequently between the government and Al-Shabaab depending on who controlled their territory and who they thought would advance their interests at a given time; Somali government forces, AMISOM and Al-Shabaab have therefore also all fought against clan militias which they had previously supported. Al-Shabaab fighters

[4] This includes Gedo, Middle Juba and Lower Juba regions.
[5] This includes Lower Shabelle, Bay, and Bakool regions.
[6] This includes Galgadud and the southern part of Mudug regions.
[7] Hiraan and Middle Shabelle regions.
[8] The status of the Banadir regional administration within the federal system in which Mogadishu is located has not been determined yet. See UN Security Council, "Report of the Secretary-General on Somalia," S/2017/751, 5 September 2017, para. 7. And "Report of the Secretary-General on Somalia," S/2018/411, 2 May 2018, para 8.
[9] The Economist, *Why Somaliland is not a recognized state,* 1 November 2015, https://www.economist.com/the-economist-explains/2015/11/01/why-somaliland-is-not-a-recognised-state
[10] As of 2014. See: UN Population Fund, *Population Estimation Survey 2014,* October 2014, p.31, https://somalia.unfpa.org/sites/default/files/pub-pdf/Population-Estimation-Survey-of-Somalia-PESS-2013-2014.pdf
[11] As of July 2018. See: UN Office of the Coordinator of Humanitarian Assistance, *2018 Humanitarian Response Plan – Revised, July – December 2018,* July 2018, https://reliefweb.int/sites/reliefweb.int/files/resources/Somalia%20Revised%20HRP%20July%202018-FINAL.pdf

Women, walking with what possessions they can carry, arrive in a steady trickle at an IDP camp erected next to an AMISOM military base near the town of Jowhar, Middle Shabelle, Somalia, on November 12. © AU UN IST PHOTO / TOBIN JONES

currently control many villages in this region. The United States has been conducting military operations, including ground raids and air strikes, against Al-Shabab fighters in the region.[12]

Decades of violence, coupled with drought, poor governance and difficulties accessing humanitarian aid has left Somalia suffering one of the world's worst humanitarian and human rights crises. Around a million people are estimated to have fled the country, as a result of drought, flooding and conflict[13] and over 2.6 million people in Somalia are currently internally displaced.[14] According to the Protection and Return Monitoring Network - a UN High Commissioner for Refugees-led project implemented in partnership with the Norwegian Refugee Council which reports on displacements and protection risks and incidents underlying such movements - the number of civilians who fled their homes due to conflict and insecurity in Somalia increased to 320,000 in 2018, up 50 per cent from 2017. Lower Shabelle is the region that was most heavily impacted by displacement in 2017 and 2018.[15] Many of those Amnesty International interviewed for this report had been displaced, sometimes multiple times, due to interclan violence, armed clashes between the government and Al-Shabaab, or by US air strikes and other military operations. Internally displaced persons (IDPs) are at heightened risk of exploitation and abuse, including sexual violence, and forced evictions.[16] Women and children in the IDP camps are particularly vulnerable to abuse.

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[12] For more information on the Lower Shabelle dynamics see: International Crisis Group: *Somalia: Why is Al-Shabaab Still A Potent Threat?*, 11 February 2016, https://www.crisisgroup.org/africa/horn-africa/somalia/somalia-why-al-shabaab-still-potent-threat and, Human Rights Watch: *Somalia: Al-Shabab Forces Burn Villages*, 26 July 2017, https://www.hrw.org/news/2017/07/26/somalia-al-shabab-forces-burn-villages

[13] United Nations High Commissioner for Refugees (UNHCR), *Somalia Factsheet 2018,* June 2018, http://reporting.unhcr.org/sites/default/files/UNHCR%20Somalia%20Fact%20Sheet%20-%20June%202018.pdf

[14] This is the estimation as per 2018. See: UNHCR, *CCCM Cluster Somalia Overview*, 31 March 2018, https://data2.unhcr.org/en/situations/cccm_somalia

[15] NRC, *320,000 Somalis fled conflict and insecurity in 2018*, 28 February 2019, https:/www.nrc.no/somali-fled-2018-press-release

[16] Danish Immigration Service, *South and Central Somalia: Security situation, al-Shabab presence, and Target Groups,* March 2017, p.10, https://www.nyidanmark.dk/NR/rdonlyres/57D4CD96-E97D-4003-A42A-C119BE069792/0/South_and_Central_Somalia_Report_March_2017.pdf

3.2 A HISTORY OF CONFLICT IN SOMALIA

Following independence, Somalia enjoyed multiparty democracy for nearly 10 years. But in 1969 the then-President Abdirashid Ali Sharmarke was assassinated and the government overthrown.[17] Major General Mohamed Siad Barre assumed power in the coup and ruled Somalia for over 20 years.[18] His presidency became increasingly repressive, characterized by widespread detention, torture and execution of government critics, and the extrajudicial execution of thousands of civilians, including on the basis of clan membership.[19]

The collapse of Siad Barre's government in 1991 hastened the breakdown of the Somali state plummeting the country into civil war and prolonged conflict.[20] Heavy fighting engulfed Mogadishu and thousands of people were killed as rival warlords fought for power following Siad Barre's demise.[21] A drought in 1992, the effects of which were exacerbated by conflict, caused widespread famine which left millions of people on the verge of starvation and malnutrition.[22] By the end of 1992 an estimated 300,000 people had died from the intersecting drought and conflict, and a further estimated two million had been forced to flee their homes.[23]

Joint UN-US forces were deployed to Somalia in December 1992. Despite mediation attempts, no peace deal was reached, and violence continued throughout the 1990s.[24]

While peace has largely returned to Somalia's capital of Mogadishu, journalists working in the city continue to face huge risks in their effort to report the news. © AU-UN IST PHOTO / TOBIN JONES.

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[17] Harun Maruf and Dan Joseph, *Inside Al-Shabaab: The Secret History of Al-Qaeda's Most Powerful Ally*, Indiana University Press, 2018, p.9.
[18] Harun Maruf and Dan Joseph, *Inside Al-Shabaab: The Secret History of Al-Qaeda's Most Powerful Ally*, Indiana University Press, 2018, pp.9-17.
[19] Amnesty International, *Somalia: Building human rights in the disintegrated state, (*AI Index: AFR 52/03/95), November 1995, p.5, https://www.amnesty.org/download/Documents/196000/afr520011992en.pdf
[20] Harun Maruf and Dan Joseph. *Inside Al-Shabaab: The Secret History of Al-Qaeda's Most Powerful Ally*, Indiana University Press, 2018, p.17.
[21] See Lidwein Kaptiejns, *Clan Cleansing in Somalia: The Ruinous Legacy of* 1991, University of Pennsylvania Press, 2013.
[22] United Nations Department of Public Information, *United Nations Operation in Somalia I,* 1997, http://www.un.org/Depts/DPKO/Missions/unosomi.htm
[23] United Nations Department of Public Information, *United Nations Operation in Somalia I,* 1997, http://www.un.org/Depts/DPKO/Missions/unosomi.htm
[24] Mark Bradbury and Sally Healy, *Endless War: a brief history of the Somalia conflict,* Accord, Issue 21, pp.10-11: https://www.c-r.org/downloads/21_Somalia.pdf

In June 2006, the Islamic Courts Union (ICU) – an alliance of Shari'a courts formed to fight Somalia's newly appointed Transitional Federal Government (TFG) – gained control of Mogadishu and other parts of south-central Somalia.[25] Ethiopia, assessing a security threat, entered Somalia in early December 2006 at the request of the TFG[26] and drove the ICU from Mogadishu. For several months following the Ethiopian intervention, intense fighting between the Ethiopian forces, the TFG and the various factions of the ICU continued. The ICU, undefeated, was dispersed throughout south and central Somalia, and continued attacks on Ethiopian forces. It was out of this intense resistance to the Ethiopian intervention that Al-Shabaab emerged.[27]

3.3 AL-SHABAAB

Al-Shabaab is an offshoot of the ICU and, since 2012, Al-Qa'ida's affiliate in East Africa.[28] It was formed in early 2006 as a resistance group of approximately 400 fighters against Mogadishu warlords.[29] Between 2006 and 2008, thanks largely to popular support for its war against the Ethiopian military[30] and a protracted period of poor governance and lawlessness throughout the country,[31] its ranks increased to several thousand fighters.[32] In February 2008, the US State Department designated Al-Shabaab a Foreign Terrorist Organization.[33]

By mid-2008, Al-Shabaab had taken control of Mogadishu and the strategic southern port city of Kismayo, facilitating an increase in the group's revenues, including from the export of charcoal.[34] In 2012, they were ousted from all Somalia's major cities by AMISOM[35] and other allied forces.[36] Today Al-Shabaab still controls or contests large swathes of south-central Somalia, including strategic towns in Lower Shabelle. [37] The incidents detailed in this report all took place in Al-Shabaab-controlled territory in the Lower Shabelle region. At present, the group is estimated to include thousands of armed fighters, though precise figures are not known.[38]

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[25] See Stanford University, *Mapping Militant Organizations – Islamic Courts Union,* March 2016, http://web.stanford.edu/group/mappingmilitants/cgi-bin/groups/view/107 and; Council on Foreign Relations, *Al-Shabab,* 31 January 2019, https://www.cfr.org/backgrounder/al-shabab

[26] Council on Foreign Relations, *Al-Shabab,* 31 January 2019, https://www.cfr.org/backgrounder/al-shabab and; Centre for Strategic and International Studies, *Al-Shabaab,* July 2011, https://csis-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/publication/110715_Wise_AlShabaab_AQAM%20Futures%20Case%20Study_WEB.pdf

[27] Centre for Strategic and International Studies, *Al-Shabaab,* July 2011, https://csis-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/publication/110715_Wise_AlShabaab_AQAM%20Futures%20Case%20Study_WEB.pdf and; Council on Foreign Relations, *Al-Shabab,* 31 January 2019, https://www.cfr.org/backgrounder/al-shabab 2 and; Tony Blair Institute for Global Change, *What is Al-Shabaab?* 19 October 2017, https://institute.global/insight/co-existence/what-al-shabaab and; Human Rights Watch, *Harsh War, Harsh Peace: Abuses by al-Shabab, the Transitional Federal Government, and AMISOM in Somalia,* 2010, https://www.hrw.org/sites/default/files/reports/somalia0410webwcover_0.pdf and International Crisis Group, *Al-Shabaab Five Years after Westgate: Still a Menace in East Africa*, 21 September 2018, https://www.crisisgroup.org/africa/horn-africa/kenya/265-al-shabaab-five-years-after-westgate-still-menace-east-africa

[28] Al-Shabaab formally declared its allegiance to al-Qa'ida in 2012 though they had ties prior to that.

[29] Centre for Strategic and International Studies, *Al-Shabaab,* July 2011, p.3, https://csis-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/publication/110715_Wise_AlShabaab_AQAM%20Futures%20Case%20Study_WEB.pdf

[30] Harun Maruf and Dan Joseph. *Inside Al-Shabaab: The Secret History of Al-Qaeda's Most Powerful Ally*, Indiana University Press, 2018, pp. 27–45.

[31] Centre for Strategic and International Studies, *Al-Shabaab,* July 2011, https://csis-prod.s3.amazonaws.com/s3fs-public/legacy_files/files/publication/110715_Wise_AlShabaab_AQAM%20Futures%20Case%20Study_WEB.pdf

[32] Council on Foreign Relations, *Al-Shabab,* 31 January 2019, https://www.cfr.org/backgrounder/al-shabab

[33] US State Department, *Designation of Al-Shabaab as a Foreign Terrorist Organisation,* 26 February 2008, https://www.state.gov/j/ct/rls/other/des/102446.htm

[34] Counter Extremism Project, *Al-Shabab,* https://www.counterextremism.com/threat/al-shabab

[35] AMISOM is a UN-mandated peace enforcement mission operated by the African Union in Somalia. See: http://amisom-au.org/amisom-mandate/

[36] See Paul Williams, *Fighting for Peace in Somalia: A History and Analysis of the African Union Mission (AMISOM), 2007 – 2017*, Oxford University Press, 2018, chapters 5 and 6.

[37] Critical Threats, *Al Shabaab Area of Operations: October 2018,* 5 October 2018, https://www.criticalthreats.org/analysis/Al-Shabaab-area-of-operations-october-2018

[38] European Asylum Support Office, *EASO Country of Origin Information Report Somalia Security situation,* December 2017, p.30, https://www.easo.europa.eu/sites/default/files/publications/coi-somalia-dec2017lr.pdf

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The group imposes a strict version of Shari'a law in areas under its control.[39] It rules the civilian population with violent repression and regularly commits serious human rights abuses and violations of international humanitarian law.[40] The group has also been accused of using human shields and preventing humanitarian aid from entering its territory. Lower Shabelle and the villages that line the Shabelle River serve as a breadbasket for Al-Shabaab's fighters, as they extract *zakat* ("taxes") from local farmers who largely belong to economically weak and politically marginalized clans.[41]

Following air and ground attacks Al-Shabaab seeks retribution arresting local people whom they accuse of spying and helping to direct attacks to them. In 2014, Al-Shabaab executed ten people on charges of working with the USA or other foreign governments[42] and in October 2018, Al-Shabaab executed five men they accused of spying. The group said three of the men spied for the United States and helped guide drones to carry out strikes in Somalia.[43]

Al-Shabaab's armed attacks in Somalia have regularly targeted civilians and civilian structures,[44] including in indiscriminate attacks, and through the summary killing of individuals perceived to have links with the government, as well as journalists.[45] The group forcefully recruits children as soldiers,[46] and carries out rape and other forms of torture and other serious human rights abuses. [47] It also regularly targets government and AMISOM forces, relying on suicide bombs, improvised explosive devices (IEDs) and assassinations.[48]

Since 2011, there has been an increase in Al-Shabaab's attacks on locations frequented by civilians including hotels and restaurants in Mogadishu and other cities inside and outside of Somalia, attacks that have left thousands of civilians dead and wounded.[49] On 28 February 2019, Al-Shabaab carried out a complex attack that lasted for 24 hours outside hotels and restaurants along Makka Al-Mukarama road, one of the busiest streets in Mogadishu, killing at least 25 people, including children, and injuring 131 more.[50]

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[39] Council on Foreign Relations, *Al-Shabab,* 31 January 2019, https://www.cfr.org/backgrounder/al-shabab

[40] Human Rights Watch, *Harsh War, Harsh Peace: Abuses by Al-Shabaab, the Transitional Federal Government and AMISOM in Somalia,* 19 April 2010, https://www.hrw.org/report/2010/04/19/harsh-war-harsh-peace/abuses-al-shabaab-transitional-federal-government-and-amisom

[41] These include the Garre, Begedi, Jareer Wayn, and Biimaal clans.

[42] Harun Maruf and Dan Joseph, *Inside Al-Shabaab: The Secret History of Al-Qaeda's Most Powerful Ally*, Indiana University Press, 2018, p.228.

[43] Reuters*: Somalia's al Shabaab executes five men accused of spying*, 10 October 2018, https://www.reuters.com/article/us-somalia-security/somalias-al-shabaab-executes-five-men-accused-of-spying-idUSKCN1MK0GZ and; BBC, *Somalia's al-Shabab says it has killed British spy,* 10 October 2018, https://www.bbc.com/news/world-africa-45809289; In early 2019, there were media reports suggesting that Al-Shabab arrested students and teachers in Buale town for spying for the United States agencies, see Mareeg: *Somali Islamists Detain School Children For Spying*, 7 January 2019, https://mareeg.com/somali-islamists-detain-school-children-for-spying-2

[44] Counter Extremism Project, *Al-Shabab,* https://www.counterextremism.com/threat/al-shabab

[45] OHCHR, *Protection of Civilians: Building the Foundation for Peace, Security and Human Rights in Somalia,* December 2017, p.21, https://www.ohchr.org/Documents/Countries/SO/ReportProtectionofCivilians.pdf

[46] See: Human Rights Watch, *Somalia: Al-Shabab Demanding Children,* 14 January 2018, https://www.hrw.org/news/2018/01/14/somalia-al-shabab-demanding-children and; Human Rights Watch, *No Place for Children: Child Recruitment, Forced Marriage, and Attacks on Schools in Somalia*, 20 February 2012, https://www.hrw.org/report/2012/02/20/no-place-children/child-recruitment-forced-marriage-and-attacks-schools-somalia#2fe00

[47] Human Rights Watch, *Harsh War, Harsh Peace: Abuses by Al-Shabaab, the Transitional Federal Government and AMISOM in Somalia*, 19 April 2010, https://www.hrw.org/report/2010/04/19/harsh-war-harsh-peace/abuses-al-shabaab-transitional-federal-government-and-amisom

[48] OHCHR, *Protection of Civilians: Building the Foundation for Peace, Security and Human Rights in Somalia,* December 2017, p.18, https://www.ohchr.org/Documents/Countries/SO/ReportProtectionofCivilians.pdf

[49] See Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, *Somalia*, https://www.un.org/sexualviolenceinconflict/countries/somalia/; Sig Jarle Hansen, *Al-Shabaab in Somalia: The History and Ideology of a Militant Islamist Group*, Oxford University Press, 2016; Harun Maruf and Dan Joseph, *Inside Al-Shabaab: The Secret History of Al-Qaeda's Most Powerful Ally*, Indiana University Press, 2018.

[50] VOA News: *Body of Infant Recovered After Deadly Somalia Attack*, 3 March 2019, https://www.voanews.com/a/body-of-infant-recovered-3-days-after-deadly-somalia-attack/4811448.htm

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In January 2016, Al-Shabaab attacked a popular restaurant in Mogadishu's Lido beach, in which over 20 people were killed, and dozens injured, including women and children.[51]

In the past few years, Al-Shabaab has also carried out several high-profile attacks in neighbouring Kenya, often justified by the group as a response to the Kenyan military offensive against it since 2011. On 21 September 2013, Al-Shabaab attacked Westgate Mall, a popular upscale shopping centre in Kenya's capital, Nairobi, killing at least 67 people and injuring many others.[52] Similarly, on 2 April 2015, the group attacked Garissa University College, killing at least 147 people and injuring close to 100. On 15 January 2019 armed men stormed the DusitD2 hotel in Nairobi and killed at least 21 people. Al-Shabaab claimed responsibility for the attack.[53]

Despite increased military operations by Somali and allied forces in recent years, including a significant uptick in air strikes by US forces since June 2017, Al-Shabaab's ability to conduct attacks has been largely undiminished, according to the UN Panel of Experts on Somalia.[54] On 14 October 2017 nearly 600 people[55] were killed and more than 300 injured when a vehicle-borne improvised explosive device (VBIED) detonated at the Zoobe junction in Mogadishu. This was the world's deadliest truck bomb ever and Somalia's deadliest single attack to date. Although widely assumed to have been carried out by Al-Shabaab, the group has not claimed responsibility for it.[56]

3.4 INTERNATIONAL RESPONSE (1992 – 2019)

In April 1992, in response to escalating violence following the downfall of Siad Barre, the UN Security Council established the United Nations Operation in Somalia (UNOSOM) and sent military observers to the country.[57] Following a further deterioration in the situation, the US deployed 30,000 troops for 'Operation Restore Hope' in December 1992,[58] but they were withdrawn little more than a year later, after 18 US soldiers and hundreds of Somalis were killed in a fierce battle – The Battle of Mogadishu -- in October 1993.[59] In 1995, UN peacekeeping forces also withdrew.[60]

In early 2007, the UN Security Council authorized the African Union (AU) to lead a new peace enforcement mission, AMISOM.[61] The mission's primary mandate was to protect the country's then transitional government, which had been formed in 2004. Uganda was the first nation to send forces into Somalia under

[51] The Independent, *Mogadishu attack: 20 killed as Al-Shabaab gunmen storm Somalia beachfront restaurant*, 22 January 2016, https://www.independent.co.uk/news/world/africa/mogadishu-attack-gunmen-attack-lido-beach-restaurant-a6826321.html
[52] The Guardian, *Terror in Nairobi: the full story behind al-Shabaab's mall attack*, 4 October 2013, https://www.theguardian.com/world/2013/oct/04/westgate-mall-attacks-kenya
[53] BBC, *Kenya attack: 21 confirmed dead in DusitD2 hotel siege*, 16 January 2019, https://www.bbc.com/news/world-africa-46888682
[54] UN Panel of Experts on Somalia, UN Doc: S/2018/1002, Somalia report of the Monitoring Group on Somalia and Eritrea submitted in accordance with resolution 2385, 9 November 2018, http://undocs.org/S/2018/1002
[55] UN Panel of Experts on Somalia, UN Doc: S/2018/1002, Somalia report of the Monitoring Group on Somalia and Eritrea submitted in accordance with resolution 2385, 9 November 2018, http://undocs.org/S/2018/1002 See also: Human Rights Watch, Somalia bombing takes ghastly civilian toll, https://www.hrw.org/news/2017/10/15/somalia-bombing-takes-ghastly-civilian-toll
[56] UN Panel of Experts on Somalia, UN Doc: S/2018/1002, Somalia report of the Monitoring Group on Somalia and Eritrea submitted in accordance with resolution 2385, 9 November 2018, http://undocs.org/S/2018/1002
[57] United Nations Peacekeeping, *Somalia UNOSOM I – Background,* https://peacekeeping.un.org/mission/past/unosom1backgr2.html#three
[58] For a list of troop-contributing countries, see: United Nations Department of Public Information, *United Nations Operation in Somalia I,* 1997, http://www.un.org/Depts/DPKO/Missions/unosomi.htm
[59] Mark Bowden, *Black Hawk Down: A Story of Modern War,* Atlantic Monthly Press, 1999.
[60] BBC, *Black Hawk Down: The Somali battle that changed US policy in Africa,* 1 February 2017, https://www.bbc.co.uk/news/av/magazine-38808175/black-hawk-down-the-somali-battle-that-changed-us-policy-in-africa
[61] AMISOM divides the country into sectors and assigns responsibility for each to individual countries. Sector 2, consisting of Lower and Middle Juba, is run by Kenya. Ethiopia is responsible for Sector 3, the Bay, Gedo, and Bakool regions. In the Lower Shabelle region and Mogadishu, Sector 1, Ugandan (and occasionally Burundian) soldiers take the lead in AMISOM operations, and coordinate with US forces, who returned its military to the country in 2002. See: http://amisom-au.org/amisom-background/

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AMISOM, and has the force's largest contingent, with over 6,200 troops.[62] Other forces come from Burundi, Ethiopia, Kenya, Djibouti, and Sierra Leone.[63]

The international community has supported a number of efforts to install functioning governments in Somalia in the last decade.[64] Al-Shabaab proved to be the biggest security challenge preventing the authorities from returning the country to stability. While AMISOM forces are still present in Somalia and unilateral and US-supported Somali military actions against Al-Shabaab have increased in the past few years, Al-Shabaab still maintains control over large areas of south-central Somalia.

In February 2017, the current president of the Federal Government of Somalia Mohamed Abdullahi Mohamed, popularly known as "Farmajo," was elected and soon announced plans to step up military operations against Al-Shabaab, declaring the country to be in a state of war with the armed group.[65] This came just days after reports emerged of President Trump's issuing of a directive designating parts of Somalia an "area of active hostilities".

Military operations by Somali government, allied militia and foreign troops including AMISOM and the US military against Al-Shabaab, continue to have a devastating effect on civilians. All parties to the conflict have violated international human rights and humanitarian law.[66] Civilians have been killed indiscriminately by Somali and allied forces during clashes with Al-Shabaab, as well as in the crossfire of interclan violence which continues across the country.[67]

Women carry water as Ugandan soldiers patrol the road leading into Qoryooley, Lower Shabelle, Somalia, April 29, 2014. The AMISOM forces use foot soldiers to search for and prevent improvised explosive devices (IEDs) from being placed along the roads. ©

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[62] AMISOM, *Uganda – UPDF,* http://amisom-au.org/uganda-updf/
[63] International Peace Institute, *The Surge to Stabilize: Lessons for the UN from the AU's Experience in Somalia,* May 2016, https://www.ipinst.org/wp-content/uploads/2016/05/IPI-Rpt-Surge-to-Stabilize.pdf
[64] This refers to the creation of the TFG in 2004, the federal government of Somalia that was created in 2012 and currently headed by president Mohamed Abdullahi Mohamed ('Farmajo'). The international community, including the UN, also supported the formation of the current federal states. The EU supports Somalia on a wide range of issues including security, development and humanitarian aid. See: European External Action Service, *International community strengthens support for Somalia's plans for stability and development,* 17 July 2018, https://eeas.europa.eu/delegations/somalia/48542/international-community-strengthens-support-somalias-plans-stability-and-development_en
[65] BBC, *Al-Shabab fighters offered amnesty as new Somali president declares war*, 6 April 2017, https://www.bbc.com/news/world-africa-39513909
[66] For a detailed description of the prolonged conflict in Somalia and violations of international human rights and humanitarian law by all parties, see Human Rights Watch, *Harsh War, Harsh Peace: Abuses by Al-Shabaab, the Transitional Federal Government and AMISOM in Somalia*, April 19 2010, https://www.hrw.org/report/2010/04/19/harsh-war-harsh-peace/abuses-al-shabaab-transitional-federal-government-and-amisom
[67] First Post, *Somalia violence: 50 killed, over 100 injured in inter-clan clashes over land disputes*, 25 October 2018, https://www.firstpost.com/world/somalia-violence-50-killed-over-100-injured-in-inter-clan-clashes-over-land-disputes-govt-urges-both-sides-to-pursue-dialogue-5442011.html

4. THE US MILITARY IN SOMALIA

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In December 1992, the US military intervened in Somalia for the first time as part of "Operation Restore Hope" (see Background section above). In October 1993, after the Battle of Mogadishu and infamous "Black Hawk Down" incident, which resulted in the deaths of 18 US servicemen, the US military withdrew from the country.[68]

In 2002[69] or 2003,[70] President George W. Bush, acting under the Authorization for Use of Military Force (AUMF) – the legal authority granted to him by Congress in the aftermath of the 11 September 2001 attacks in the USA allowing him to use force against the perpetrators of the attacks – sent US government forces back to Somalia.[71] These covert operatives – US Special Forces and Central Intelligence Agency (CIA) officers – [72] were tasked with capturing or killing members of Al-Qa'ida in East Africa, including those believed to be responsible for the 1998 bombings of US embassies in Kenya and Tanzania.[73] The CIA's strategy relied heavily on cooperation with local warlords who were financially and militarily supported in exchange for locating and capturing suspected Al-Qa'ida members.[74] These covert operations went largely unnoticed until the ICU took control of Mogadishu (see Background section above).[75] In January 2007, the Bush Administration carried out its first air strike against suspected Al-Qa'ida fighters in Somalia. The strike was conducted by an AC-130 gunship.[76]

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[68] See Harun Maruf and Dan Joseph, *Inside Al-Shabaab: The Secret History of Al-Qaeda's Most Powerful Ally*, Indiana University Press, 2018, p.29.
[69] See Harun Maruf and Dan Joseph, *Inside Al-Shabaab: The Secret History of Al-Qaeda's Most Powerful Ally,* Indiana University Press, 2018, p.29.
[70] Wired, *Empty Threat of Drones Saved the CIA in Somalia,* 15 November 2011 https://www.wired.com/2011/11/us-somalia-cia/
[71] Wired, *Empty Threat of Drones Saved the CIA in Somalia,* 15 November 2011 https://www.wired.com/2011/11/us-somalia-cia/
[72] Wired, *Empty Threat of Drones Saved the CIA in Somalia,* 15 November 2011 https://www.wired.com/2011/11/us-somalia-cia/
[73] See Harun Maruf and Dan Joseph, *Inside Al-Shabaab: The Secret History of Al-Qaeda's Most Powerful Ally*, Indiana University Press, 2018, p.30, and; Paul Williams, *Fighting for Peace in Somalia: A History and Analysis of the African Union Mission (AMISOM), 2007—2017,* Oxford university Press, 2018, p.30
[74] See Harun Maruf and Dan Joseph, Inside Al-Shabaab: *The Secret History of Al-Qaeda's Most Powerful Ally, Indiana University Press,* 2018, chapter 2
[75] Reliefweb, *US Funding Somali Warlords – Intelligence Experts Say,* 5 June 2006 https://reliefweb.int/report/somalia/us-funding-somali-warlords-intelligence-experts-say; New York Times, *Efforts by C.I.A. Fail in Somalia, Officials Charge,* 8 June 2006. https://www.nytimes.com/2006/06/08/world/africa/08intel.html
[76] CBS News, *U.S. Strikes in Somalia Reportedly Kill 31,* 8 January 2007 https://www.cbsnews.com/news/us-strikes-in-somalia-reportedly-kill-31/

Creech Air Force Base, Nevada -- A Reaper drone aircraft comes in to land during a training program to bring more pilots online for an expanded use of drones in the skies over Iraq and Afghanistan, as well as for missions elsewhere around the world. © Rick Loomis/Los Angeles Times via Getty Images.

According to The Bureau of Investigative Journalism, a media organization which tracks and compiles strike data, the US carried out nine air strikes in Somalia between 2001 and 2010.[77] The first acknowledged drone attack was conducted in 2011.[78] By then, the organizers of the 1998 embassy bombings had been killed, and there were few high-ranking foreign Al-Qa'ida operatives left in the country;[79] however, there was Al-Shabaab, which was believed to have links with Al Qa'ida,[80] and ultimately declared it's allegiance to the group in 2012.[81] In October 2013, President Barack Obama also dispatched the first official deployment of US forces in the country since 1993, which consisted of advisors charged with supporting the Somali National Army (SNA).[82] Between 2014 and 2016, as Al-Shabaab scored a number of battlefield successes, including by overrunning posts of AU soldiers,[83] American airpower and special operations troops were increasingly used to support AMISOM and SNA forces on the ground.[84] The US military reportedly conducted six air strikes between 2012 and 2014; 11 in 2015; and 14 in 2016.[85]

[77] The Bureau of Investigative Journalism data is derived from open sources, predominantly from media reporting but also through direct email communication with AFRICOM.
[78] Greg Jaffe and Karen DeYoung, *U.S. Drone Targets Two Leaders of Somali Group Allied With al-Qaeda,* 29 June 2011, https://www.washingtonpost.com/national/national-security/us-drones-target-two-leaders-of-somali-group-allied-with-al-qaeda/2011/06/29/AGJFxZrH_story.html?utm_term=.b369e043dff9
[79] ABC News, *Exclusive: US Launches Military Strike in Somalia Against all Qaeda Target,* 14 September 2009, http://abcnews.go.com/Politics/us-forces-somalia-kill-saleh-ali-nabhan-commando/story?id=8569619 and; New York Times, *Mastermind of 2 U.S. Embassy Bombings is Killed in Somalia,* 11 June 2011, https://www.nytimes.com/2011/06/12/world/africa/12somalia.html?_r=1&hp
[80] Paul D. Williams, *Fight for Peace in Somalia: A History and Analysis of the African Union Mission (AMISOM), 2007 – 2017,* Oxford University Press, 2018, p. 44.
[81] Council on Foreign Relations, *Al-Shabab,* 31 January 2019, https://www.cfr.org/backgrounder/al-shabab
[82] Harun Maruf and Dan Joseph, *Inside Al-Shabaab: The Secret History of Al-Qaeda's Most Powerful Ally*, Indiana University Press, 2018, p.274
[83] Washington Post, *Three Things We Learned From Last Week's Al-Shabaab Attack in Somalia,* 19 January 2016. https://www.washingtonpost.com/news/monkey-cage/wp/2016/01/19/three-things-we-learned-from-last-weeks-al-shabaab-attack-in-somalia/?utm_term=.afba5d7448bb
[84] New York Times, *In Somalia, U.S. Escalates a Shadow War*, 16 October 2016, https://www.nytimes.com/2016/10/16/world/africa/obama-somalia-secret-war.html; also cite Obama letter to the House of Representatives: https://obamawhitehouse.archives.gov/the-press-office/2016/06/13/letter-president-war-powers-resolution
[85]The Bureau of Investigative Journalism, *Somalia,* https://www.thebureauinvestigates.com/projects/drone-war/somalia

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The increase in US military involvement in the fight against Al-Shabaab corresponded with new operational and legal guidance for US operations in Somalia. On 22 May 2013, President Obama issued the 'Presidential Policy Guidance' (PPG),[86] which established the operating procedures for action "against terrorist targets outside the United States and areas of active hostilities, including Somalia".[87] The PPG remained classified until litigation by the American Civil Liberties Union forced its disclosure in 2016.[88] Notably, the guidance asserts that individuals can be targeted only if "the individual's activities pose a continuing, imminent threat to U.S. persons", and sets out minimum necessary conditions for any lethal action, including:

> **"(a) near certainty than an identified HVT [high valued target] or other lawful terrorist target other than an identified HVT is present; (b) near certainty that non-combatants will not be injured or killed; (c) [REDACTED] and (d) if lethal force is being employed; (i) an assessment that capture is not feasible at the time of the operation; (ii) an assessment that the relevant governmental authorities in the country where action is contemplated cannot or will not effectively address the threat to U.S. persons; and (iii) an assessment that no other reasonable alternatives to lethal action exist to effectively address the threat to U.S. persons."[89]**

The PPG governed all strikes in Somalia until after the end of President Obama's second term. However, in October 2016, the New York Times reported that the administration had "quietly broadened the president's authority for the use of force in Somalia by allowing air strikes to protect American and African troops" fighting Al-Shabaab.[90] Strikes no longer required that Americans be under direct threat.[91] The paper further reported that, in an effort to bolster the legal basis for air strikes and other counterterrorism operations in Somalia, the administration classified Al-Shabaab as a party to the armed conflict governed by the AUMF.[92] The reported re-articulation of Al-Shabaab's connection to Al-Qa'ida appears to have been confirmed in a letter from President Obama to the Speaker of the House of Representatives in December 2016, which stated that that US forces were countering the "the terrorist threat posed by al-Qa'ida *and its Somalia-based associated force, al-Shabaab*" (emphasis added).[93] Previous letters to Congress consistently referred to "al-Qa'ida and associated elements of al-Shabaab".[94]

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[86] Procedures for Approving Direct Action against Terrorist Targets Located Outside the United States and Areas of Active Hostilities, 22 May 2013, https://www.justice.gov/oip/foia-library/procedures_for_approving_direct_action_against_terrorist_targets/download

[87] Procedures for Approving Direct Action against Terrorist Targets Located Outside the United States and Areas of Active Hostilities, 22 May 2013, https://www.justice.gov/oip/foia-library/procedures_for_approving_direct_action_against_terrorist_targets/download

[88] American Civil Liberties Union, *U.S. Releases Drone Strike 'Playbook' in Response to ACLU Lawsuit*, 6 August 2016, www.aclu.org/news/usreleases-drone-strike-playbook-response-aclu-lawsuit

[89] Procedures for Approving Direct Action against Terrorist Targets Located Outside the United States and Areas of Active Hostilities, 22 May 2013, p.3, https://www.justice.gov/oip/foia-library/procedures_for_approving_direct_action_against_terrorist_targets/download

[90] New York Times, *In Somalia, U.S. Escalates a Shadow War*, 16 October 2016, https://www.nytimes.com/2016/10/16/world/africa/obama-somalia-secret-war.html; also, see The White House, Office of the Press Secretary, Letter from the President – War Powers Resolution: *Text of A Letter from The President to the Speaker of the House of Representatives and the President Pro Tempore of the Senate*, 13 June 2016, https://obamawhitehouse.archives.gov/the-press-office/2016/06/13/letter-president-war-powers-resolution

[91] The New York Times, *Trump Eases Combat Rules in Somalia Intended to Protect Civilians,* 30 March 2017, https://www.nytimes.com/2017/03/30/world/africa/trump-is-said-to-ease-combat-rules-in-somalia-designed-to-protect-civilians.html

[92] The New York Times, *Obama Expands War with Al Qaeda to Include Shabab in Somalia,* 27 November 2016, https://www.nytimes.com/2016/11/27/us/politics/obama-expands-war-with-al-qaeda-to-include-shabab-in-somalia.html?module=inline

[93] The White House, Office of the Press Secretary, Letter from the President – Supplemental 6-month War Powers Letter*: Text of a Letter from the President to the Speaker of the House of Representatives and the President Pro Tempore of the Senate*, 5 December 2016, https://obamawhitehouse.archives.gov/the-press-office/2016/12/05/letter-president-supplemental-6-month-war-powers-letter

[94] The White House, Office of the Press Secretary, Letter from the President – War Powers Resolution: *Text of A Letter from The President to the Speaker of the House of Representatives and the President Pro Tempore of the Senate*, 13 June 2016, https://obamawhitehouse.archives.gov/the-press-office/2016/06/13/letter-president-war-powers-resolution

US ARMED DRONE OPERATIONS

The USA has been developing an extensive armed drone programme since 2002, when it conducted its first reported drone strike in Afghanistan, in the wake of the 11 September attacks in the USA in 2001. In the intervening years, the USA has used armed drones to carry out intentional killings including in Somalia, Yemen, Libya, Pakistan, Afghanistan, Syria and Iraq among other countries.[95] Also known as Unmanned Aerial Vehicles (UAVs), drones have proven attractive to militaries around the world due to their perceived technical and strategic capabilities, and low cost. Using satellite technology, drones can be operated over vast distances, reducing the physical risk to the military personnel who control them from many thousands of miles away. Armed drones are also able to remain airborne far longer than other military aircraft, with Predator and Reaper drones able to conduct individual missions lasting up to 20 hours at a time.[96]

A dramatic expansion of the drone programme during President Obama's administration prompted Amnesty International, other NGOs and journalists to raise serious questions about the implications of drone strikes under international human rights and humanitarian law, and their civilian cost.[97] While many drone strikes have been carried out as part of actual armed conflicts, they have also been used far from the conventional battlefield, and the USA has asserted its right to carry out intentional killings (so-called 'targeted killings') against members of certain groups, wherever in the world they are on the basis of a 'global war' theory, or on the basis of an alleged right of self-defense to target certain individuals and groups.[98]

Some of these strikes, for example in Pakistan,[99] may have violated the right to life, and resulted in extrajudicial executions and other unlawful killings. In situations of armed conflict, drone strikes have caused a significant number of civilian casualties,[100] and in some cases appear to have resulted in violations of international humanitarian law, with some amounting to possible war crimes.[101]

US armed drones and other lethal force operations have also been characterized by a lack of transparency. The USA has often failed to make public its legal and policy framework governing the use of armed drones, and basic details about operations – including target selection, post-strike

[95] See for example: Amnesty International. *Will I be next? US drone strikes in Pakistan,* 2013, https://www.amnestyusa.org/files/asa330132013en.pdf, and; Reprieve, *Game Changer,* July 2017, https://reprieve.org.uk/wp-content/uploads/2017/09/2017_08_15_PRIV-Yemen-Report-UK-Version-FINAL-FOR-USE.pdf, and; New America, *Airstrikes and Civilian Casualties: Libya,* https://www.newamerica.org/in-depth/americas-counterterrorism-wars/airstrikes-and-civilian-casualties-libya/, and; The Intercept, *The Pentagon says one civilian died in drone strike on Syrian Mosque. Witnesses say it killed dozens,* 22 June 2017, https://theintercept.com/2017/06/22/the-pentagon-says-one-civilian-died-in-drone-strike-on-syrian-mosque-witnesses-say-it-killed-dozens/, and; The Guardian, *US drone strikes more deadly to Afghan civilians than manned aircraft – adviser*, 2 July 2013, https://www.theguardian.com/world/2013/jul/02/us-drone-strikes-afghan-civilians

[96] Alberto Cuadra and Craig Whitlock, *How drones are controlled*, 20 June 2014, www.washingtonpost.com/wp-srv/special/national/dronecrashes/how-drones-work/

[97] See for example: Columbia Law School Human Rights Clinic, *Counting drone strike deaths*, October 2012, http://www.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/COLUMBIACountingDronesFinal.pdf and; UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, *Report to the Human Rights Council*, UN Doc. A/HRC/25/59, 10 March 2014, and; Open Society Justice Initiative and Mwatana Organization for Human Rights, *Death by Drone: Civilian harm caused by US targeted killings in Yemen,* 2015, https://www.opensocietyfoundations.org/sites/default/files/death-drones-report-eng-20150413.pdf, and; Foreign Policy, *Do Not Believe the U.S. Government's Official Numbers on Drone Strike Civilian Casualties,* 5 July 2016, www.foreignpolicy.com/2016/07/05/do-not-believe-the-u-s-governments-official-numbers-on-drone-strikecivilian-casualties/

[98] Amnesty International. *Will I be next? US drone strikes in Pakistan,* 2013, https://www.amnestyusa.org/files/asa330132013en.pdf

[99] Amnesty International. *Will I be next? US drone strikes in Pakistan,* 2013, https://www.amnestyusa.org/files/asa330132013en.pdf

[100] A classified report carried out by Larry Lewis, a former US military adviser, and referred to in a military journal, found that air strikes carried out using armed drones in Afghanistan caused ten times more civilians in a year of the conflict than strikes carried out by manned aircraft. See: https://www.theguardian.com/world/2013/jul/02/us-drone-strikes-afghan-civilians

[101] Amnesty International. *Will I be next? US drone strikes in Pakistan,* 2013, https://www.amnestyusa.org/files/asa330132013en.pdf

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assessments, and whether civilians were killed or injured – have remained largely secret.[102] This has impeded an accurate assessment of the lawfulness of operations and denied victims and survivors of drone strikes and their families access to justice and remedies.[103]

The USA does not conduct these operations alone. The drone programme relies heavily on a vast and complex network of intelligence sharing and communications infrastructure around the world. In its 2018 report *Deadly Assistance: The role of European states in US drone strikes,*[104] Amnesty International showed how the UK, Germany, the Netherlands, and Italy all provide crucial assistance to US drone strikes, including in Somalia. This assistance takes the form of general intelligence-sharing as part of historical alliances such as the Five Eyes alliance,[105] a global surveillance network which includes the UK, as well as specific intelligence support which has been provided by various States, including the Netherlands, and used to locate and identify targets for US drone strikes. The UK, Germany and Italy also provide operational support for US surveillance and drone operations, including by providing infrastructure to assist with communications and allowing the USA to use military bases on their territory.[106]

Amnesty International is aware that States other than those mentioned in the *Deadly Assistance* report provide assistance to the USA which could be used in its armed drone programme. This includes those States in the global Five Eyes alliance surveillance arrangement, comprised of the USA's National Security Agency (NSA), the UK's Government Communications Headquarters (GCHQ), Canada's Communications Security Establishment Canada (CSEC), the Australian Signals Directorate (ASD), and New Zealand's Government Communications Security Bureau (GCSB). Other US military operations also rely on assistance from its allies. Provision of such support means these states are intricately entwined in US drone operations. The report demonstrated how, given the well-known and serious concerns around the US drone programme, the UK, Germany, the Netherlands and Italy could be responsible for assisting in potentially unlawful strikes, and may have violated their own obligations under international and domestic law.[107]

In some instances, legal action has been brought against assisting States. For example, in 2015, two Somali shepherds initiated legal action against the Dutch government claiming that Dutch intelligence – which is collected and shared with the USA as part of general intelligence cooperation[108] - had contributed to a drone strike in 2014, which had been targeting an Al-Shabaab leader called Moktar Ali Zubeyr, known also as "Ahmad Abdi Godane" or "Godane".[109] Godane survived but the drone strike had killed the

[102] Columbia Law School Human Rights Clinic and Sana'a Center for Strategic Studies, *Out of the Shadows: Recommendations to Advance Transparency in the Use of Lethal Force,* June 2017, https://www.outoftheshadowsreport.com/
[103] Amnesty International. *Will I be next? US drone strikes in Pakistan,* 2013, https://www.amnestyusa.org/files/asa330132013en.pdf
[104] Amnesty International, *Deadly Assistance: The role of European States in US drone strikes*, April 2018, https://www.amnesty.org/en/documents/act30/8151/2018/en/
[105] The Five Eyes' alliance, is a 70-year-old integrated global surveillance network. For more Information see: https://edition.cnn.com/2017/05/25/world/uk-us-five-eyes-intelligence-explainer/index.html
[106] Amnesty International, *Deadly Assistance: The role of European States in US drone strikes*, April 2018, https://www.amnesty.org/en/documents/act30/8151/2018/en/
[107] For further explanation of the provision of assistance to US drone operations and the legal implications of this, see: Amnesty International, *Deadly Assistance: The role of European States in US drone strikes*, April 2018, https://www.amnesty.org/en/documents/act30/8151/2018/en/
[108] See: Amnesty International, *Deadly Assistance: The role of European States in US drone strikes*, April 2018, pp. 62-69, https://www.amnesty.org/en/documents/act30/8151/2018/en/
[109] Amnesty International documented a subsequent US drone strike on 1 September 2014 which killed Godane and other Al-Shabaab leaders when they were travelling in a convoy. Soon after, reports emerged alleging that France provided the USA with the intelligence that led to the drone strike that killed Godane. See: Amnesty International, *Forced returns to south and central Somalia, including to al-Shabaab areas: A blatant violation of international law*, 23 October 2014, (Index: AFR 52/005/2014), www.amnesty.org/download/Documents/4000/afr520052014en.pdf and the following French media reports: Le Monde, *François Hollande a coopéré avec Washington pour éliminer le chef des Chabab*, 13 September 2014, www.lemonde.fr/afrique/article/2014/09/13/francois-hollande-a-coopere-avec-washington-pour-eliminer-le-chef-des-chabab_4487094_3212.html, Le Point, *François Hollande a ordonné l'exécution du chef djihadiste somalien Ahmed Godane,* 13 September 2014, www.lepoint.fr/editos-du-point/jean-guisnel/exclusif-francois-hollande-a-ordonne-l-

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shepherds' relatives and livestock. These civilian casualty claims were not cited in any initial US reports, which stated only that the strike had hit a vehicle and killed an al-Shabaab commander and others about 200 miles south of Mogadishu.[110]

One lawyer representing the Somali shepherds argued that the USA should have seen there were bystanders in the area when the Hellfire missile was fired, as "There were a lot of livestock around, always a clear indication that people are nearby".[111] Following delays due to legal costs, the claimants have now been granted government-funded legal aid and are considering next steps.[112]

4.1 MILITARY ACTIVITY AND POLICY CHANGES UNDER THE TRUMP ADMINISTRATION

Shortly after President Trump came to power in January 2017, the US modified the policy and legal framework governing US military operations in Somalia. After these changes took place the number of US air strikes in Somalia increased dramatically.

On 30 March 2017, reports from unnamed US government officials emerged stating that the then newly inaugurated President Trump had issued a directive relaxing the rules for authorizing air strikes in Somalia.[113] AFRICOM had been seeking this new authority for some time,[114] and the new rules codified the inclusion of support to ground forces that had begun under the Obama Administration.[115] The directive reportedly declared all of southern Somalia an "area of active hostilities" (AAH),[116] and stated that war-targeting rules now apply.[117] Its implementation meant that the Obama-era PPG,[118] which was applicable to areas *outside* of recognised conflict zones, no longer applied to the areas of southern Somalia where US forces were carrying out air strikes, thereby removing the requirement for a target to pose a threat to Americans and meaning a strike could be ordered without the need for prior high-level vetting.[119]

The designation of an "area of active hostilities" reportedly meant that there was no longer a requirement of "near certainty" that the target of a lethal action was identified as a "terrorist" and that the attack would not kill or injure 'non-combatants'. Instead, the US interpretation of who may be directly targeted as a combatant

execution-du-chef-djihadiste-somalien-ahmed-godane-12-09-2014-1862586_53.php and; 20 Minutes, *Exécution du chef des shebab: François Hollande a coopéré avec les Etats-Unis*, 13 September 2014, www.20minutes.fr/monde/1442443-20140913-execution-chef-shebab-francois-hollande-coopere-etats-unis

[110] The Bureau of Investigative Journalism, *Somalia: reported US covert actions 2001-2017*, 22 February 2012, https://v1.thebureauinvestigates.com/2012/02/22/get-the-data-somalias-hidden-war/

[111] The Irish Times, *Dutch court to hear action by tribesmen devastated by drones*, 7 December 2015, www.irishtimes.com/news/world/europe/dutch-court-to-hear-action-by-tribesmen-devastated-by-drones-1.2456454

[112] Nuhanovic Foundation, *Somali drones victims pursue their lawsuit against the Dutch State*, www.nuhanovicfoundation.org/en/litigation-projects/somali-drone-victims-vs-the-dutch-state/

[113] The New York Times, *Trump Eases Combat Rules in Somalia Intended to Protect Civilians,* 30 March 2017, https://www.nytimes.com/2017/03/30/world/africa/trump-is-said-to-ease-combat-rules-in-somalia-designed-to-protect-civilians.html

[114] Off-the-record interviews by Amnesty International with former US government officials.

[115] New York Times, *In Somalia, U.S. Escalates a Shadow War*, 16 October 2016, https://www.nytimes.com/2016/10/16/world/africa/obama-somalia-secret-war.html

[116] Telephone interview with Stephen Schwartz on 26 February 2019.

[117] The New York Times, *Trump Eases Combat Rules in Somalia Intended to Protect Civilians,* 30 March 2017, https://www.nytimes.com/2017/03/30/world/africa/trump-is-said-to-ease-combat-rules-in-somalia-designed-to-protect-civilians.html

[118] Unconfirmed reports emerged later in 2017 stating that the Trump administration had replaced the PPG with the new Principles, Standards and Procedures. Amnesty International and other NGOs raised concerns about the lack of transparency surrounding this still-secret policy, and the risk that it will lead to an increase in unlawful killings and civilian casualties. See: Amnesty International, *Trump administration should not gut drone protections*, 21 September 2017, www.amnestyusa.org/press-releases/trump-administration-should-not-gut-drone-protections/ and; Amnesty International, *NGO Statement on reported changes to US policy on use of armed drones and other lethal force,* 3 March 2018, https://www.amnestyusa.org/press-releases/ngo-statement-on-reported-changes-to-u-s-policy-on-use-of-armed-drones-and-other-lethal-force/

[119] The New York Times, *Trump Eases Combat Rules in Somalia Intended to Protect Civilians,* 30 March 2017, https://www.nytimes.com/2017/03/30/world/africa/trump-is-said-to-ease-combat-rules-in-somalia-designed-to-protect-civilians.html

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(see Air Strikes in Somalia Under International Law section), now apply. The directive's geographical scope and the length of time it will remain in effect also remains secret. Officials told Amnesty International that the directive's AAH declaration was initially in effect for 180 days but was later reviewed and renewed.[120] The New York Times reports that the new rules were approved for a period of two years.[121] However, the practical effect of the new regulations is plain to see: a significant increase in air strikes and a weakening of protections afforded to civilians in Somalia, increasing the likelihood of their death or injury.

In an interview with The Daily Beast, Brigadier General Donald Bolduc, who was commander of US Special Operations Forces in Africa until June 2017, said that the former "near certainty" standard required greater substantiation before a strike could be taken: "It required more platforms, different types of intelligence, HUMINT [human informants], SIGINT [surveillance intercepts], FMV [full-motion video], a lot more detail and pattern-of-life" information.[122] After the directive was signed, however, "The burden of proof on the target was changed to a lesser burden of proof, and so that automatically opens up the aperture [for taking more strikes]," he explained, and said AFRICOM conducted strikes it would not have previously carried out, due to the increased probability of causing civilian casualties.[123]

Moreover, according to the understanding of General Bolduc – who directly confirmed the following to Amnesty International – since being designated as an "area of active hostilities", individuals in these areas of Somalia are now considered to be lawfully targetable based solely on four criteria: age, gender, location (i.e. being inside specific areas – areas in which the US military has deemed the population to be supporting or sympathetic to Al-Shabaab), and geographical proximity to Al-Shabaab. "The reason President Trump changed the rules is because now these guys can be hit," General Bolduc said to Amnesty International. "They are in close proximity, they are part of the Al-Shabaab network. They're *there*. When you are looking at a training camp and all you can see are military-aged males, you say, hey, that's a target."[124]

"They are part of the network," General Bolduc continued. "They are assisting. Drivers and security. Guys that resupply them, get them food. You used to call them the auxiliary and underground. Al-Shabaab needs food and a place to stay. [The directive declaring portions of Somalia an "area of active hostilities"] opens the aperture to these guys. If there are guys that offer assistance, you can strike them under "reasonable certainty." Some of these guys are smart and conceal weapons and some are not smart. The area is assessed, different villages are categorized, some are passive or resisting Al-Shabaab, and some are actively assisting."[125]

In reply to a request for an official response on General's Bolduc's assertion, AFRICOM stated that: "BG Buldoc's [sic] purported articulation of targeting standards does not accurately reflect the targeting standards of AFRICOM or DoD. Unfortunately, providing additional detail on this topic would not be possible due to operational security reasons."[126] However, if General Bolduc is accurate in how the policy is practically applied, then the US military appears to be acting in violation of the standard interpretation of IHL as well as its own laws and policies regarding who is lawfully targetable during conflicts.

In AFRICOM's press releases, men who are killed, and who the USA considered 'combatants', are referred to as part of the Al-Shabaab "network".[127] In response to a request from Amnesty International, the DoD stated that "the "network" refers to any person or group of people who support the terrorist organization through

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[120] Off-the-record interviews by Amnesty International with former US government officials.
[121] The New York Times, *Trump Eases Combat Rules in Somalia Intended to Protect Civilians,* 30 March 2017, https://www.nytimes.com/2017/03/30/world/africa/trump-is-said-to-ease-combat-rules-in-somalia-designed-to-protect-civilians.html
[122] The Daily Beast, *Trump Ramped Up Drone Strikes in America's Shadow Wars,* 25 November 2018, https://www.thedailybeast.com/trump-ramped-up-drone-strikes-in-americas-shadow-wars Please note that in the quote above the acronyms are incorrectly identified. HUMINT means human intelligence and SIGINT means signals intelligence.
[123] The Daily Beast, *Trump Ramped Up Drone Strikes in America's Shadow Wars,* 25 November 2018, https://www.thedailybeast.com/trump-ramped-up-drone-strikes-in-americas-shadow-wars
[124] Amnesty International interview with General Bolduc on 21 February 2019.
[125] Amnesty International interview with General Bolduc on 21 February 2019.
[126] Email on 13 March 2019 from a US DoD spokesperson, on file with Amnesty International.
[127] See for example: AFRICOM, *U.S. Statement on alleged Civilian Casualties in Somalia*, 11 May 2018, https://www.africom.mil/media-room/pressrelease/30721/u-s-statement-on-alleged-civilian-casualties-in-somalia

various means including financial, intelligence, harboring, bearing arms, etc."[128] The DoD refused to detail how it determines affiliation to Al-Shabaaab however, stating that this would "jeopardize the intelligence process which we gather that information".[129] Amnesty International research has gathered credible evidence showing that people have been killed in US attacks who did not directly participate in hostilities or even provide material support to Al-Shabaab.

Former US officials also told Amnesty International that in recent years, Al-Shabaab has used civilian public transportation and slept in civilian homes for protection.[130] When the US military has encountered other armed groups in recent years that have used this tactic, they have increasingly been willing to conduct the strike anyway, in the interest of denying the group a safe haven.[131] Former Defense Secretary Mattis used this logic to justify air attacks and civilian casualties during fighting against the Islamic State in Raqqa, Syria.[132] In recent press statements, AFRICOM has started to use similar language to report air strikes in Somalia, explaining that the purpose of certain attacks was to deny Al-Shabaab a safe haven.[133] Due to a lack of transparency in AFRICOM reporting, it is not clear if public transportation or homes or other civilian objects were targeted in this process, as was done in Syria.

In an interview with Amnesty International, General Bolduc said that he believed General Thomas D. Waldhauser, the commander of AFRICOM, included the importance of reducing civilian casualties in his Commander's Intent.[134] This Commander's Intent – a formal declaration of priorities made by military officers at all levels of command – has not been made public. In testimony to Congress, in response to a query about using the new authorities under the 2017 AAH directive while also protecting civilians, General Waldhauser said "But the bottom line is, we have the authorities that we need…and I'm very comfortable with how this is being done."[135]

4.2 TRANSPARENCY AND ACCOUNTABILITY

According to General Waldhauser,[136] following the March 2017 directive designating parts of Somalia an AAH, US forces conducted at least 34 strikes in the remainder of that year; more in those nine months than throughout the whole prior history of such US strikes in Somalia.[137] In 2018 the number rose even higher, to at least 47 strikes[138] – outpacing strikes in Yemen and Libya combined that year[139] - and as of 1 March 2019, the US had conducted 24 air strikes in 2019.[140] The vast majority of air strikes have targeted Al-

[128] Email on 13 March 2019 from a US DoD spokesperson, on file with Amnesty International.
[129] Email on 13 March 2019 from a US DoD spokesperson, on file with Amnesty International.
[130] Off the record interview with Amnesty International.
[131] Off the record interview with Amnesty International.
[132] The Guardian, *Defense Secretary Mattis says US policy against ISIS is now "annihilation",* 28 May 2017, https://www.theguardian.com/us-news/2017/may/28/james-mattis-defense-secretary-us-isis-annihilation The UN has found the bombing of Raqqa destroyed 80% of the city. See: ReliefWeb, *Syria Crisis: Northeast Syria Situation Report No. 16 (1-30 September 17),* 30 September 2017. https://reliefweb.int/report/syrian-arab-republic/syria-crisis-northeast-syria-situation-report-no-16-1-30-september-2017
[133] For example, see: *Al-Shabaab Degraded by U.S., Federal Government of Somalia,* 9 February 2019, https://www.africom.mil/media-room/pressrelease/31508/al-shabaab-degraded-by-u-s-federal-government-of-somalia
[134] Interview with General Donald Bolduc, 21 February 2019.
[135] Gen. Thomas D. Waldhauser at House Armed Services Committee Hearing on National Security Challenges and U.S. Military Activities in Africa, 7 March 2018, https://www.africom.mil/media-room/transcript/30469/gen-thomas-d-waldhauser-at-hasc-hearing-on-national-security-challenges-and-u-s-military-activitie
[136] In testimony to the US Senate on 7 February 2019: https://www.armed-services.senate.gov/imo/media/doc/19-08_02-07-19.pdf
[137] The Bureau of Investigative Journalism, *US Strikes in Somalia, 2007 to present,* https://docs.google.com/spreadsheets/d/1-LT5TVBMy1Rj2WH30xQG9nqr8-RXFVvzJE_47NIpeSY/edit#gid=1110953463
[138] General Waldhauser in testimony to the US Senate on 7 February 2019: https://www.armed-services.senate.gov/imo/media/doc/19-08_02-07-19.pdf
[139] 36 air strikes in Yemen and six in Libya in 2018. The 36 in Yemen do not include any refuelling or other support the US may be giving to the Saudi Arabia-led Coalition. See: Bureau of Investigative Journalism, *US Strikes in Yemen, 2002 to present,* https://docs.google.com/spreadsheets/d/1Ib1hEYJ_omI8lSe33izwS2a2IbiygS0hTp2Al_Kz5KQ/edit#gid=323032473 and; New America, *Airstrikes and Civilian Casualties: Libya,* https://www.newamerica.org/in-depth/americas-counterterrorism-wars/airstrikes-and-civilian-casualties-libya/,
[140] See: Africom, https://www.africom.mil/media-room/press-releases

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Shabaab, though the USA also targeted the armed group calling itself Islamic State,[141] which claimed its first attack in Somalia in 2016. [142]

These numbers may not account for all the air strikes being conducted by US forces; the actual numbers are likely higher. Although AFRICOM proactively issues press releases on some air strikes, others are only publicly acknowledged after AFRICOM receives a specific request for information: if no one asks questions, then a strike may remain undisclosed.[143] Further, AFRICOM's reports often lack detailed information, including about location and targets involved in strikes, making it difficult to assess their compliance with international law and standards.

Despite the broadening of the strike mandate, a significant uptick in air strikes and an apparent weakening of civilian protections, the DoD claims a perfect record on civilian casualties in Somalia since 2017. In June 2018, in accordance with legislation passed at the end of 2017,[144] the DoD submitted its first annual report to Congress on the civilian impact of its military operations around the world during the previous year. Containing admission of having killed nearly 500 civilians during this period in operations in Syria, Iraq, Afghanistan and Yemen, the report was cautiously greeted by civil society as a step forward in the administration's transparency.[145] Regarding Somalia, however, the report to Congress stated the DoD has "no credible reports of civilian casualties from U.S. military operations in Somalia…in 2017".[146] A series of AFRICOM press releases, and a response from the DoD to a specific request from Amnesty International in March 2019[147] also assert that the USA killed no civilians in Somalia in 2018, despite the fact that there have been no credible or onsite investigations into allegations of civilians killed in air strikes, and no mechanism enabling those affected by air strikes to report civilian deaths or injuries.

The methodology employed by AFRICOM to ensure accurate post-strike assessments in Somalia, including to determine an individual's civilian or 'combatant' status appears to be inadequate. According to information available to Amnesty International, AFRICOM does not conduct on-the-ground investigations post-strike. AFRICOM did not provide a response on this query when asked by Amnesty International. While Joint US Doctrine says that a battle damage assessment, as a best practice, should include "aircraft cockpit video (ACV), weapon system video (WSV), visual/verbal reports from ground spotters or combat troops, controllers and observers, artillery target surveillance reports, SIGINT [signals intelligence], HUMINT [human intelligence], IMINT [imagery intelligence], MASINT [measurement and signals intelligence], and open-source intelligence (OSINT)"[148] in practice, intelligence assets are limited, and often rely on a single source.[149] As General Bolduc confirmed to The Daily Beast, "The only assessment we [AFRICOM] have is we continue to fly over the objective post-strike to get a sense of the environment from the air."[150] A DoD internal Civilian Casualty Review, which was completed in April 2018 but only made public in February

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[141] On 3 November 2017, AFRICOM reported conducting two airstrikes against ISIS fighters in Somalia for the first time. See: AFRICOM, *US conducts airstrikes against ISIS in Somalia,* 3 November 2017, https://www.africom.mil/media-room/pressrelease/30046/u-s-conducts-airstrikes-against-isis-in-somalia and; CNN, *US launches first airstrikes against ISIS in Somalia,* 4 November 2017, https://edition.cnn.com/2017/11/03/politics/us-airstrikes-isis-somalia/index.html
[142] Long War Journal, *Analysis: Islamic State expanded operations in Somalia in 2018,* 4 January 2019, https://www.longwarjournal.org/archives/2019/01/analysis-islamic-state-expanded-operations-in-somalia-in-2018.php
[143] The Nation, *Inside the secretive US Air Campaign in Somalia,* 7 February 2019, https://www.thenation.com/article/somalia-secret-air-campaign/
[144] Section 1057 of the National Defense Authorization Act (NDAA) of 2018, available at: https://www.congress.gov/bill/115th-congress/house-bill/2810/text?q=%7B%22search%22%3A%5B%22national+defense+authorization+act%22%5D%7D&r=2
[145] Just Security, *The Department of Defense's Report on Civilian Casualties: A Step Forward for Transparency?,* 13 June 2018, https://www.justsecurity.org/57718/department-defenses-report-civilian-casualties-step-transparency/
[146] Department of Defense, *Annual Report on Civilian Casualties in Connection With United States Military Operations,* 1 June 2018, p.4, https://fas.org/man/eprint/civcas2018.pdf
[147] Email on 13 March 2019 from a US DoD spokesperson, on file with Amnesty International.
[148] Joint Publication 2-01.1 Joint Tactics, Techniques, and Procedures for Intelligence Support for Targeting, 9 January 2003. https://fas.org/irp/doddir/dod/jp2_01_1.pdf
[149] Joel D. Sgro, *Less is More: Changing the Battle Damage Assessment Paradigm,* October 2017, https://apps.dtic.mil/dtic/tr/fulltext/u2/1047440.pdf
[150] The Daily Beast, *Trump Ramped Up Drone Strikes in America's Shadow Wars,* 25 November 2018, https://www.thedailybeast.com/trump-ramped-up-drone-strikes-in-americas-shadow-wars

2019, notes the weakness of this approach, as "military personnel are generally unaware of misidentifications when they occur".[151]

In other contemporary conflicts, the US has stated it does not conduct thorough investigations into allegations of civilian casualties because it lacks the resources. "We're currently still fighting ISIS…you know, we don't have the manpower to go in there and conduct the investigations," said Colonel Sean Ryan, the spokesperson for Operation Inherent Resolve.[152] In an interview with Amnesty International, Stephen Schwartz, who was US Ambassador to Somalia between June 2016 and October 2017, claimed US State Department investigations are similarly lacking. "If people came to us we would listen, but we have few resources, few people, we are stuck on the airport grounds," he said. "State Department has almost no capability to investigate something in the Somali countryside. We would take allegations seriously, but our capability to investigate is almost non-existent."[153]

But for Somalis affected by US air strikes, to even report the killing or injury of family or community members is near impossible, given the location of these attacks and the security risks associated with doing so, and they have therefore had little, if any, chance of obtaining justice. According to information available to Amnesty International, neither the US nor Somali governments have in place any mechanism through which people affected by US air strikes can safely report the death or injury of civilians. "I suspect insecurity, expense, bureaucracy, and distance would hinder many Somali civilians from reporting casualties to officials in Mogadishu," said former Ambassador Schwartz.[154]

Further, it is unclear how allegations of civilian casualties that do reach the desks of US personnel – for example through NGOs, media reports or on social media - are assessed, and what standards need to be met in order for an allegation to be deemed sufficiently "credible" to warrant further, more in-depth investigation. The DoD's February 2019 report to Congress on its civilian casualty policy states that AFRICOM's practice is to "review and assess" every report that US operations may have resulted in civilian casualties.[155] An unidentified person then evaluates the claim, using a variety of "readily available information",[156] to determine whether it is "more likely than not" civilians were killed or injured.[157] It is not clear, however, how much weight is given to information from different sources, and if little information is "readily available", what, if any, efforts are made to seek additional information before an allegation is dismissed. Further, the DoD report claims that "results of civilian casualty reviews are made public to the greatest extent practicable, and reviews may include recommendations for future operations."[158] However, Amnesty International was unable to find the public results of any such reviews into alleged civilian casualties from US air strikes in Somalia in the past two years.[159] On 12 March 2019, AFRICOM provided

[151] US Department of Defense, *Civilian Casualty Review,* 17 April 2018, p. 6, https://games-cdn.washingtonpost.com/notes/prod/default/documents/e39c5889-6489-4373-bd8e-ac2ca012e03d/note/6c60bba4-5781-4874-acdf-87e199f6e31b.pdf
[152] Pentagon Press Corps Brief, 16 October 2018
[153] Telephone interview with Stephen Schwartz on 26 February 2019.
[154] Telephone iinterview with Stephen Schwartz on 26 February 2019.
[155] DoD, *Report on Civilian Casualty Policy,* February 2019, p.7, https://media.defense.gov/2019/Feb/08/2002088175/-1/-1/1/DOD-REPORT-ON-CIVILIAN-CASUALTY-POLICY.PDF
[156] DoD, *Report on Civilian Casualty Policy,* February 2019, p.13, https://media.defense.gov/2019/Feb/08/2002088175/-1/-1/1/DOD-REPORT-ON-CIVILIAN-CASUALTY-POLICY.PDF
[157] DoD, *Report on Civilian Casualty Policy,* February 2019, p.7, https://media.defense.gov/2019/Feb/08/2002088175/-1/-1/1/DOD-REPORT-ON-CIVILIAN-CASUALTY-POLICY.PDF
[158] DoD, *Report on Civilian Casualty Policy,* February 2019, p.7, https://media.defense.gov/2019/Feb/08/2002088175/-1/-1/1/DOD-REPORT-ON-CIVILIAN-CASUALTY-POLICY.PDF
[159] The results of one assessment into a US-SNA ground raid have been made public in this period, however: Following an investigation by *The Daily Beast* into the alleged death of 10 unarmed civilians in the raid on a village near the town of Barire, Lower Shabelle, on 25 August 2017, the US made public the findings of its assessment of the allegations, stating: "*After a thorough assessment of the Somali National Army-led operation near Bariire, Somalia, on Aug. 25, 2017 and the associated allegations of civilian casualties, U.S. Special Operations Command Africa (SOCAF) has concluded that the only casualties were those of armed enemy combatants."* A few weeks later, however, AFRICOM announced that the allegations had been referred to the Naval Criminal Investigative Service for further investigation. The results of this investigation are pending. See: The Daily Beast, *Strong evidence that US Special Operations Forces massacred civilians in Somalia*, 29 November 2017, https://www.thedailybeast.com/strong-evidence-that-us-special-operations-forces-massacred-civilians-in-somalia and; The Hill, *General requests second investigation into Somalia raid,* 14 December 2012, https://thehill.com/policy/defense/364942-general-requests-second-investigation-into-controversial-somalia-raid

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Amnesty International with a description of its procedure for reviewing civilian casualty allegations[160] which gives some additional details not contained in the DoD report. The guidance does not provide information on its practical application, however, including how it was applied to the incidents documented in this report, and does not contain clear criteria for assessing credibility of allegations.

In its response to Amnesty International's allegations, AFRICOM stated that it had conducted a "CIVCAS allegation assessment" into three of the five incidents in this report. In each incident AFRICOM concluded that civilian casualty allegations did not appear likely. With regard the most recent incident, in Baladul-Rahma in December 2018, AFRICOM did not state that it had carried out a CIVCAS allegation assessment.[161] Further, AFRICOM did not provide any additional information about how the assessments were conducted practically, nor about their conclusions, due to "operational security considerations",[162] indicating a continuing lack of transparency and raising concerns around the accuracy of the process employed to evaluate an allegation's credibility and a casualty's civilian or 'combatant' status.

As a result, survivors and families of victims have also been unable to secure redress. In all of the cases documented in this report, families and community members told Amnesty International that they had not previously been able to report the civilian deaths and injuries to any officials. As Liban, a resident of Darussalam village told Amnesty International about the death of three young farmers in a US air strike in November 2017:

> **"We have been waiting for someone to come ask us about this. We lost these boys, and no one is talking about it. It seared into our flesh. We came [here] to tell the truth, because of the boys we lost, we have to tell the world. We might be in danger, we know the danger, but we must tell the truth. Even if the government and Al-Shabaab hurt us. We are farmers and are weak people and trust no side. We will tell the truth and ask God to save us."[163]**

Amnesty International was unable to find any information to suggest that compensation or even solatia (condolence) payments had been made following any of the air strikes in Somalia in the past two years. In response to a specific query on this from Amnesty International, a DoD spokesperson confirmed in March 2019 that the USA had made no solatia or ex-gratia payments in Somalia because "as previously stated, there are no assessed civilian casualties resulting from U.S. military operations."[164]

The general lack of transparency around US military operations in Somalia – including on the AAH directive, the failure to detail targets or acknowledge civilian casualties, and the failure to proactively announce all strikes or provide the locations of strikes outside the broadest terms[165] - is contrary to a trend that began under the Obama administration, where following intense scrutiny by civil society, operations involving civilian deaths were eventually acknowledged.[166] This negative trend in relation to operations in Somalia is even in contrast to statements by the US-led Coalition in Iraq and Syria, which has admitted,[167] after much

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[160] AFRICOM, *Reporting and Responding to Civilian Casualty Allegations and Incidents,* 1 February 2019, on file with Amnesty International.
[161] The term 'CIVCAS allegation assessment' used by AFRICOM in its response to Amnesty International's allegations is not consistent with language found in AFRICOM's *Reporting and Responding to Civilian Casualty Allegations and Incidents* document. It is therefore not possible to ascertain which stage of AFRICOM's official process the allegations in this report reached.
[162] Letter dated 11 March 2019, on file with Amnesty International.
[163] One telephone interview in August 2018.
[164] Email on 13 March 2019, on file with Amnesty International.
[165] For example, the full description of an AFRICOM operation on 29 August 2018, reads: "In coordination with the Federal Government of Somalia, U.S. forces conducted an airstrike targeting al-Shabaab militants approximately 40 kilometers southwest of Mogadishu, Somalia, on August 27, killing three (3) terrorists." https://www.africom.mil/media-room/pressrelease/31203/u-s-conducts-airstrike-in-support-of-the-federal-government-of-somalia
[166] Columbia Law School Human Rights Clinic and Sana'a Center for Strategic Studies, *Out of the Shadows: Recommendations to Advance Transparency in the Use of Lethal Force,* June 2017, https://static1.squarespace.com/static/5931d79d9de4bb4c9cf61a25/t/5a0b6ea224a6941e715f3da4/1510698666740/5764_HRI+Out+of+the+Shadows-WEB.PDF
[167] U.S. Department of Defense, *Report Confirms Civilian Casualties in Defeat-ISIS Campaign, Official Says,* 31 July 2018. https://dod.defense.gov/News/Article/Article/1589685/report-confirms-civilian-casualties-in-defeat-isis-campaign-official-says/

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pressure from Amnesty International and other external actors, to 1,190 civilian deaths thus far.[168] As the US State Department has the nominal lead of engagement in Somalia,[169] and as such wishes to project a policy of engagement with partners, rather than a military-first security posture, AFRICOM has political reasons not to publicly admit to the negative consequences of combat actions, whether or not civilian casualties have resulted from violations of IHL. In testimony to Congress in March 2018, when asked if the USA was at war in Somalia, General Waldhauser, the commander of AFRICOM, stated, "I wouldn't characterize that we're at war. It's specifically designed for us not to own that."[170]

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[168] Airwars, *US Led Coalition in Iraq and Syria*. https://airwars.org/conflict/coalition-in-iraq-and-syria/
[169] Interview with General Donald Bolduc, 21 February 2019.
[170] Gen. Thomas D. Waldhauser at House Armed Services Committee Hearing on National Security Challenges and U.S. Military Activities in Africa, 7 March 2018, https://www.africom.mil/media-room/transcript/30469/gen-thomas-d-waldhauser-at-hasc-hearing-on-national-security-challenges-and-u-s-military-activitie

CURRRENT US FORCES OPERATING IN SOMALIA

An AC-130J Ghostrider, assigned to the 73rd Special Operations Squadron. © U.S. Air Force photo by Airman 1st Class Joel Miller

.US ground forces - consisting of rotations of Marine Special Operations Command (MARSOC) Raiders, US Army Green Berets, and Navy SEALs from Naval Special Warfare Unit 2 in Germany - are staged at a number of locations throughout Somalia.[171] For example, a US soldier killed in June 2018 near the village of Sanguuni, in the Lower Juba region, was operating out of a temporary combat outpost near Kismayo.[172] Primarily though, forces are based at Baledogle airfield, 90km northwest of Mogadishu. The Baledogle airfield has undergone significant construction since 2016, and now hosts several hundred US troops and contractors,[173] plus HH-60 helicopters.[174] As part of Operation OCTAVE SHIELD, and using a legal and budgetary authority known as "Section 127e", these US forces do not merely train, advise, and assist Somali forces, as is typical between US forces and host nation militaries across Africa and southwest Asia, but also command them directly in combat missions, making the local soldiers effectively surrogates.[175]

[171] Special Operations Forces Reference Manual, *US Naval Special Operations Forces,* https://fas.org/irp/agency/dod/socom/sof-ref-2-1/SOFREF_Ch4.htm
[172] Long War Journal, *Shabaab Attacks Focus on Somali Military, African Union Forces,* 3 September 2018, https://www.longwarjournal.org/archives/2018/09/shabaab-attacks-focus-on-somali-military-african-union-forces.php
[173] VICE News, *Exclusive: Massive Military Base Buildup Suggests the U.S. Shadow War in Somalia is Only Getting Bigger,* 3 May 2018, https://news.vice.com/en_ca/article/xw7nw3/somalia-is-looking-like-another-full-blown-us-war
[174] The Drive, *Air Force Rescue Helicopters Raced to the Aid of Special Operators in Somalia,* 11 June 2018, http://www.thedrive.com/the-war-zone/21462/air-force-rescue-helicopters-raced-to-the-aid-of-special-operators-in-somalia, also; analysis of satellite imagery by Amnesty International.
[175] "Section 127e" funding refers to "10 U.S. Code 127e: Support of special operations to combat terrorism." https://www.govinfo.gov/app/details/USCODE-2016-title10/USCODE-2016-title10-subtitleA-partI-chap3-sec127e/summary. For a description of the program, see Politico, *Behind the Secret U.S. War in Africa,* 2 July 2018, https://www.politico.com/story/2018/07/02/secret-war-africa-pentagon-664005

A Hellfire missile attached to an MQ-1B Predator. © Ethan Miller for Getty Images

The majority of US airpower is based outside of Somalia. During the Obama Administration, MQ-1 Predator drones flew from a number of airfields in the region, including in Ethiopia, Kenya, and the Seychelles.[176] But political turmoil in Ethiopia, and a series of accidents in the Seychelles, led the US to consolidate its drone forces in the Horn of Africa to airfields in Djibouti.[177] Initially, the US flew drones from its main Djibouti airbase at Camp Lemonnier, where other strategic aircraft, such as the Enhanced Medium Altitude Reconnaissance and Surveillance System (EMARSS),[178] are based.[179] However, following several aircraft crashes, at the request of the host nation the USA moved all drone operations to Chabelley Airfield, 12km from Djibouti City.[180] Those drones were initially MQ-1 Predators, but as of October 2015 have consisted of larger MQ-9 Reapers,[181] armed with AGM-114 Hellfire missiles and a variety of laser-guided and GPS-guided Mk-80 series aircraft bombs. In addition, Amnesty International has acquired evidence that some of the weapons dropped on Somalia during the time period of this report can only be deployed by a new technology known as the Common Launch Tube (CLT), mostly likely from an AC-130 aircraft.[182]

The AC-130 gunship is a slow moving, heavily- armed, highly-modified manned cargo aircraft that has been retrofitted with a variety of gun and precision-weapon systems. First used in the Vietnam War, the AC-130 has been equipped with many different weapons over the decades, including 7.62mm miniguns, 20mm, 25mm, and 30mm cannons, and a 105mm howitzer, a weapon most commonly used as artillery.[183] Because the AC-130 must fly low and slow to engage its target, it can only be used in a "permissive" environment, or one where the US Air Force enjoys complete control of the skies, with no threat from other aircraft or surface-to-air missiles.

GBU-69 © Dynetics

Traditionally, the AC-130 has provided close air support to soldiers on the battlefield during ground combat. However, as it has been outfitted with long range precision guided weapons, evidence in this report indicates the AC-130 is now being used in Somalia in a role that had been filled by drone aircraft.

The two models most likely used over Somalia are the older AC-130W Stinger II[184] and the AC-130J

[176] The Drive, *A Guide to the Pentagon's Shadowy Network of Bases in Africa,* 1 March 2017, http://www.thedrive.com/the-war-zone/8008/a-guide-to-the-pentagons-shadowy-network-of-bases-in-africa
[177] The Drive, *A Guide to the Pentagon's Shadowy Network of Bases in Africa,* 1 March 2017, http://www.thedrive.com/the-war-zone/8008/a-guide-to-the-pentagons-shadowy-network-of-bases-in-africa
[178] The Drive, *The U.S. Army's Newest Spy Plane is in Action in Africa and Latin America,* 20 March 2017, http://www.thedrive.com/the-war-zone/8443/the-u-s-armys-newest-spy-plane-is-in-action-in-africa-and-latin-america
[179] Personal observation by Amnesty International researchers in Djibouti.
[180] Center for the Study of the Drone, *Drone Base Updates,* 1 October 2018. https://dronecenter.bard.edu/drone-bases-updates/;
[181] The Drive, *A Guide to the Pentagon's Shadowy Network of Bases in Africa,* 1 March 2017, http://www.thedrive.com/the-war-zone/8008/a-guide-to-the-pentagons-shadowy-network-of-bases-in-africa
[182] Anonymous source on file at Amnesty International.
[183] National Museum of the US Air Force, *Lockheed AC-130A "Surprise Package,"* 8 January 2009, https://web.archive.org/web/20110914075833/http://www.nationalmuseum.af.mil/factsheets/factsheet.asp?id=3221
[184] US Air Force, *AC-130W fact Sheet,* https://www.af.mil/About-Us/Fact-Sheets/Display/Article/104485/ac-130w-stinger-ii/

Ghostrider, the newest edition of the aircraft. Both models have been equipped with a 30mm cannon, 105mm howitzer, and Precision Strike Package utilizing precision-guided munitions,[185] which have been dropped in Somalia since at least November 2017, according to records obtained by Amnesty International.[186] The precision munitions are launched from the CLT, a weapon utilized only by US Special Operations Command (SOCOM), and especially on AC-130 aircraft.[187] The CLT can be loaded with one of three kinds of ordnance: the GBU-44/B Viper Strike, originally manufactured by Northrup Grumman but currently distributed by the European defense contractor MBDA; the AGM-176 Griffin, manufactured by Raytheon; and the GBU-69/B Small Glide Munition, manufactured by Dynetics.[188] Unarmed US drones could support the employment of these weapons by marking individual targets with lasers at the time of employment, as well as providing the long term intelligence, surveillance and reconnaissance to identify targets.

There are very few AC-130s; as of July 2017, the US Air Force only owned nine AC-130J aircraft[189] and 12 AC-130W aircraft.[190] As the epitome of a "high-demand/low-density" asset, one that is often requested but rarely available because they are few in number, the deployment of AC-130s to operate in Somalia should be seen as an escalation of the conflict.

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[185] US Air Force, *AC-130J Ghostrider Fact Sheet,* https://www.af.mil/About-Us/Fact-Sheets/Display/Article/467756/ac-130j-ghostrider/
[186] Anonymous source on file at Amnesty International.
[187] Jane's 360, *USSOCOM Boosts GBU-69/B Stocks,* 19 March 2018, https://www.janes.com/article/78677/ussocom-boosts-gbu-69-b-sgm-stocks
[188] Anonymous source on file at Amnesty International.
[189] The Drive, *The USAF Still Can't Get the New AC-130J Ghostrider's 30mm Cannon to Work Reliably,* 24 January 2018, http://www.thedrive.com/the-war-zone/17955/the-usaf-still-cant-get-the-new-ac-130j-ghostriders-30mm-cannon-to-work-reliably
[190] The Drive, *The USAF Finally Gives Its AC-130W Gunship the Big Gun it Desperately Needs,* 3 May 2017. http://thedrive.com/the-war-zone/9940/the-usaf-finally-gives-its-ac-130w-gunship-the-big-gun-it-desperately-needs

5. CASES OF CIVILIAN CASUALTIES

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Somali pastoralists transport their possessions and children on donkey carts as they move from one place to another in lower Shabelle region, October 14, 2012. ©REUTERS/FEISAL OMAR

This chapter presents the findings of Amnesty International's investigation into five incidents, which occurred between April 2017 and December 2018 in Lower Shabelle, Somalia, in which 14 civilians were killed and eight injured. It provides credible evidence that US air strikes were responsible for four of these incidents and that the fifth was most plausibly caused by a US air strike. Amnesty International interviewed more than 140 survivors and witnesses of alleged US strikes, including 65 witnesses and survivors of the five incidents detailed below. The research also drew on several other types of evidence including medical reports, satellite imagery, photographic material, interviews with experts, records of US Air Force munitions used in Somalia, and an open-source investigation, including analysis of traditional and social media, academic articles, and reports from NGOs and international bodies.

The five cases investigated in this chapter fall into two categories. In two cases the US military appears to have targeted suspected Al-Shabaab vehicles, killing civilians in the vicinity of the targeted vehicle. The second category of incidents includes three cases in which civilians were killed apparently after being mistakenly identified as Al-Shabaab or another lawful target. This misidentification appears to have occurred either because the target was wrongly identified as a specific individual or individuals or because the target

was wrongly targeted by a "signature strike" where the victim's identity is unknown by US forces, but their actions, as viewed from the air, were perceived to fit a suspicious pattern of behaviour.[191] Notably, the 2018 DoD internal Civilian Casualty Review identified these types of mistaken identity as the leading cause of civilian casualties during US operations in Iraq and Afghanistan.[192]

The strikes investigated here are all most plausibly attributed to US aircraft, either unmanned MQ-9 Reaper drones or manned AC-130 gunships.

Several factors led to these determinations. First, the USA is believed to be the only armed actor that operates combat aircraft in Lower Shabelle. The Somali forces possess no armed aircraft capable of such attacks.[193] Only two members of AMISOM operate armed combat aircraft in Somalia - Kenya and Ethiopia – and they were discounted because those militaries conduct operations in other regions of Somalia,[194] and not in Lower Shabelle.[195] Second, witness testimony from across Lower Shabelle was consistent in describing the persistent and distinctive sound of large armed drones,[196] as one of two kinds of aircraft regularly heard overhead. Third, in several documented cases the craters and ordnance scrap is consistent with smaller precision weapons fielded on US drones or fired from the Common Launch Tube on AC-130s, but not fighter jets or other platforms.[197] Finally, information obtained by Amnesty International from an anonymous source confirms that the US Air Force dropped ordnance on Somalia on the dates of four of the five attacks documented in this report – ordnance that is fielded on MQ-9 Reaper drones and AC-130s, and not on other platforms operating in the region.[198]

5.1 FARAH WAEYS SETTLEMENT, 16 OCTOBER 2017

In the middle of the afternoon on 16 October 2017,[199] just days after the 14 October truck bombing in Mogadishu, a US armed drone targeted a suspected Al-Shabaab vehicle travelling between the towns of Awdheegle and Barire. The strike killed two civilians, and injured five civilians, including two children, who were residing next to the road at the time of the attack. The vehicle was destroyed, and an unknown number of suspected Al-Shabaab fighters who were inside were killed. Amnesty International spoke to nine

[191] During a signature strike, an individual is attacked by an aircraft when the pilot observes actions that are deemed suspicious and fit a particular profile of behaviour, such as digging on the side of the road which may be mistaken for digging for the placement of an improvised explosive device. In this targeting process, the US doesn't know the identity of the individual either before or after the strike. See: Foreign Policy, *Obama's Most Dangerous Drone Tactic Is Here to Stay*, 5 April 2016, http://foreignpolicy.com/2016/04/05/obamas-most-dangerous-drone-tactic-is-here-to-stay/?wp_login_redirect=0

[192] US Department of Defense, *Civilian Casualty Review,* 17 April 2018, p. 6, https://games-cdn.washingtonpost.com/notes/prod/default/documents/e39c5889-6489-4373-bd8e-ac2ca012e03d/note/6c60bba4-5781-4874-acdf-87e199f6e31b.pdf

[193] African Aerospace Online News Service, *Somalia Battles for an Air Force to Fight Against Terror,* 7 March 2018. https://www.africanaerospace.aero/somalia-battles-for-an-air-force-to-fight-against-terror.html

[194] Kenya conducts operations in the Middle Juba, Lower Juba and Gedo regions; Ethiopia conducts operations in the Bay, Bakol and Hiraan regions.

[195] AMISOM, *AMISOM Background,* http://amisom-au.org/amisom-background/ and; Amnesty International interview with General Bolduc on 21 February 2019.

[196] International human rights and conflict Resolution Clinic and Stanford Law School and Global Justice Clinic at NYU School of Law, *Living under Drones: Death, Injury and Trauma to Civilians from US Drone Practices in Pakistan,* 2012, pp.80-88, https://www-cdn.law.stanford.edu/wp-content/uploads/2015/07/Stanford-NYU-Living-Under-Drones.pdf

[197] The Common Launch Tube may also be fielded on the KC-130J fitted with a Harvest Hawk precision strike package, or an AC-208, but those aircraft have been deployed or fielded thus far in other theaters, such as Afghanistan. See: Jane's 360, *USSOCOM seeks powered stand-off precision-guided munition for gunships and other aircraft,* 27 February 2018, https://www.janes.com/article/78188/ussocom-seeks-powered-stand-off-precision-guided-munition-for-gunships-and-other-aircraft

[198] Anonymous source on file with Amnesty International.

[199] Five telephone interviews in January and February 2019.

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eyewitnesses and survivors of the attack, and interviewed a medical professional, assessed media reports,[200] US government reports,[201] and photographic evidence of injuries sustained by civilians during the attack.

The Farah Waeys farm is located approximately 3km northeast of Awdheegle (see figure 1 below).[202] Within the farm is a settlement of nomadic and semi-nomadic pastoralist farmers living in makeshift houses at the edge of either side of the main Awdheegle to Barire road. Some people reside there full time, others only temporarily, moving from place to place depending on the needs of their livestock. As such, the population of the Farah Waeys settlement (or *'degta'* in Somali) can change from week to week and throughout the seasons. Of the witnesses interviewed by Amnesty International, some had resided in Farah Waeys for years, others for only a few weeks[203] before the attack. Al-Shabaab controls both Barire and Awdheegle and has a strong presence in both. The towns are approximately 10km apart and are connected by a direct road, which Al-Shabaab vehicles regularly drive along.

According to eyewitnesses, on 16 October 2017, at around 4pm, after *Asr* (mid-afternoon) prayer,[204] a vehicle carrying suspected Al-Shabaab members[205] was driving on the main road connecting the towns of Awdheegle and Barire[206] when a munition was fired at it.[207] It missed the vehicle and struck the eastern bank of the road, adjacent to the makeshift homes on the Farah Waeys settlement. [208] Moments later, a second munition followed, striking the vehicle as it continued on the road towards the northern end of the settlement.[209]

The first strike killed Sheikh Ahmed Sheikh Yusuf Hussein,[210] a 25-year-old farmer who left behind his pregnant wife and their young daughter.[211] Sheikh Ahmed and his family had moved to Farah Waeys only shortly before the attack, having fled from an IDP camp near Mogadishu due to armed clashes.[212]

Bashir, who was returning from the farms to the settlement at the time of the strike, told Amnesty International that he heard the sound of an aircraft above as he entered his makeshift shelter that afternoon.[213] Soon after the attack, Bashir fled the village, returning at around 5pm to find Sheikh Ahmed close to death in his home, around 20 steps from where the first munition had landed.[214] "[He] was very tired when he came back from the farm and then he was sleeping in the house…. The wife and children were not in the house, she was in the neighbourhood," Bashir told Amnesty International. "…shrapnel hit the kidney side on the right and moved [through him] to the other side. …when I came back he was almost dead."[215]

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[200] See: All Africa, *Somalia: Suspected U.S. Military Jets Carry Out Airstrike Near Bariire*, 17 October 2017, https://allafrica.com/stories/201710170428.html and; Garowe Online, *Somalia: 8 civilians wounded in airstrike near Bariire*, 17 October 2017, https://www.garoweonline.com/en/news/somalia/somalia-8-civilians-wounded-in-airstrike-near-bariire and; The Guardian, *Somalia bombing may have been revenge for botched US-led operation*, 17 October 2017, https://www.theguardian.com/world/2017/oct/17/somalia-bomber-was-ex-solider-whose-town-was-raided-by-us-forces and; The Guardian, *Somali citizens count cost of surge in US airstrikes under Trump,* 23 January 2018, https://www.theguardian.com/world/2018/jan/23/somali-citizens-count-cost-of-surge-in-us-airstrikes-under-trump and; reports of an anonymous NGO.
[201] The Bureau of Investigative Journalism, *Somalia: Reported US actions 2017: Strike SOM066*, https://www.thebureauinvestigates.com/drone-war/data/somalia-reported-us-covert-actions-2017#strike-10564
[202] 1.9922 North, 44.8612 East
[203] Two telephone interviews in January and February 2019.
[204] Seven telephone interviews in January and February 2019.
[205] Four telephone interviews in January and February 2019.
[206] Three telephone interviews in January and February 2019.
[207] Four telephone interviews in January and February 2019.
[208] One in-person interview in October 2018, and four telephone interviews in January and February 2019.
[209] One in-person interview in October 2018, and four telephone interviews in January and February 2019.
[210] Four telephone interviews in January 2019.
[211] One telephone interview in February 2019.
[212] One telephone interview in February 2019.
[213] One telephone interview in January 2019.
[214] One telephone interview in January 2019.
[215] One telephone interview in January 2019.

The following afternoon, Sheikh Ahmed's family left Farah Waeys and took his body to be buried near the town of Janaale.[216] Fearing another attack, they have not returned to Farah Waeys since.[217]

Other villagers also reported seeing[218] or hearing an aircraft[219] in the sky above Farah Waeys around the time of the strikes. "The plane was flying over the vehicle. … the plane was white. I saw it. I saw the plane myself. I saw it after. I was running away from my house" said Fawzia, who survived the attack.[220]

A 40-year-old farmer and father named Siidow Abdullahi Mohamed Hassan was also fatally injured in the attack.[221] That evening, Siidow was taken to hospital in Mogadishu.[222] A few days later he was evacuated by plane to Sudan for further treatment, along with victims of the 14 October truck bombing.[223] Siidow's injuries were too severe, however, and he died soon after landing in Khartoum.[224] He was buried there five days later.[225]

A further five civilians were injured in the drone strike, including the eight-year-old son of Siidow, Mohamed Siidow Abdullahi,[226] and a six-year-old boy named Khalif Adow Osman.[227] Both boys were also taken to Sudan where they stayed for a few months receiving medical treatment.[228] Nurow Hassan Abdullahi,[229] Siidow's 22-year-old nephew and neighbour,[230] was drinking tea with a friend outside his house when they were both thrown from their seats by the first munition that landed approximately 10 metres away.[231] Nurow received ordnance fragment wounds to his right foot and was taken to hospital in Mogadishu that evening. His mother, 52-year-old farmer Nurto Abdullahi Isaak,[232] and 22-year-old animal keeper, Hawa Abdullahi Yare, [233] also received injuries in the strike and were treated in hospital in Mogadishu.[234]

According to records obtained by Amnesty International, a total of 12 AGM-114 Hellfire missiles and two GBU-49 Enhanced Paveway II laser-guided bombs were dropped by the US Air Force in Somalia on this day.[235] Those weapons were fired from MQ-9 Reaper drones, based in Djibouti. Two Hellfire missiles were most-likely used in this attack, based on the types and extent of damage and injuries, and that a munition with a powered rocket-motor is more-often used to strike a moving vehicle.

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[216] Two telephone interviews in January and February 2019.
[217] Two telephone interviews in January and February 2019.
[218] Two telephone interviews in January and February 2019.
[219] Two telephone interviews in January and February 2019.
[220] One telephone interview in February 2019
[221] One in-person interview in October 2018, and five telephone interviews in January and February 2019.
[222] Four telephone interviews in January and February 2019.
[223] Three telephone interviews in January and February 2019, and a further telephone interview with a medical professional in February 2019.
[224] Two telephone interviews in January and February 2019.
[225] One telephone interview in January 2019.
[226] One in-person interview in October 2018, and three telephone interviews in January and February 2019.
[227] One in-person interview in October 2018, and two telephone interviews in January and February 2019.
[228] Two telephone interviews in January 2019.
[229] Also known as 'Nur Hassan Abdullahi'.
[230] One in-person interview in October 2018, and two telephone interviews in January and February 2019.
[231] One telephone interview in January 2019.
[232] Two telephone interviews in January and February 2019.
[233] One in-person interview in October 2018, and three telephone interviews in January and February 2019.
[234] One in-person interview in October 2018, and two telephone interviews in January and February 2019.
[235] Anonymous source on file at Amnesty International.

Fig.1 Imagery from 7 February 2017 shows the Farah Waeys settlement, a nomadic community with semi-permanent structures that shift seasonally, lying either side of the main road connecting the towns of Awdheegle and Barire. Awdheegle is approximately 3.3 km southwest and Barire is approximately 7.3 km northeast of Farah Waeys. The vast majority of the area adjacent to the road that runs between the two towns is uninhabited.

Relatives and neighbours of the victims who were interviewed by Amnesty International were resolute that these seven people, including two young children and two women, were civilians and were not fighters or associated with Al-Shabaab in any way.[236] "They have never touched a gun", Bashir told Amnesty International, "they were very innocent".[237] Witnesses were open that Al-Shabaab controls the area in which they live, and that they suspected that the vehicle that was targeted contained members of the armed group,[238] though Amnesty International was unable to verify who was in the vehicle, nor how many were killed or injured. Later that evening, residents of the settlement told Amnesty International, members of Al-Shabaab came to the village and collected the bodies of their fellow fighters from the vehicle.[239]

AFRICOM did not publish a press release acknowledging this strike on its website. However, in an email to The Bureau of Investigative Journalism, AFRICOM confirmed carrying out a strike targeting Al-Shabaab at around 4:30pm local time on 16 October 2017 and said that it was still assessing the results of the operation.[240] AFRICOM did not confirm the precise location of the attack to the Bureau, saying only that it occurred 35 miles (56km) southwest of Mogadishu, which is in the vicinity of Farah Waeys.

In response to Amnesty International's allegations, AFRICOM said:

> **"AFRICOM conducted a precision-guided strike that corresponds to the time and location alleged, targeting a vehicle containing al-Shabaab fighters. Social media posts alleged CIVCAS shortly after the event. AFRICOM conducted a CIVCAS allegation assessment regarding this strike and determined it is not likely to have caused the civilian casualties. Information gathered before and after the strike indicated that all individuals injured or killed were members or affiliates of al-Shabaab."[241]**

[236] Three telephone interviews in January and February 2019.
[237] One telephone interview in January 2019.
[238] One in-person interview in October 2018, and four telephone interviews in January and February 2019.
[239] One in-person interview in October 2018, and two telephone interviews in January and February 2019.
[240] The Bureau of Investigative Journalism, *Somalia: Reported US actions 2017: Strike SOM066*, https://www.thebureauinvestigates.com/drone-war/data/somalia-reported-us-covert-actions-2017#strike-10564
[241] Letter dated 11 March 2019, on file with Amnesty International.

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AFRICOM went on to state: "We assess our strike resulted in three (3) enemy wounded in action and 1 vehicle destroyed. We are unable to provide additional details, including names, gender or ages, or provide information on those named in your report."[242]

The fact that the vehicle and those in it were the apparent targets would support the assertions that those killed or injured beside the road were civilians uninvolved in the conflict. The burden is on the US military to explain why they do not count these individuals, including children, who were not the intended targets but nevertheless were killed and injured, as civilian casualties.

Amnesty International's evidence above establishes that contrary to AFRICOM's assessment, civilians were killed during the attack in Farah Waeys. The evidence also suggests that the US failed to take necessary precautions to ensure that their objective – which in this case appears have been a truck of Al-Shabaab members – was targeted at the appropriate time and with sufficient precision to minimize the likelihood of damage to civilians and civilian objects. Since the targeted vehicle was travelling along the road between Awdheegle and Barire and the vast majority of the area adjacent to the road that runs between the two towns is uninhabited, this raises questions as to why the US military attacked when civilians were in the immediate vicinity, when it appears to have had opportunities to do so in locations where no civilians would be at risk. If feasible precautions were taken civilians may have been spared. Given the glaring failure to take feasible precautions to spare civilians, the attack may have been indiscriminate and the fatalities and injuries, and damage caused, unlawful. Indiscriminate attacks that kill or injure civilians can constitute war crimes. The US authorities should ensure an independent, impartial investigation is conducted into this attack.

5.2 DARUSALAAM, 12 NOVEMBER 2017

In the early hours of the morning on 12 November 2017, the US military conducted an air strike in farms to the southeast of the village of Darusalaam,[243] killing three civilian men who were sleeping under a tree. Amnesty International conducted a total of 18 interviews with residents of Darusalaam and its vicinity, including six eyewitnesses of the strike, and conducted an open source investigation using social media posts, satellite imagery, news reports, and photos posted on a pro-Al-Shabaab website.

Darusalaam sits along the Shabelle River, 60 km from Mogadishu, just off the main road that connects the nearby towns of Mubarak and Awdheegle.[244] The area is controlled by Al-Shabaab, which maintains a small office of several fighters in Darusalaam village itself, and a larger base and Islamic court in Mubarak, 1.5 km away.[245] Al-Shabaab extracts "taxes" from the local residents, and sets a curfew within Darusalaam,[246] though a resident told Amnesty International that it is not enforced for farmers and herders who need to be in their fields at night, as long as they stay out of the village until morning.[247]

Following the 14 October 2017 truck bomb attack in Mogadishu, residents report there was an increase in drone surveillance flights over Darusalaam.[248] By early November 2017, aircraft had been circling for weeks, day and night, coming and going.[249] "Even the roof vibrates when [the drone] passes. We hear it all the time," said Hamza, a witness.[250] Sometimes the residents heard two aircraft,[251] but most often they reported hearing a solitary low "oooooooo" sound,[252] consistent with that of a US drone.

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[242] Email on 13 March 2019, on file with Amnesty International.
[243] 1.9137 North, 44.7925 East
[244] UN Map overlay for Google Earth provided to Amnesty International.
[245] Six in-person interviews in October 2018, and four telephone interviews in August and October 2018.
[246] One in-person interview in October 2018.
[247] One in-person interview in October 2018.
[248] One in-person interview in October 2018.
[249] Two in-person interviews in October 2018, and one telephone interview in August 2018.
[250] One in-person interview in October 2018.
[251] Three in-person interviews in October 2018.
[252] Four in-person interviews in October 2018, and two telephone interviews in August and October 2018.

At about 2pm[253] on the afternoon of 11 November 2017,[254] three local farmers went together to work at the farms outside of Darusalaam.[255] Ibrahim Siid Wehelow[256] (aged 20), Hassan Meyow Abkey (aged 40), and Ahmed Jeylani Sheekhow (aged 26) took torches, in addition to their hoes and ploughs, for preparing the fields.[257] Ibrahim, a father of two,[258] also borrowed a shovel from a neighbour before he left the village.[259] Their work leader was Hassan,[260] a father of 13 children, who was well-known in Darusalaam. "Hassan Meyow worked with many families and on many farms," said Isha, a village resident. "He was known as a foreman who could bring workers."[261]

To get to the farms, the three men had to cross the Shabelle River using the small ferry boat at the edge of the village, residents told Amnesty International,[262] and then walk the rest of the way. The farms are bordered by small tracks, used by donkeys and tractors,[263] and it was a 30 to 45-minute journey to the field where they were scheduled to work.[264] Family members brought out their dinner and fresh tea, and they worked long into the night.[265]

Local farmers explained to Amnesty International that in order to grow maize and other crops in the dry season, they were reliant on flood irrigation from the Shabelle River.[266] Flood irrigation involves spreading large amounts of water all at once, so the fields are thoroughly soaked, and do not require additional irrigation later during the growing season.[267] The technique requires many farmers to work together, around a dozen at a time, assisting in each other's fields across a large area. Some dig out the berm at the river edge a kilometre away, to let water pour in the normally-dry canals, and then rebuild the dike afterward.[268] Some use motorized tractors to plough the fields,[269] while others, in adjacent farms, use generators to pump water from the canals and ditches and flood the fields themselves. Others stand guard, with sticks and *banga* machetes, to keep out wild pigs from the crops.[270] It is a community effort, highly scheduled, and requires everyone to work in shifts throughout the night and day, moving from field to field until complete.[271]

Ibrahim, Ahmed, and Hassan finished their work around 2am on 12 November, another farmer who was also out in the field that night told Amnesty International.[272] Shortly after they were done, Ahmed called his family in Darusalaam, to say they were too tired to walk back, and the ferry boat over the river would anyway not run again until morning.[273] They would sleep under a few trees on the side of the path.[274] They drank tea from their thermos[275] and watched Bollywood movies from a memory card on a small phone[276] that Ahmed kept hidden in the farm, so Al-Shabaab would not seize it and punish him.[277]

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[253] One in-person interview in October 2018, and one telephone interview in August 2018.
[254] Reports from an anonymous NGO, on file at Amnesty International.
[255] Five in-person interviews in October 2018, and three telephone interviews in August and October 2018.
[256] Also known as 'Ibrahim Siicid Wehelow'
[257] Two in-person interviews in October 2018, and two telephone interviews in August and October 2018.
[258] Three in-person interviews in October 2018, and three telephone interviews in October 2018.
[259] One in-person interview in October 2018.
[260] Three in-person interviews in October 2018, and one telephone interviews in October 2018.
[261] One in-person interview in October 2018.
[262] One in-person interview in October 2018, and one telephone interview in August 2018.
[263] Google Earth, and two in-person interviews in October 2018
[264] Three in-person interviews in October 2018, and two telephone interviews in October 2018.
[265] Two telephone interviews in October 2018.
[266] Three in-person interviews in October 2018, and one telephone interview in August 2018.
[267] Food and Agriculture Organization of the United Nations, *Somalia*, Revised 2014. http://www.fao.org/nr/water/aquastat/countries_regions/SOM/
[268] Two telephone interviews in August and October 2018.
[269] One in-person interview in October 2018.
[270] One in-person interview in October 2018, and one telephone interview in August 2018.
[271] Five in-person interviews in October 2018, and two telephone interviews in August and October 2018.
[272] Two in-person interviews in October 2018, and two telephone interviews in August and October 2018.
[273] One in-person interview in October 2018, and one telephone interview in October 2018.
[274] Two in-person interviews in October 2018, and two telephone interviews in October 2018.
[275] Three in-person interviews in October 2018, and one telephone interviews in October 2018.
[276] Two in-person interviews in October 2018.
[277] Two in-person interviews in October 2018, and one telephone interview in August 2018.

Ahmed, a father of three children,[278] was known as one of the best mobile phone technicians in the village, according to local residents.[279] While he had no formal training, people would bring him their phones to fix and charge at the generator at the borehole, where he often worked.[280] While smart phones are banned for civilians in Al-Shabaab controlled territory,[281] Al-Shabaab fighters themselves use the devices regularly, and Ahmed was known to be able to fix them.[282] Al-Shabaab controls the area and, having recently taken over the borehole to extract profits from the business, they had compelled Ahmed to assist them with their faulty mobile phones, according to four people who spoke with Amnesty International.[283]

As the three men camped out at the side of the road, without warning a single air strike was launched at them at around 3am.[284] A detonation shook the area, killing the three men and sending farmers to cover.[285] Residents of both Mubarak and Darusalaam told Amnesty International that they were woken by the explosion.[286] "I saw the heavy splashing light and then the big noise came, and I fell down," said Liban, a farmer who was working nearby.

> **"I was frightened and then I tried to gather what happened and I tried to call [Ibrahim, Ahmed and Hassan] and it said "unavailable"…Then, in the morning the people went to see what happened and to our surprise we found they had died."[287]**

"The noise of the plane was louder than before," Liban continued,

> **"The weeks before it used to come and leave, only that night it was not leaving. It was coming and coming and coming… when the noise [of an airstrike] happened everything ceased…I was so frightened. I couldn't keep watch on the farm at all. I went under the shelter of the tree and hid…These three young men were not expecting to be killed by a plane, and we did not expect the world to be silent."[288]**

At first light, villagers from Darusalaam and Mubarak reached the bodies.[289] Witnesses described to Amnesty International the horrific injuries they were confronted with, and said they covered the bodies in white shrouds, in preparation for burial.[290] Soon after, Al-Shabaab fighters arrived, removed the shrouds, and rearranged the bodies, staging them for photographs,[291] that they later posted on social media and on SomaliMemo, a pro-Al-Shabaab website.[292]

While in these photographs (see below) the bodies appear to have been moved and as such the images do not present an accurate depiction of the scene immediately after the blast, they do confirm several important factors.

First, they reveal the location of the air strike. Using digital verification techniques,[293] Amnesty International researchers were able to use indicators from the landscape (see figure 2 below) to precisely geolocate the

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[278] Three in-person interviews in October 2018, and two telephone interviews in October 2018.
[279] One in-person interview in October 2018, and five telephone interviews in October 2018.
[280] One in-person interview in October 2018, and six telephone interviews in October 2018.
[281] Two in-person interviews in October 2018, and one telephone interview in October 2018.
[282] One in-person interview in October 2018, and one telephone interview in October 2018.
[283] Four telephone interviews in October 2018.
[284] Six in-person interviews in October 2018, and four telephone interviews in August and October 2018.
[285] Two in-person interview in October 2018, and two telephone interviews in August and October 2018.
[286] One in-person interview in October 2018, and two telephone interviews in August and October 2018.
[287] One telephone interview in August 2018.
[288] One telephone interview in August 2018.
[289] Six in-person interviews in October 2018, and four telephone interviews in August and October 2018.
[290] Three in-person interviews in October 2018.
[291] Four in-person interviews in October 2018, and three telephone interviews in August and October 2018.
[292] SomaliMemo, *Sawirro: Dad Shacab Ah Oo Ku Dhintay Duqeyn Diyaaradaha Mareykanka Ay Ka Geysteen Deegaan Katirsan Sh/Hoose,* 12 November 2017, http://somalimemo.net/articles/8007/Sawirro-Dad-Shacab-Ah-Oo-Ku-Dhintay-Duqeyn-Diyaaradaha-Mareykanka-Ay-Ka-Geysteen-Deegaan-Katirsan-Sh-Hoose and; two in-person interviews in October 2018, and two telephone interviews in August and October 2018.
[293] First, the photos are verified, to ensure they have not appeared online previously, or are modified in some way. Then, by comparing the testimony of witnesses to landmarks seen in the photos (such as trees and fields) and Google Earth images, a precise geolocation can be made.

crater to 1.9072 North, 44.7978 East, a farm road 2 km southeast of Darusalaam. This location also aligns with witness testimony.[294]

Fig.2 Satellite imagery depicting the location of the strike in relation to the village of Darusalaam. A comparison of geographic features from verified photographs and satellite imagery illustrate the approximate point where the air strike impacted.

[294] One in-person interview in October 2018, and one telephone interview in August 2018.

Second, the photographs show a crater containing distinctive (and very difficult to falsify[295]) fractured dirt produced by high explosive, as well as the remnants of ordnance embedded in the crater wall (figure 3). Those fragments are unmistakably from a GBU-69/B Small Glide Munition, (figure 4), a new weapon launched from an AC-130 aircraft fitted with CLT technology. The approximately one metre diameter crater in the photo is also consistent with the GBU-69/B's 36-pound warhead[296] and witness testimony.[297]

Fig.3 Scrap from the GBU-69/B, including the distinctive mesh tail fins in the crater. © SOMALIMEMO

Fig.4 Control Actuator System (CAS) of a GBU-69/B. © SOMALIMEMO

According to records obtained by Amnesty International, a total of 10 AGM-114 Hellfire missiles, three Griffin missiles, and two GBU-69/Bs were fired in Somalia by the US Air Force between 10-17 November 2017.[298] The Hellfires were fired from MQ-9 Reaper drones, and the Griffins and GBU-69/Bs from AC-130 aircraft. Therefore, Amnesty International believes that an AC-130 fired the GBU-69/B in this attack.

The three men killed in the strike had spent the day doing "flood irrigation" of the fields outside Darusalaam. © SOMALIMEMO

Finally, the photographs show three men with wounds[299] consistent with witness testimony given to Amnesty International, and consistent with the nearby detonation of explosive ordnance. Hassan and Ahmed received horrific injuries. Both men's upper bodies appear to have been facing towards the explosion: a large ordnance fragment entered Ahmed's forehead, collapsing the top of his skull. His forearms were blown backward – the left arm nearly torn off at the elbow, his right hand at the wrist – both appendages still connected by thin

[295] The dirt in a crater produced by military ordnance will appear shattered, due to the brisance (high over-pressure) of the high explosives in the warhead. One cannot use hand tools or heavy equipment to replicate this tightly packed, fissured and fractured dirt.
[296] Dynetics, *Small Glide Munition – GBU-69/B Fact Sheet,* https://www.dynetics.com/_files/strike-systems/Dynetics%20SGM.pdf
[297] One in-person interview in October 2018.
[298] Anonymous source on file at Amnesty International.
[299] Additional photos from SomaliMemo on file at Amnesty International, not re-printed due to their extremely graphic nature.

flaps of skin.[300] Hassan's face was disfigured, and his throat and chest were pockmarked by multiple ordnance fragments. Ibrahim received a large wound on his side,[301] and a small blow to his head, just above his right eye. Several villagers from Darusalaam identified the bodies in the photographs as those of Hassan, Ahmed, and Ibrahim.[302]

After Al-Shabaab photographed the three bodies, they were loaded on the bed of a tractor and driven to Darusalaam for burial.[303] Interviewees told Amnesty International that Al-Shabaab prevented the families from washing the bodies before burial, declaring them martyrs who must be left in their clothes.[304] This inability to follow traditional burial practices, the relatives said, greatly distressed the families.[305]

No one from the Somali government, AMISOM, or the US government attempted to contact the families of the deceased, to explain the incident or offer condolences and compensation, the relatives said.[306]

Several residents report that Al-Shabaab leaders visited Ahmed's family in the days after the attack.[307] The Al-Shabaab members checked a mobile phone and SIM card Ahmed had been carrying, before departing, they said.[308] One villager, who knew the family, reported that the Al-Shabaab leader said the air strike occurred because of the presence of the mobile phone.[309]

According to all the available information, Amnesty International assesses that Ibrahim, Hassan, and Ahmed, were not Al-Shabaab fighters. Testimony received from people who knew them well was universal in refuting any association with the armed group, and whilst interviewees were largely forthcoming about other Al-Shabaab activity in the area, they consistently stated the three men were farmers only,[310] and were armed with nothing but their farm tools that night.[311] "Our heart is broken…He never hurt anyone, he didn't fight. He was a very well mannered, safe person. He was very good,"[312] said Khadija, a who knew one of the men well. No information gathered by Amnesty International has indicated that any of the three men participated in any form of hostilities that night or previously.[313] They did, however, engage in farming activities throughout the night, consistent with local customs. A senior Somali regional official also confirmed to Amnesty International that farmers from Darusalaam were killed in an airstrike.[314] Further, Al-Shabaab did not treat the three men as if they were members of the armed group. They took photographs of the bodies, while normally shielding and hiding news of their dead fighters,[315] and they eventually allowed the families to recover the bodies and bury their own dead;[316] declaring the dead men martyrs does not indicate they are Al-Shabaab members, as civilians killed by US, Somali government or AMISOM forces can also be labelled martyrs by Al-Shabaab.[317] Testimony gathered throughout Amnesty International's research in Somalia has

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[300] SomaliMemo, *Sawirro: Dad Shacab Ah Oo Ku Dhintay Duqeyn Diyaaradaha Mareykanka Ay Ka Geysteen Deegaan Katirsan Sh/Hoose,* 12 November 2017, http://somalimemo.net/articles/8007/Sawirro-Dad-Shacab-Ah-Oo-Ku-Dhintay-Duqeyn-Diyaaradaha-Mareykanka-Ay-Ka-Geysteen-Deegaan-Katirsan-Sh-Hoose and; Two in-person interviews in October 2018, and one telephone interview in August 2018.
[301] One in-person interview in October 2018.
[302] Two in-person interviews in October 2018.
[303] Two in-person interviews in October 2018, and four telephone interviews in October 2018.
[304] One in-person interview in October 2018, and three telephone interviews in October 2018.
[305] Four telephone interviews in October 2018.
[306] Two in-person interviews in October 2018, and one telephone interview in August 2018.
[307] One in-person interview in October 2018, and four telephone interviews in October 2018.
[308] One in-person interview in October 2018, and one telephone interview in October 2018. Note that this was a different phone than the small phone Ahmed hid at the farm to watch movies.
[309] One in-person interview in October 2018.
[310] Five in-person interviews in October 2018, and four telephone interviews in August and October 2018.
[311] Four in-person interviews in October 2018, and three telephone interviews in August and October 2018.
[312] One telephone interview in August 2018.
[313] Six in-person interviews in October 2018, and three telephone interviews in August and October 2018.
[314] Telephone interview on 3 March 2019.
[315] Two in-person interviews in October 2018, and one telephone interviews in August 2018.
[316] Three in-person interviews in October 2018, and three telephone interviews in August and October 2018.
[317] For a discussion of martyrdom in Salafism generally, see Assaf Moghadam, *Motives for Martyrdom: Al-Qaida, Salafi Jihad, and the Spread of Suicide Attacks,* International Security Vol. 33, No. 3 (Winter 2008/2009), pp. 46-78, https://www.jstor.org/stable/pdf/40207141.pdf?refreqid=excelsior%3A6c3fc6e4a1baf5cae245ddefffca8b24

consistently shown that Al-Shabaab will collect and bury their dead themselves, often before they permit civilians back into the area.[318]

Amnesty International cannot confirm the reason that these three men were targeted, nor whether the phone Al-Shabaab members checked at Ahmed's home days after the attack was one of the Al-Shabaab phones Ahmed would have repaired as part of his work at the borehole. However, if this were confirmed, it is possible that this signals intelligence [SIGINT] was used in the targeting process and decision to strike. Such methodology is consistent with strikes in other theatres, particularly Afghanistan,[319] in which SIGINT gathered through the monitoring and tracking of electronic devices, such as mobile phones, provides a partial basis for target selection. EMARSS-S aircraft, based in Djibouti, have the capability to track and listen to specific mobile phones.[320] In an interview with Amnesty International, Brigadier General Bolduc confirmed that although the presence of a certain cell phone could have been a factor for targeting in Afghanistan several years ago, since that time SOCOM has developed a more cautious targeting process. According to General Bolduc, SIGINT alone is no longer a sufficient condition for carrying out a strike; at least two solid forms of evidence are now required for any strike. "You have this thing called the village phone," he said, acknowledging others could use the same phone as Al-Shabaab leaders, and so targeting on that basis is now seen as unreliable. However, as there were no Al-Shabaab or other military targets in the area,[321] the mobile phone carried by Ahmed is the only potential link Amnesty International was able to find connecting him to Al-Shabaab.

Alternatively, the three men could have been selected for targeting through a "signature strike" process, where their behaviour that night—camping out under trees in a farm, as Al-Shabaab often do, or engaging in farming activities – was mistaken as suspicious. In Afghanistan for example, such misidentification was found to have been the basis for the majority of cases of civilian casualties caused by US forces[322] and "contributed to a lack of recognition of actual civilian tolls from operations."[323]

In an email to The Bureau of Investigative Journalism, AFRICOM confirmed that it carried out two air strikes on 12 November 2017, including one in the Lower Shabelle region at approximately 3am, and another in the Puntland region. These strikes killed "several" militants AFRICOM said.[324] AFRICOM did not provide further details in the email about the precise locations, nor whether any civilians were killed or injured in the attacks. AFRICOM also did not report these two strikes on its website. On 13 November 2017, Colonel Rob Manning, a Pentagon spokesperson, also told journalists that the US conducted four strikes in Somalia between 9 – 12 November 2017, in which "more than 40 terrorists" were killed, though he did not attribute casualty figures to individual strikes.[325]

In response to Amnesty International's allegations, AFRICOM stated:

> **"AFRICOM conducted a precision-guided strike that corresponds to the time and location alleged, targeting al-Shabaab fighters. The Shahada News Agency, an al-Shabaab media outlet, alleged CIVCAS shortly after the event and supported the claim using staged photos. AFRCOM conducted a CIVCAS allegation**

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[318] Three in-person interviews in October 2018, and three telephone interviews in August and October 2018.
[319] Motherboard, *US Drones Target Terrorists Based on Their Cell Phone Location,* 10 February 2014, https://motherboard.vice.com/en_us/article/d738aq/us-drones-target-terrorists-based-on-their-cell-phone-location, The Guardian, *Death by Drone Strike, Dished Out by Algorithm,* 21 February 2016, https://www.theguardian.com/commentisfree/2016/feb/21/death-from-above-nia-csa-skynet-algorithm-drones-pakistan
[320] The Drive, *The U.S. Army's Newest Spy Plane is in Action in Africa and Latin America,* 20 March 2017, http://www.thedrive.com/the-war-zone/8443/the-u-s-armys-newest-spy-plane-is-in-action-in-africa-and-latin-america
[321] Three in-person interviews in October 2018, and one telephone interview in August 2018.
[322] Reference to the Joint and Coalition Operational Analysis's (JOAC) classified *Joint Civilian Casualty Study,* August 2010, in Larry Lewis, *Reducing and mitigating civilian casualties: Enduring Lessons,*12 April 2013, p.10, https://info.publicintelligence.net/JCOA-ReducingCIVCAS.pdf
[323] Larry Lewis and Diane Vavrichek, *Rethinking the Drone War: National Security, Legitimacy and Civilian Casualties in U.S. Counterterrorism Operations,* CNA and Marine Corps University Press, 2016, available at: https://fas.org/man/eprint/drone-war.pdf
[324]The Bureau of Investigative Journalism, *Somalia: Reported US Actions 2017,* https://www.thebureauinvestigates.com/drone-war/data/somalia-reported-us-covert-actions-2017#strike-10981
[325] Daily Nation, *40 Islamists killed in four days of Somalia strikes, US says*, 14 November 2017 https://www.nation.co.ke/news/africa/US-kills-40-Islamists-killed-in-Somalia/1066-4185840-unbmepz/index.html

assessment and determined that the three men described in the allegation were not sleeping at the time of the strike and were members of al-Shabaab."[326]

Amnesty International's evidence above demonstrates that, regardless of its intention, US forces failed to undertake sufficient measures to ensure that it was targeting fighters directly participating in hostilities and not civilians. The fact that, contrary to AFRICOM's assessment, all of the deceased are civilians and that there does not appear to have been any legitimate military objectives in the immediate vicinity raises the possibility that the men were killed unlawfully. It is particularly worrying if, as it appears, decisions to target individuals are made on the basis of unreliable information and/or inconclusive patterns of behaviour. Failure to take feasible precautions that are necessary to verify that a target is a military objective can result in indiscriminate attacks. Such unlawful attacks in which civilians are killed or injured can constitute war crimes. The US authorities should ensure an independent, impartial investigation is conducted into this attack. The military must urgently review its practice of "signature strikes" and its targeting of people on the basis of inconclusive SIGINT as they appear to contravene international humanitarian law, including the requirement that, in cases of doubts, individuals should be presumed to be civilians.

5.3 ILLIMEY, 6 DECEMBER 2017

On 6 December 2017, five civilians, including two children, were killed when a vehicle carrying suspected Al-Shabaab fighters in the isolated hamlet of Illimey[327] exploded.[328] The explosion injured a further two civilians, including an 18-month-old girl. All those in the vehicle were also killed. Up to ten structures were partially or completely destroyed in the blast and resulting fires.

Media outlets reported that the explosion occurred when a munition fired at the vehicle from the air hit the car.[329] Amnesty International interviewed 13 people, including seven who were in Illimey or its immediate vicinity at the time of the attack, and reviewed photographs of the casualties taken at a hospital and the burial, satellite imagery and media reports to corroborate testimonies.

The satellite imagery analysed by Amnesty (see below) confirms that the location of the explosion and the damage caused by the explosion is consistent with testimony provided by witnesses. Moreover, some of the testimonial evidence gathered by Amnesty International suggests that the explosion was caused by an air strike, as four witnesses recalled seeing or hearing an aircraft overheard in the aftermath of the attack.[330] One witness stated that he remembers hearing an aircraft minutes prior to the attack.[331]

Illimey, which lies approximately 100 km northwest of Mogadishu, was home to between six and 10 families living in houses on the edge of a road running north to south.[332] Local residents explained to Amnesty International that Illimey also served as a meeting point, to which people from surrounding areas would travel to buy milk from a delivery truck that stopped there regularly, and to trade other goods.[333] Whilst the area is

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[326] Letter dated 11 March 2019, on file with Amnesty International.
[327] 2.0702 North, 44.4207 East
[328] See: The Guardian, *Somali citizens count cost of surge in US airstrikes under Trump,* 23 January 2018, https://www.theguardian.com/world/2018/jan/23/somali-citizens-count-cost-of-surge-in-us-airstrikes-under-trump and; Reuters, *Air strike reported near Somalia's capital, official says al-Shabaab targeted,* 6 December 2017, https://www.reuters.com/article/us-somalia-security/air-strike-reported-near-somalias-capital-official-says-shabaab-targeted-idUSKBN1E0283 and; n.b. the following contain images some may find distressing, Radio Simba, *Diyaaradaha Mareykanka oo Shacab Ku Laayay Shabeelaha Hoose+Sawirro*, 8 December 2017, http://www.simbanews.net/diyaaradaha-mareykanka-oo-shacab-ku-laayay-shabeelaha-hoosesawirro/ See also reports on Twitter: https://twitter.com/HarunMaruf/status/938408578523725824 and; https://twitter.com/MoradNews/status/938406971106930688
[329] See: The Guardian, *Somali citizens count cost of surge in US airstrikes under Trump,* 23 January 2018, https://www.theguardian.com/world/2018/jan/23/somali-citizens-count-cost-of-surge-in-us-airstrikes-under-trump and; Reuters, *Air strike reported near Somalia's capital, official says al-Shabaab targeted,* 6 December 2017, https://www.reuters.com/article/us-somalia-security/air-strike-reported-near-somalias-capital-official-says-shabaab-targeted-idUSKBN1E0283
[330] Three in-person interviews in October 2018 and one telephone interview in September 2018.
[331] One telephone interview in September 2018.
[332] One in-person interview in October 2018, and one telephone interview in January 2019.
[333] Three in-person interviews in October 2018, and three telephone interviews in September 2018.

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controlled by Al-Shabaab,[334] Amnesty International was told they do not have a permanent presence in Illimey itself, and did not tend to visit there.[335]

In late morning on Wednesday 6 December 2017, a large military-style vehicle was seen by a resident around Farsoley, a town 14km southeast of Illimey which also is under Al-Shabaab control, parked outside the office of Hormuud Telecommunications Company.[336] In the early afternoon the vehicle left the town in the direction of Illimey, according to the resident.[337]

Amnesty International has been unable to verify who was in the vehicle, however witnesses told Amnesty International that they saw it had been carrying up to three Al-Shabaab fighters.[338] Two people interviewed by Amnesty International also suggested the vehicle may have been carrying explosive materials or ammunition – one said he saw bullet casings scattered about the site after the strike and another said the explosion continued for some time, indicating to him that there were explosives in the truck.[339] Other witnesses said that it was not possible to see what was in the truck. Amnesty International was unable to corroborate these claims.

Tawfiq, a man who was visiting relatives in Illimey that day, encountered a similar truck as he walked north on the road towards the village.[340]

> **"I was to the south, walking to the village [Illimey]. As I was walking to the village, the car came after me…It looks like the Ethiopian or Somalian military truck. Dark green…. [It] passed me while I was beside the water cache, and then it went into the village. The car was covered with a tent. I only saw two people, one driving and one on the roof. The one on the roof had an AK-47."**[341]

Around 10 minutes later, Tawfiq heard an explosion.[342]

According to five eyewitnesses, between *Dhuhr* (midday) and *Asr* (mid-afternoon) prayer,[343] the truck, which was unfamiliar to the people Amnesty International interviewed,[344] reached Illimey, stopping on the road that passes through its centre,[345] and asking the villagers for water.[346] One witness told Amnesty International the men wanted water to take ablution (wash) before praying.[347] Another reported that a suspected Al-Shabaab fighter got out of the truck and put a gun to the head of Osman Hussein Osman,[348] a 45-year-old camel herder from the village. "They stopped him with a gun and made him put his water in the cooler of the car" Jibril, a farmer who was in the village told Amnesty International.[349] Then, moments later,[350] a projectile hit the truck, witnesses explained.[351] "There was dust everywhere and smoke and bodies of humans and animals," said Jibril.[352]

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[334] Two in-person interviews in October 2018, and one telephone interview in September 2018.
[335] Two in-person interviews in October 2018.
[336] One telephone interview in January 2019.
[337] One telephone interview in January 2019.
[338] Two in-person interviews in October 2018, and one telephone interview in January 2019.
[339] Two in-person interviews in October 2018
[340] One in-person interview in October 2018.
[341] One in-person interview in October 2018.
[342] One in-person interview in October 2018.
[343] Five in-person interviews in October 2018.
[344] Two in-person interviews in October 2018, and two telephone interviews in September 2018.
[345] Two in-person interviews in October 2018.
[346] One in-person interview in October 2018, and two telephone interviews in September 2018.
[347] One in-person interview in October 2018.
[348] One in-person interview in October 2018.
[349] One in-person interview in October 2018.
[350] One in-person interview in October 2018, and two telephone interviews in September 2018.
[351] Two in-person interviews in October 2018, and two telephone interviews in September 2018.
[352] One in-person interview in October 2018.

Osman Hussein Osman was killed,[353] his body blown to pieces,[354] alongside his seven-year-old daughter Fadumo Osman Hussein.[355] Maalim Abdow Fillow Mudey,[356] a 45-year-old teacher and father of 10 children, was near the small shop and restaurant he owned at the side of the road in Illimey when the strike hit. He was also killed,[357] alongside his 17-year-old daughter, Amina Abdow Fillow Mudey,[358] and a camel-herder named Abdow Mohamed Aliyow Boor,[359] aged around 30 years.[360]

According to one eyewitness, Fadumo's younger sister, 18-month-old Fartun Osman Hussein,[361] was strapped to Fadumo's back[362] when she was struck in the forehead and shoulder with debris thrown by the explosion.[363] Amnesty International viewed photographic evidence of the injuries.[364] Although she survived the attack, Fartun is no longer able to use her left arm or hand properly due to nerve damage, and has difficulty walking.[365] Mohamed Hussein Abdi, a 36-year-old nomadic camel-herder, was also struck by debris, causing him to lose all sight in one eye.[366] Both were taken to Mogadishu for medical treatment.[367]

The explosion completely destroyed the vehicle,[368] also killing all of the suspected Al-Shabaab fighters travelling in it.[369]

Maalim Abdow Fillow Mudey's restaurant and shop, and homes in the village were badly damaged in the strike, according to witnesses.[370] Amnesty International studied satellite imagery (see below) from before (figure 5) and after (figure 6) the explosion, which shows the complete or partial destruction of most and possibly all of the structures. The imagery also corroborates claims from witnesses that the explosion left a crater in the road passing through the village.[371] The imagery shows the crater to have a diameter of approximately 2.4 metres.

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[353] Three in-person interviews in October 2018, and four telephone interviews in September 2018 and January and February 2019.
[354] One telephone interview in January 2019.
[355] Also known as 'Yuqey Osman Hussein'; Two in-person interviews in October 2018 and two telephone interviews in January and February 2019
[356] Also known as 'Maalim Ibdaw Fillow Mudey' or 'Maalim Abdullahi Fillow Mudey'.
[357] Four in-person interviews and two telephone interviews in January and February 2019.
[358] Also known as 'Amina Ibdaw Fillow Mudey' or 'Amino Abdullahi Fillow Mudey'; Three in-person interviews in October 2018 and three telephone interviews in January and February 2019.
[359] Also known as 'Ibdaw Mohamed Aliyow Boor' or 'Abdullahi Mohamed Ali Boor'.
[360] Two in-person interviews in October 2018 and one telephone interview in January 2019.
[361] Also known as 'Safiya Osman Hussein'.
[362] One in-person interview in October 2018.
[363] One in-person interview in October 2018 and one telephone interview in February 2019.
[364] Photographs on file with Amnesty International.
[365] One telephone interview in February 2019.
[366] One in-person interview in October 2018 and one telephone interview in January 2019.
[367] Two in-person interviews in October 2018.
[368] Two in-person interviews in October 2018 and two telephone interviews in September 2018 and January 2019.
[369] Two in-person interviews in October 2018 and one telephone interview in January 2019.
[370] Four in-person interviews in October 2018 and one telephone interview in January 2019.
[371] Two in-person interviews in October 2018.

Fig.5 Imagery from 3 December 2017 shows a small junction in Lower Shabelle approximately 100 km west of Mogadishu. The road passes through a small village with approximately 10 structures.

Fig.6 Imagery from 9 December 2017 shows debris from the destruction of most and possibly all of the structures. A diversion in the road along with apparent debris, suggests the explosion site is along the old road. The furthest structure visibly destroyed was situated 60 metres from the probable explosion site.

Salman, a friend of one of the dead, described hearing the attack while he was in Farsoley, and rushing to the scene in Illimey shortly after:

> **"I heard the blast. It was huge...within about five minutes I could see a huge dark smoke going up. We all said something really terrible had happened… people said there was another smaller blast before that, but I have not heard. We immediately received phone calls saying an Al-Shabaab truck was hit and Maalim Abdiyow Fillow and his family were killed. Maalim Abdiyow was my very close friend for many years… So I immediately took a motor bike and rushed to the scene...It [the truck] was completely destroyed. The whole village was burnt. All the trees nearby were also burnt. There was a big hole where the car was hit. It was five meters wide."**
>
> **"I saw pieces of flesh all over the place. I was looking for the body of Maalim Abdiyow. He had a big beard, but I could not find him. We collected the bodies and the bones the whole night and we buried them in the morning the following day."[372]**

Aweis, a farmer who was bringing milk to Illimey that day, told Amnesty International that he heard the sound of a drone just minutes before the munition landed. "It is the 'ooooooo' sound", he said, "everyone recognizes it because they live in an Al-Shabaab place".[373] Other witnesses reported seeing a small white aircraft or hearing its noise moments after the air strike.[374] Drones in the sky were a regular occurrence for residents of Illimey and surrounding areas. Nearly all those people interviewed by Amnesty International said they were accustomed to hearing or seeing drone aircraft in the sky above them, and so continued about their day when one was in the vicinity. "It was a small noise, not a loud noise…we are used to these things, they fly over all the time, so no one cared about it," Qasim, another farmer who was in Illimey waiting to buy milk told Amnesty, "it was only when it hit that we came to know the danger". [375]

Interviewees told Amnesty International that the villagers who were killed were all civilians who had no association with Al-Shabaab.[376] Some people who were at the scene explained that soon after the attack, Al-Shabaab arrived and sealed the area in order to examine what had happened and collect the bodies of their fellow fighters.[377] They did not, however, collect the civilian bodies, as Jibril explained:

> **"When the lorry was hit, most of the houses in the village collapsed and every living being including children ran away. I know five people from the village who were killed and two who were injured. Not including Al-Shabaab guys. Those of us who were not very close to the vehicle ran to the vehicle after the smoke cleared. We were shocked, standing over bodies. Then Al-Shabaab came. First people were shocked, crying not able to run. Al-Shabaab started to chase people away, they didn't kill anyone. They searched what happened including for fragments [of the ordnance] but they were not collecting civilian bodies – some were scattered everywhere. Then they left and in the evening we collected bodies and flesh and in the morning, we buried them…when the bodies had been buried people fled in panic and there are few people left there now."[378]**

Qasim explained that Al-Shabaab also turned up to the burial the following day, in order to enforce their ban on traditional Somali funeral ceremonies:

> **"The families buried them. Al-Shabaab came for the burial. They came in plain clothes, they were dressed like me. They came to make sure that we don't slaughter any goats for the dead – we [usually] do feast. They came as police. All the dead were slaughtered but Al-Shabaab did not let us sacrifice the goat as our religion says."[379]**

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[372] One telephone interview in January 2019.
[373] One telephone interview in September 2018.
[374] Three in-person interviews in October 2018.
[375] One telephone interview in September 2018.
[376] One in-person interview in October 2018 and one telephone interview in September 2018.
[377] Two in-person interviews in October 2018, and one telephone interview in September 2018.
[378] One in-person interview in October 2018.
[379] One telephone interview in September 2019.

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In an interview with Amnesty International, a senior Lower Shabelle official said he had heard at the time that an Al-Shabaab truck full of explosives had been hit by a US air strike in Illimey, killing civilians, including women and children. While he could not rule out the possibility that the truck exploded on its own, he did not consider this likely. "I really doubt that is what happened then," he said. "From what the residents were saying I am very positive it was hit by something."[380]

In response to Amnesty International's allegations, AFRICOM stated:

> **"AFRICOM did not conduct a strike at this location. Additional information provided by [...] Amnesty International indicated that the strike in question involved secondary explosions. On 11 December 2017, one week after the alleged incident, AFRICOM did strike a VBIED approximately 35 miles from this location but no secondary explosions were observed."[381]**

Unlike the four other cases documented in this report, according to records obtained by Amnesty International, no ordnance was fired on the day of the attack by US Air Force aircraft based in the region.[382] Therefore, a US Air Force drone based in Djibouti, or a US Air Force AC-130 gunship that conducted other strikes in Somalia in 2017 and 2018, almost certainly did not carry out this strike. However, other American aircraft – such as a CIA-piloted drone,[383] Army Grey Eagle drone,[384] or Marine Corps KC-130J aircraft with a Harvest Hawk kit, that has similar capabilities to an Air Force AC-130[385] - could have carried out this strike. Other countries' aircraft, which are known to carry out strikes in Somalia, but not in the area where this strike occurred, could also plausibly have conducted the strike. Alternatively, it is plausible the suspected Al-Shabaab vehicle could have detonated if it was carrying explosives.

Amnesty International's evidence above establishes that civilians were killed and injured as a result of an explosion in Illimey and that there was damage to civilian objects. Based on the above evidence, Amnesty International believes that the explosion was most plausibly caused by a US air strike.

If the explosion was caused by an attack by US forces, the civilian toll and the circumstances of the attack raise serious concerns about its lawfulness. Did US forces choose appropriate means and methods to attack the presumed target, a truck, apparently being driven by Al-Shabaab fighters and possibly filled with weapons and explosives? In other words, was the truck targeted at the appropriate time and with sufficient precision to minimize the likelihood of damage to civilians and civilian objects? Given the fact that the objective was travelling along the road west of Farsoley and that the vast majority of the area adjacent to the road that runs between Farsoley and Illimey is uninhabited, it seems US forces should have had ample opportunity to carry out the strike when the vehicle was a safe distance from civilians and civilian objects. And if they had been monitoring the truck for some time before the attack (as is generally the case with drone strikes), US forces should have been aware of whether the vehicle contained explosives that would pose an additional risk to nearby civilians if it were struck in their vicinity. If this was a US strike, it should have been possible to take precautions that could have avoided, or at least minimized the civilian fatalities and injuries, and damage to civilian objects caused by the attack. Such an attack, which appears to have been directed at, and struck, a military objective, may have been disproportionate (if US forces were aware of the likely harm to civilians) or otherwise indiscriminate. Indiscriminate attacks that kill or injure civilians and disproportionate attacks can constitute war crimes. The US authorities must ensure an independent, impartial investigation into this attack.

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[380] Telephone interview with Amnesty International, 3 March 2019.
[381] Letter dated 11 March 2019, on file with Amnesty International.
[382] Anonymous source on file at Amnesty International.
[383] The New York Times, *C.I.A. Drone Mission, Curtailed by Obama, Is Expanded in Africa Under Trump,* 9 September 2018, https://www.nytimes.com/2018/09/09/world/africa/cia-drones-africa-military.html
[384] Yahoo! News, *The Army's Killer Drones: How a Secretive Special Ops Unit Decimated ISIS,* 7 March 2019. https://news.yahoo.com/how-a-secretive-special-ops-unit-of-killer-drones-decimated-isis-100000657.html
[385] The Drive, *Marine KC-130Js Are Getting A Much More Potent Bolt-On Weapons And Sensor Kit,* 27 June 2018, http://www.thedrive.com/the-war-zone/21805/marine-kc-130js-are-getting-a-much-more-potent-bolt-on-weapons-and-sensor-kit

5.4 GOBANLE, 2 AUGUST 2018

On 2 August 2018, a US drone strike killed three civilians, and one suspected Al-Shabaab member, who were driving in a rural area approximately 1 km east of Gobanle village.[386]

The three civilians included a local businessman, 35-year-old Abdisamad Sheikh Issack Mohamed, who also worked for the Hormuud Telecommunications Company in Gobanle village.[387] He was killed alongside 58-year-old Adan Hassan Yarow (aka "Adan Dubbe"), who was married and left behind nine children, and 58-year-old Abdi Nurow Adan who was also married with nine children. Both Adan and Abdi were well-diggers.[388] Witnesses to the attack told Amnesty International that the three men were not armed and were not members of Al-Shabaab. "They had a shovel and a hammer but no weapons," one witness said. Aden had arrived in Gobanle, only 10 days before the attack, having travelled there after hearing about the job at the borehole.[389]

Three people interviewed by Amnesty International suggested the strike may have been targeted against the suspected Al-Shabaab member who was the only other passenger onboard the vehicle, however Amnesty International was not able to confirm the intended target of the attack.[390] The vehicle was destroyed. Amnesty International Interviewed seven people, including three who witnessed the attack and others who knew the victims of the attack well. Amnesty International also reviewed a number of media reports[391] about the attack and spoke to an official from Hormuud Telecommunications.

Hormuud Telecommunications Company confirmed to an Amnesty International researcher that Abdisamad Sheikh Issack Mohamed was their employee and was killed in an air strike near Gobanle village on 2 August 2018.[392] A senior Lower Shabelle official also confirmed to Amnesty International that three civilians were killed in an air strike near Gobanle while they were travelling in a car. "I don't know why they were hit, but maybe it was a mistake. The US are making a lot of mistakes in this region," he said.[393]

Gobanle is a village located approximately 120 km northwest of Mogadishu and is under the control of Al-Shabaab. Witnesses from the area in which the strike took place told Amnesty International that there was fighting between Al-Shabaab and government-allied forces in the vicinity of Gobanle a day prior to the attack.[394]

According to witnesses, Abdisamad Sheikh Issack Mohamed was in charge of constructing a borehole[395] in the village of "Fodil" on the outskirts of Gobanle.[396] He employed four men to dig the borehole for him. At around midday on the day of the attack, Abdisamad along with the suspected Al-Shabaab member drove to Fodil[397] and visited the borehole. A friend of Abdisamad told Amnesty International that Abdisamad rented the car belonging to the Al-Shabaab member because he was the only person licensed by Al-Shabaab to

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[386] See: https://www.bbc.com/somali/war-45061941, a BBC Somali report on the incident in Gobanle. And this social media reporting on 2 August 2018. https://twitter.com/Magdashi3/status/1025061961040650242 Gobanle is at 3.12222 North, 44.76507 East.
[387] Hormuud Telecommunication Company is the biggest telecommunication company in Somalia. The company provides many services including the mobile money transfer services that is widely used in Somalia to transact business. Four telephone interviews in December 2018 and February 2019.
[388] Two telephone interviews in December 2018.
[389] One telephone interview in December 2018.
[390] Three Telephone interviews in December 2018 and February 2019.
[391] See: BBC, *Maraykanka oo sheegay inuu qaaday weerar ka dhacay duleedka Muqdisho,* 3 August 2018, https://www.bbc.com/somali/war-45061941, and posts on Twitter: https://twitter.com/Magdashi3/status/1025061961040650242 and; https://twitter.com/MoradNews/status/1025035231953342464 and; https://twitter.com/Free_Somaliweyn/status/1025051863920463872
[392] Telephone interview with Hormuud official in February 2019.
[393] Telephone interview with a senior Lower Shabelle official in March 2019.
[394] Two telephone interviews in December 2018.
[395] In interviews with an Amnesty International researcher on 5 and 6 February 2019, a Hormuud Telecommunications spokesperson confirmed that Abdisamad was not digging a borehole for Hormuud and that Hormuud does not have vehicles in Gobanle so the vehicle that he was travelling in was not owned by them.
[396] One telephone interview in December 2018.
[397] One telephone interview in December 2018.

drive around in that area.[398] However three other individuals interviewed by Amnesty International said people living in Al-Shabaab controlled areas are allowed to drive their vehicles if they are granted permission by Al-Shabaab.[399] Whilst Abdisamad had previously visited the borehole, this was the first time in which he came in that car and in the company of the suspected Al-Shabaab member, who was unfamiliar to the eyewitnesses, he said.[400]

On arrival at the borehole in the early afternoon,[401] Abdisamad asked two of his four well-diggers - Adan Hassan Yarow and Abdi Nurow Adan - to accompany him in the car to visit another borehole construction site.[402]

Shortly after Abdisamad, Aden, Abdi, and the suspected Al-Shabaab member drove off, eyewitnesses saw an aircraft hovering over the vehicle.[403] The vehicle, three eyewitness told Amnesty International, appeared to try to hide from the plane: "When they were away from us we saw a plane circling over them and they went under a tree" Ibrahim, a witness said. The aircraft disappeared from sight but returned shortly afterwards. The vehicle was then hit by an air strike, destroying it completely.[404] "When the plane left they drove away in the vehicle, but the plane came back and hit them when they were in the open. We went there and took them. The four of them died there,"[405] Ibrahim told Amnesty International.

People who saw the dead bodies told Amnesty International they could only recognize the face of Abdisamad.[406] "Only one of them could be identified," Salah, one of the witnesses, said.[407] "The others became dark like charcoal and were unrecognisable." Two witnesses who saw the destroyed van said the strike hit the rear part of the vehicle and that the front part was intact.[408]

Hassan, another witness who visited the scene on the day of the attack described seeing a crater that was approximately five-metres in diameter and one-foot deep:[409]

> **"The car was coming from the west and heading to Baladul-Amin in the east. The car went off the road, on the left side of the road. The hole was under the car. The rear part of the car was hit. The front part of the car was intact, the other part was burnt. I saw lots of metal parts of the car. I didn't observe closely because I was in shock."[410]**

The bodies of the four men were transported and buried in Gobanle village. Those who buried them said they feared another US attack: "We were very afraid. We made only two graves and put two in each because we were very afraid. We left them there."[411]

Amnesty International could not verify the identity of the fourth man who was killed in this attack, though two people interviewed by Amnesty International suggested that he was a member of Al-Shabaab and was known as 'Malable'.[412] One man said he knew 'Malable' because they were relatives and the last time he heard about him he was an Al-Shabaab member.[413]

People close to the two well-diggers wondered why they were killed and are demanding justice for their loved ones. Someone who knew Adan Hassan Yarow well, described his family's loss:

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398 One telephone interview in December 2018.
399 Three telephone interviews in February 2018.
400 One telephone interview in December 2018.
401 One telephone interview in December 2018.
402 One telephone interview in December 2018.
403 Three telephone interviews in December 2018 and February 2019.
404 Three telephone interviews in December 2018 and February 2019.
405 One telephone interview in December 2018.
406 Two telephone interviews in December 2018.
407 One telephone interview in December 2018.
408 Two telephone interviews in December 2018.
409 One telephone interview in December 2018.
410 One telephone interview in December 2018
411 One telephone interview in December 2018.
412 Two telephone interviews in December 2018.
413 One telephone interview in December 2018.

> **"He was the breadwinner of the family. My hand was cut. I feel alone. Nine children and his wife [left behind] and my own family – I have to do it alone. We are living hand to mouth, that is the situation. It is a very bad situation. I believed no one could do anything. I wish there is compensation for [him]. I wish the killers give compensation."[414]**

According to records obtained by Amnesty International, a total of two AGM-114 Hellfire missiles and approximately 10 105mm projectiles and 100 30mm projectiles were fired by the US Air Force in Somalia on 2 August 2018.[415] The Hellfires were fired from MQ-9 Reaper drones, and the remaining ammunition from an AC-130 aircraft. In this attack, as a single munition precisely struck the vehicle and killed everyone inside, Amnesty International assesses that it is most likely a drone conducted this strike with a Hellfire missile.

In a press statement released a day after the Gobanle attack, AFRICOM reported that it had conducted an air strike targeting "Al-Shabaab militants" approximately 74 miles (119 km) northwest of Mogadishu, on 2 August 2018, killing four "terrorists". The statement added that no civilians were injured or killed in this air strike.[416]

In response to Amnesty International's allegations, AFRICOM stated:

> **"AFRICOM conducted a precision-guided strike that corresponds to the time and location alleged, targeting individuals who were members of al-Shabaab. The pro-al-Shabaab media outlet, Somaliamemo.net alleged CIVCAS shortly after the event. AFRICOM conducted a CIVCAS allegation assessment and determined that the allegation was not credible based on the unreliability of the source and the fact that the individuals targeted were members of al-Shabaab."[417]**

AFRICOM refused to provide further information about the strike or those named by Amnesty International as the civilians found to have been killed in the attack.[418]

Amnesty International's evidence above demonstrates that contrary to AFRICOM's assessment, three civilians were killed during the attack in Gobanle. The loss of civilian life and the circumstances of this attack raise concerns about whether it was lawful. If US forces assumed that all the men who were in the vehicle were Al-Shabaab fighters based on their being in the same car with a suspected member of Al-Shabaab, this would indicate that they are not taking necessary precautions to identify their targets as military objectives, which could amount to carrying out an indiscriminate attack. Whereas if US forces were aware that three of the individuals in the vehicle were civilians and decided to proceed with the strike, this raises serious questions about proportionality - particularly since the target does not appear to have been a high-ranking al-Shabaab member and was not engaged in active hostilities at the time of the attack; and there is nothing to suggest there was sufficient urgency to warrant attacking in circumstances when there was near-certainty of civilian casualties. Indiscriminate attacks that kill or injure civilians and disproportionate attacks can constitute a war crime. The US authorities must conduct an independent, impartial investigation into this incident.

5.5 BALADUL-RAHMA, 9 DECEMBER 2018

In the early hours of 9 December 2018, US forces conducted an air strike near the village of Baladul-Rahma,[419] killing one civilian farmer and wounding another. Amnesty International interviewed 18 people,

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[414] One telephone interview in December 2018.
[415] Anonymous source on file at Amnesty International.
[416] AFRICOM, *U.S. Conducts Airstrike in Support of the Federal Government of Somalia*, 3 August 2018, https://www.africom.mil/media-room/pressrelease/31094/u-s-conducts-airstrike-in-support-of-the-federal-government-of-somalia
[417] Letter dated 11 March 2019, on file with Amnesty International
[418] Email dated 13 March 2019, on file with Amnesty International.
[419] 2.296128 North, 45.264368 East

including eyewitnesses and people who knew the victims well, and corroborated their testimony with social media posts, news accounts, US military statements, and NGO situation reports.

The region known collectively as Basra consists of four adjacent villages: Baladul-Rahma, Geeshaan, Basra-yarey, and Banda Salaama.[420] The cluster of farms surrounding these villages along the Shabelle River, 25 km northeast of the town of Afgooye, has been the scene of repeated air strikes and raids by Somali government forces since the 14 October 2017 truck bombing in Mogadishu.[421]

On 10 November 2017,[422] the US conducted at least three air strikes[423] in and around Baladul-Rahma and Geeshaan. In an email to The Bureau of Investigative Journalism, AFRICOM confirmed it conducted a strike in the Lower Shabelle region.[424] It did not provide details of casualties "for operational reasons",[425] however news reports at the time indicate three civilians were amongst those killed.[426] According to records obtained by Amnesty International, a total of 10 AGM-114 Hellfire missiles, three Griffin missiles, and two GBU-69/Bs were fired by the US Air Force in Somalia between 10-17 November 2017.[427] Then, on 14 August 2018,[428] the US military conducted additional air strikes in the same twin villages. Local residents and an NGO monitoring group report that civilians were killed in this strike as well.[429] While Amnesty International received extensive testimony about civilian fatalities during both of these incidents, we were unable to conclusively confirm the names of any of the victims, and so they are not included in this report.

In the very early hours of the morning of 9 December 2018, there were additional strikes in the farms outside Baladul-Rahma.[430] Late the previous night, a 47-year-old farmer named Dahir Abdi Qoriyow was irrigating his fields about 500 metres west of Baladul-Rahma.[431] He had been in the fields since the afternoon.[432] People who knew Dahir well explained to Amnesty International that he worked at night because many farms utilized the same canal and associated generators and watering equipment, forcing everyone to share and use each in turn; one businessman owned the pump and rented it to each farmer on a set schedule, which included times of darkness.[433] That night, Ali assisted him in this work,[434] by standing at the Shabelle River and controlling the flow of water into the canal.[435] Their farm consists of many lemon and mango trees, and in the area around Baladul-Rahma Al-Shabaab fighters liked to hide under these kinds of trees at night.[436] According to other local farmers, however, Al-Shabaab fighters were not believed to be in the area that evening, and Dahir worked alone in the trees at the motorized pump on the canal.[437] All evening, farmers say they heard the steady sound of an aircraft circling, even over the noise of the pump.[438] "From *Maghrib* prayer, like 6:30 or 7pm, up until the incident happened we were hearing the sound. "Ooooooooooo" - just

[420] UN Map overlay for Google Earth provided to Amnesty International, and five in-person interviews in September and October 2018.
[421] The Armed Conflict Location & Event Data Project (ACLED), *Somalia,* 19 January 2018, https://www.acleddata.com/dashboard/#706
[422] Report from an anonymous NGO, on file at Amnesty International, also; three in-person interviews in September 2018, and; VOA, *Somali Government Releases List of Deadly Car Bomb Suspects*, 15 November 2017, https://www.voanews.com/a/somail-government-releases-list-deadly-car-bomb-suspects/4116530.html and; Associated Press, *U.S. Drone Strike on Shabab Militants in Somalia Kills "Several,"* 11 November 2017, http://www.latimes.com/world/africa/la-fg-somalia-drone-strike-20171111-story.html
[423] Four in-person interviews in September 2018.
[424] The Bureau of Investigative Journalism, *Somalia: Reported US Actions 2017.* https://www.thebureauinvestigates.com/drone-war/data/somalia-reported-us-covert-actions-2017#strike-10975
[425] The Bureau of Investigative Journalism, *Somalia: Reported US Actions 2017.* https://www.thebureauinvestigates.com/drone-war/data/somalia-reported-us-covert-actions-2017#strike-10975
[426] VOA, *Somali Government Releases List of Deadly Car Bomb Suspects,* 15 November 2017, https://www.voanews.com/a/somail-government-releases-list-deadly-car-bomb-suspects/4116530.html;
[427] Anonymous source on file at Amnesty International.
[428] Report from an anonymous NGO, on file at Amnesty International, also; seven in-person interviews in September 2018.
[429] Report from an anonymous NGO, on file at Amnesty International, also; seven in-person interviews in September 2018.
[430] Eight telephone interviews in December 2018 and January 2019.
[431] Seven telephone interviews in December 2018 and January 2019.
[432] One telephone interview in January 2019.
[433] Four telephone interviews in December 2018 and January 2019.
[434] One telephone interview in January 2019.
[435] Three telephone interviews in January 2019.
[436] Two telephone interviews in January 2019.
[437] Three telephone interviews in January 2019.
[438] Nine telephone interviews in December 2018 and January 2019.

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one sound going round and round and coming back. It was constant," one farmer told Amnesty International.[439]

After midnight, Dahir called Ali on a mobile phone, to say he should come back up to the pump to eat dinner with him.[440] Dahir's friend, a 47-year-old doctor[441] and traditional healer named Omar Abdi Sheikh, whom everyone called Rambow, had brought food for them.[442]

At that moment, approximately 2am on the morning of 9 December, as Ali made his way back to the pump, an air strike hit Dahir's farm, just steps from where he and Rambow stood.[443] Several residents of the area told Amnesty International that they heard at least one more strike in the distance the same night,[444] which may have targeted Al-Shabaab fighters hiding in the farms outside of the twin villages.[445]

Three ordnance fragments removed from the body of Omar Abdi Sheikh ('Rambow'). ©

Ali ran away and returned to the village to tell Dahir's family what had happened.[446] In the morning, when the families of the men went to the farm to retrieve the bodies, they saw a crater, approximately a meter wide, containing scraps of metal with writing on it.[447] Dahir had been torn to pieces and his flesh scattered about and round the crater.[448] "We went to the farm, but it was very shocking – we didn't see his body completely, there were some pieces around," said Sahra a resident of the village. "There is his head there, a leg there, a shoulder there. I cannot talk about it."[449]

Rambow was discovered by a relative badly injured, but alive approximately 20 metres away. His right shoulder was torn open and bleeding, his left hand was broken, and an ordnance fragment was in his right temple.[450] Rambow had been too injured to move all night, and residents of the village told Amnesty International they had been too scared to venture out until daylight.[451] Rambow's family took him immediately to the Bayan Hospital, in the Elasha area of Mogadishu, for treatment.[452] There, another person said that a doctor had removed three ordnance fragments from Rambow's shoulder, hand, and head.[453] Amnesty International reviewed a video showing the pieces immediately after removal in the hospital, and examined the three fragments in detail later.[454] All are machined light aluminium, scored from high heat, and with a jagged razor edge consistent with fragments produced from military ordnance containing an explosive with high brisance - that is, a high blast pressure that produces a shattering effect.[455] Weapons

[439] One telephone interview in January 2019.
[440] One telephone interview in January 2019.
[441] One telephone interview in January 2019.
[442] Four telephone interviews in January 2019.
[443] Three telephone interviews in January 2019.
[444] Four telephone interviews in December 2018 and January 2019.
[445] Amnesty International was not able to corroborate details of another air strike that night, however AFRICOM did report carrying out a "collective self-defense" strike in the Basra area on 8 December 2018, after "partner forces came under attack". It is unclear from the report whether the date stamp refers to local time in Somalia, or another location, See: https://www.africom.mil/media-room/pressrelease/31420/Al-Shabaab-forces-degraded-by-u-s-federal-government-of-somalia
[446] Three telephone interviews in January 2019.
[447] Four telephone interviews in December 2018 and January 2019.
[448] Seven telephone interviews in December 2018 and January 2019.
[449] One telephone interview in January 2019.
[450] Six telephone interviews in December 2018 and January 2019.
[451] Two telephone interviews in December 2018 and January 2019.
[452] Five telephone interviews in December 2018 and January 2019.
[453] One telephone interview in January 2019.
[454] Video on file at Amnesty International.
[455] Analysis of Amnesty International ordnance expert, checked by outside fact-checker with similar expertise.

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matching the description are limited to aircraft-delivered guided missiles and guided bombs, not standard mortars and artillery used by ground forces.

Members of both men's family attest that they are not members of Al-Shabaab.[456]

The community quickly buried his body. "We buried in the morning and we were feeling afraid. We were fearing the plane. That time we were not hearing the plane, we [buried the body] very quickly and then we moved away quickly," said Sahra.[457] Al-Shabaab would not allow Dahir's family to hold a traditional funeral, so they travelled to the nearby town of Afgooye, which is under Somali government control, to hold the ceremony there.[458] According to records obtained by Amnesty International, a total of four AGM-114 Hellfire missiles and four GBU-69/Bs were fired by the US Air Force in Somalia between 8-9 December 2018.[459] The Hellfires were fired from MQ-9 Reaper drones and the GBU-69/Bs from AC-130 aircraft. In this attack, the ordnance fragments recovered from the body of Rambow most closely resemble the casing of a GBU-69/B, and so Amnesty International believes that an AC-130 was most likely responsible for this individual strike.

On 9 December, AFRICOM published a press release on its website reporting that it had conducted a "collective self-defense" strike in the Basra area on 8 December 2018 (the day prior to the attack that killed Dahir), after "partner forces came under attack".[460] It is unclear from the report whether the date stamp refers to local time in Somalia, or another location.

In response to Amnesty International's allegations, AFRICOM stated: "AFRICOM conducted a precision-guided strike that corresponds to the time and location alleged, targeting individuals attacking partner forces."[461] AFRICOM did not confirm whether anyone was killed or injured in the air strike, and if so, whether it assessed that any were civilians. It also refused to provide further information on the strike or those named by Amnesty International as the civilians found to have been killed and injured in the attack.[462]

Amnesty International's evidence above demonstrates that one civilian was killed, and one was injured in the attack. Given that apparently there were no military objectives in their vicinity at the time, this raises serious concerns, including the possibility that US forces identified these civilians as fighters, possibly based on their night-time movements. If this is the case, it suggests an unacceptably low threshold for verifying that targets are military objectives – a fundamental failure to take necessary precautions. Targeting on such a basis would inevitably lead to needless civilian deaths and injuries and violate the principle of distinction, leading to direct attacks on civilians or indiscriminate attacks and could constitute a war crime. US authorities must ensure an independent, impartial investigation is conducted into this incident.

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[456] Four telephone interviews in December 2018 and January 2019.
[457] One telephone interview in January 2019.
[458] Two telephone interviews in January 2019.
[459] Anonymous source on file at Amnesty International.
[460] AFRICOM, *Al-Shabaab Forces degraded by U.S., Federal Government of Somalia,* 9 December 2018, https://www.africom.mil/media-room/pressrelease/31420/Al-Shabaab-forces-degraded-by-u-s-federal-government-of-somalia
[461] Letter dated 11 March 2019, on file with Amnesty International.
[462] Email dated 13 March 2019, on file with Amnesty International.

6. AIR STRIKES IN SOMALIA UNDER INTERNATIONAL LAW

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US government forces carried out at least 25 air strikes in Lower Shabelle, Somalia between April 2017 and December 2018. This report provides credible evidence that strongly suggests that at least nine civilians were killed and six injured during four of these strikes; it also provides credible evidence showing that five civilians were killed and two were injured in a fifth incident, which was most plausibly caused by a US air strike. The evidence also indicates that members of the US government forces who planned and carried out the air strikes may have committed violations of international humanitarian law (IHL), including unlawful killings, which could amount to war crimes. The seriousness of the allegations underscores the need for the US and Somalia to conduct urgent and transparent investigations.

The conflict in Somalia between Somali government forces and Al-Shabaab, a non-state armed group, is a non-international armed conflict (NIAC) under international law.[463] A NIAC arises when there are protracted armed confrontations in the territory of a state between government armed forces and one or more organized non-state armed groups, or between such groups.[464] For the armed confrontations to be classified as a NIAC they must reach a requisite level of intensity and the parties involved must have a requisite degree of organization, which is clearly the case with respect to the fighting between Somali government forces and Al-Shabaab.[465] Amnesty International considers the USA to be a party to the NIAC in Somalia. US officials have characterized their operations as in the furtherance of national self-defense[466] and collective self-defense,[467]

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[463] See UN Security Council Resolution 2385 (2017), S/RES/2385 (2017), https://undocs.org/S/RES/2385(2017); and ICRC, *Somalia: SRCS volunteers among the casualties of attack in Mogadishu*, 15 October 2017, https://www.icrc.org/en/document/somalia-srcs-volunteers-among-casualties-attack-mogadishu and; The New York Times, *Somalia's President Declares War on Shabab Militants*, 6 April 2017, https://www.nytimes.com/2017/04/06/world/africa/somalia-shabab.html?smid=pl-share

[464] See: *Prosecutor v. Dusko Tadic* (IT-94-1-A), ICTY Appeals Chamber, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para. 70. See also: Rome Statute, Article 8(2)(f).

[465] For list of indicative factors for each of these criterion, see *Prosecutor v. Boskoski* (IT-04-82-T), ICTY Trial Chamber, Judgment, 10 July 2008, paras 175-206.

[466] NSC, *Report on the Legal and Policy Frameworks Guiding the United States' Use of Military Forces and Related National Security Operations,* December 2016, available at: http://www.justsecurity.org/wp-content/uploads/2016/12/framework.Report_Final.pdf

[467] United Nations, *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, available at: https://www.refworld.org/docid/3ae6b3930.html article 51 and; Department of Defense, *Statement from Pentagon Press Secretary Peter Cook on Airstrike in Somalis*, 7 March 2016, https://dod.defense.gov/News/News-Releases/News-Release-

at the request, and with the consent, of the Somali government.[468] When asked by Amnesty International, AFRICOM and the DoD both refused to confirm or deny whether the US is at war in Somalia. .[469]

International human rights law applies to all States at all times, including during NIACs.[470] Article 6(1) of the International Covenant on Civil and Political Rights states that "every human being has the inherent right to life. No one shall be arbitrarily deprived of his life." This right is a peremptory norm of international law and can never be suspended or otherwise derogated from, be it in times of peace or in times of war.[471] A State party's obligation to respect the right to life extends to "persons located outside any territory effectively controlled by the State, whose right to life is nonetheless impacted by its military or other activities in a direct and reasonably foreseeable manner."[472] In situations of armed conflict, where IHL applies as well as human rights law, violations of the IHL that cause the deaths of civilians and other protected person, also constitute arbitrary deprivation of life, and violate the right to life.[473]

Parties to NIACs are also bound by treaty-based and customary international humanitarian law. Parties are required to observe Common Article 3 of the Geneva Conventions. Article 3 prohibits the inhumane treatment of "[p]ersons taking no active part in the hostilities, including members of armed forces who have laid down their arms," including "violence to life and person, in particular murder of all kinds."[474] Additional Protocol (AP) II to the Geneva Conventions provides more details on protection of civilians not directly participating in hostilities and civilian objects indispensable to the survival of the civilian population, including the requirements that "[t]he civilian population as such, as well as individual civilians, shall not be the object of attack."[475] Although neither the USA nor Somalia has ratified AP II,[476] the US acknowledges that the foundational principles of IHL govern NIACs, including the principles of distinction, proportionality and precaution.[477] Moreover, many of the relevant rules included in AP II and the rules governing the conduct of hostilities (codified in Additional Protocol I to the Geneva Conventions), form part of customary international humanitarian law governing NIACs and are thus binding on all parties to the conflict, including Somalia, Al-Shabaab and the USA.[478]

View/Article/687305/statement-from-pentagon-press-secretary-peter-cook-on-airstrike-in-somalia/ and; AFRICOM *U.S. Conducts Airstrike in Support of Federal Government of Somalia*, 15 October 2018, https://www.africom.mil/media-room/pressrelease/31273/u-s-conducts-airstrike-in-support-of-the-federal-government-of-somalia and; United States government *Report on the Legal and Policy Frameworks Guiding the United States' Use of Military Force and Related national Security Operations,* 2018, available at: https://assets.documentcloud.org/documents/4411804/3-18-War-Powers-Transparency-Report.pdf.

[468] For an explanation of US government policy on how collective self-defense extends to the actions of armed non-state actors operations inside the territories of other States, see: Brian Egan, *International Law, Legal Diplomacy, and the Counter-ISIL Campaign: Some Observations,* 92 Int'l L. Stud. 235, 242-3 (2016), https://2009-2017.state.gov/s/l/releases/remarks/255493.htm

[469]Email on 13 March 2019 from a US DoD spokesperson, on file with Amnesty International.

[470]International Court of Justice, *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion of 8 July 1996, ICJ Reports 1996; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion of 9 July 2004, ICJ Reports 2004, paragraph 106 and; Amnesty International, *Deadly Assistance: The role of European States in US drone strikes*, April 2018, p. 22, https://www.amnesty.org/en/documents/act30/8151/2018/en/.and; International Review of the Red Cross, Louise Doswald-Beck, *The right to life in armed conflict: does international humanitarian law provide all the answers?* Volume 88, Number 864, December 2006, available at: https://www.icrc.org/en/doc/assets/files/other/irrc_864_doswald-beck.pdf and; Columbia Law School Human Rights Clinic and Sana'a Center for Strategic Studies, *Out of the Shadows: Recommendations to Advance Transparency in the Use of Lethal Force,* June 2017, https://www.outoftheshadowsreport.com/

[471] UN Human Rights Committee, General Comment 36 on Art 6: The Right to Life (2018), CCPR/C/GC/36, para. 2;

[472] General Comment 36, para. 63.

[473] General Comment 36, para. 64.

[474] Geneva Conventions of 1949

[475] Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), available at: www.refworld.org/docid/3ae6b37f40.html

[476] Somalia hasn't signed it. The US has signed but never ratified.

[477] Office of General Counsel, US Department of Defense, Law of War Manual, June 2015 (Updated December 2016) (Law of War Manual), 17.5 and 17.7 and; see See Brian Egan, *International Law, Legal Diplomacy, and the Counter-ISIL Campaign: Some Observations,* 92 Int'l L. Stud. 235, 242-3 (2016), available at: https://2009-2017.state.gov/s/l/releases/remarks/255493.htm; See *Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic (Appeal Judgment)*, IT-96-23 & IT-96-23/1-A, International Criminal Tribunal for the former Yugoslavia (ICTY), 12 June 2002, available at: https://www.refworld.org/cases,ICTY,3debaafe4.html

[478] International Committee of the Red Cross, Customary International Humanitarian Law, Vol 1: Rules (ICRC, Customary IHL), Rules 1-24; US Department of Defense, Law of War Manual, Third Edition, 2017, 17.1.2 "Important Commonalities

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The rules of international humanitarian law (also referred to as the law of armed conflict or the laws of war) aim to minimize human suffering and ensure protection of civilians and those who are not directly participating in hostilities. IHL has several interconnected core principles. Of particular relevance to cases in this report are the principles of distinction, proportionality, and precaution. Serious violations of rules of IHL, particularly those that endanger civilians or other protected persons or objects or breach important values, are war crimes.[479]

The principle of distinction requires that parties at all times distinguish between combatants and legitimate military objectives on the one hand, and civilians and civilian objects on the other hand, and ensure they direct attacks only at the former.[480] The principle of proportionality requires that military objectives may only be attacked when the military advantage anticipated by their destruction or neutralization outweighs the likely harm to civilians and damage to civilian objects.[481]

Whereas the civilian population is protected from direct attack, members of the armed forces (other than religious and medical personnel, and those rendered *hors de combat* through injury, sickness or capture) and individuals (such as members of armed groups) directly participating in hostilities, may be lawfully targeted for attack. Applying this rule to non-international armed conflict may, at least in some circumstances, require attempting to capture, rather than kill, members of armed groups wherever practically possible.[482] Individual civilians may lose their immunity from attack for such a time as they are directly participating in hostilities. In cases of doubt, individuals should be presumed to be civilians and immune from direct attack.[483]

According to the understanding of Brigadier General Donald Bolduc - who served as AFRICOM's Deputy Director for Operations from 2013 until 2015, and then became Commander, Special Operations Command Africa until June 2017[484] - since the issuance of President Trump's directive declaring southern Somalia an "area of active hostilities", individuals are now considered to be lawfully targetable based solely on four criteria: age, gender, location, and geographical proximity to Al-Shabaab.[485] As a result, all military-aged males observed with known Al-Shabaab members inside specific areas – areas within which the US military has deemed the population to be supporting or sympathetic to Al-Shabaab – are now considered legitimate military targets. In reply to a request from Amnesty International for an official response on General's Bolduc's assertion, AFRICOM stated that: "BG Buldoc's [sic] purported articulation of targeting standards does not accurately reflect the targeting standards of AFRICOM or DoD. Unfortunately, providing additional detail on this topic would not be possible due to operational security reasons."[486] However, if General Bolduc

Between the Law Applicable to International Armed Conflict and the Law Applicable to Non-International Armed Conflict." See: *Prosecutor v. Dusko Tadic* (IT-94-1-A), ICTY Appeals Chamber, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995 and; *Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic (Appeal Judgment)*, IT-96-23 & IT-96-23/1-A, International Criminal Tribunal for the former Yugoslavia (ICTY), 12 June 2002, available at: https://www.refworld.org/cases,ICTY,3debaafe4.html

[479] ICRC, Customary IHL, Rule 156, available at: https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule156; UN General Assembly, *Rome Statute of the International Criminal Court, Article 8 (last amended 2010)*, 17 July 1998, ISBN No. 92-9227-227-6, available at: https://www.refworld.org/docid/3ae6b3a84.html

[480] ICRC, Customary IHL, Rules 1 and 7, available at: https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule1 and; https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule7 and; *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, 8 June 1977, 1125 UNTS 609, available at: https://www.refworld.org/docid/3ae6b37f40.html

[481] Rome Statute of the International Criminal Court, Article 8(2)(e)(xii).

[482] General Comment No. 3 of the African Charter on Human and Peoples' Rights (Art. 4 The Right to Life), para. 34: "Where military necessity does not require parties to an armed conflict to use lethal force in achieving a legitimate military objective against otherwise lawful targets, but allows the target for example to be captured rather than killed, the respect for the right to life can be best ensured by pursuing this option."

[483] Protocol I, Article 50(1).

[484] Spirit of America, *Biography of Brig. General Donald Bolduc,* https://spiritofamerica.org/staff/brigadier-general-donald-bolduc

[485] In-person interview with Brigadier General Donald Bolduc on 21 February 2019, in New Hampshire. Follow-up interview via email on 1 March 2019. While Brigadier General Bolduc served as Commander, Special Operations Command Africa until 29 June 2017; he told Amnesty International that he did not carry out any strikes after the declaration of parts of Somalia as an "area of active hostilities." However, at least one such strike was carried out during his tenure, on 11 June 2017. See: United States Africa Command, *U.S. Strike Against Al-Shabaab Logistics Node,* 11 June 2017. https://www.africom.mil/media-room/pressrelease/28961/u-s-strike-against-al-shabaab-logistics-node

[486]Email on 13 March 2019 from a US DoD spokesperson, on file with Amnesty International.

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is accurate in how the policy is practically applied, then such an approach to targeting would be contrary to international humanitarian law. In fact, this would appear to go beyond the US military's already overly-broad interpretation of who is targetable in armed conflict. US doctrine on who can be directly targeted is explained in the US Department of Defense (DoD) Law of War Manual. Particularly relevant to this report is the DoD Manual's discussion of armed groups. It states, "belonging to an armed group makes a person liable to being made the object of attack regardless of whether he or she is taking a direct part in hostilities."[487]

Individuals who are formally or functionally part of a non-State armed group that is engaged in hostilities may be made the object of attack because they likewise share in their group's hostile intent.[488] The Manual gives examples of formal or direct information about an individual's membership including whether individuals use a rank, title, or style of communication; take an oath of loyalty to the group or the group's leader; wear a uniform or other clothing, adornments, or body markings that identify members of the group; or possess documents issued or belonging to the group that identify the person as a member, such as membership lists, identity cards, or membership applications.[489]

According to the DoD Manual, in the absence of formal, direct information about an individual's membership, the following types of information might indicate that an individual belongs to an armed group: acting at the direction of the group or within its command structure; performing a function for the group that is analogous to a function normally performed by a member of a State's armed forces; taking a direct part in hostilities, including consideration of the frequency, intensity, and duration of such participation; accessing facilities, such as safehouses, training camps, or bases used by the group that outsiders would not be permitted to access; traveling along specific clandestine routes used by those groups; or traveling with members of the group in remote locations or while the group conducts operations.[490]

The Manual notes that some armed groups might not be organized in a formal command structure and "lack a formal distinction between those members and non-members who nonetheless participate in the hostile activities of the group." In such cases, a person's functional membership may be indicated by: following directions issued by the group or its leaders; taking a direct part in hostilities on behalf of the group on a sufficiently frequent or intensive basis; performing tasks on behalf of the group similar to those provided in a combat, combat support, or combat service support role in the armed forces of a State.[491]

Such a broad concept of who is targetable means that civilians who are not directly participating in hostilities may be deliberately targeted. It leaves open the possibility of targeting and killing individuals for support roles such as cooking or cleaning or for being in the wrong company. Such a wide pool of potential targets, based on a flawed interpretation of international humanitarian law, further endangers other civilians who are in the vicinity of those being targeted.

According to the International Committee of the Red Cross (ICRC), individuals suspected of membership in armed groups must not be targeted on the basis of "abstract affiliation, family ties, or other criteria prone to error, arbitrariness or abuse."[492] To be lawfully targeted they must be directly participating in hostilities. Direct attacks against the civilian population and individual civilians not directly participating in hostilities are prohibited and constitute war crimes.[493]

The ICRC states that conduct only amounts to direct participation in hostilities if it meets three cumulative criteria: it must reach a requisite threshold of harm (likely to adversely affect the military operations or capacity of the opposing party); there must be direct causation between the act and the harm; and there must be a belligerent nexus (it must be specifically designed to cause the harm to a party to the conflict).[494] Mere accompaniment or support of a party to a conflict, which does not fulfil the constitutive element of

[487] Department of Defense, Law of War Manual, 2017, 5.7, http://ogc.osd.mil/images/law_war_manual_december_16.pdf
[488] Law of War Manual, 5.7.3
[489] Law of War Manual, 5.7.3.1
[490] Law of War Manual, 5.7.3.1
[491] Law of War Manual, 5.7.3.2
[492] ICRC, Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law, Geneva, May 2009, https://www.icrc.org/
[493] ICRC, Customary IHL, Rule 156, p 591 and; Rome Statute of the ICC, Art 8 (2) (e) (i).
[494] ICRC, Interpretative Guidance on the Notion of Direct Participation in Hostilities under international humanitarian law, Recommendation V.

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direct participation in hostilities, does not cause a civilian to lose her or his protections under IHL. As regards to duration of direct participation, the ICRC has argued that "measures preparatory to the execution of a specific act of direct participation in hostilities, as well as the deployment to and the return from the location of its execution, constitute an integral part of that act."[495]

In addition to distinguishing between civilians and combatants, an attack must "distinguish between civilian objects and military objectives".[496] Civilian objects are protected against attack, unless and for such time as they are used for military purposes. Military objectives are "objects which by their nature, location, purpose or use make an effective contribution to military action and whose partial or total destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage".[497] Making civilian objects the object of attack is a war crime.[498]

Flowing from the principle of distinction is the prohibition of indiscriminate attacks;[499] that is, attacks that do not distinguish between military objectives and civilians or civilian objects.[500] In addition, attacks must not be disproportionate. An attack would be disproportionate if it "may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated."[501] Launching an indiscriminate attack resulting in death or injury to civilians, or an attack in the knowledge that it will cause excessive incidental civilian loss, injury or damage is a war crime.[502]

Targeting is a process that involves the planning of an attack, the decision to proceed, and the execution of an attack. IHL prescribes specific precautionary measures for an attacking party to undertake to ensure an attack is lawful and that civilians are protected. The same precautions are required in planning and executing drone or other air attacks as other uses of force in the conduct of hostilities.[503]

In the conduct of military operations, "constant care must be taken to spare the civilian population, civilians and civilian objects"; "all feasible precautions" must be taken to avoid and minimize incidental loss of civilian life, injury to civilians and damage to civilian objects.[504] Those who plan and decide attacks must also do everything feasible to verify that targets are military objectives, to assess the proportionality of attacks, and to cancel or suspend attacks if it becomes apparent they are wrongly-directed or disproportionate.[505] Where circumstances permit, parties must give effective advance warning of attacks which may affect the civilian population.[506] Taking all feasible precautions is a legal obligation under international humanitarian law, and is essential to ensuring that attacks are not indiscriminate or disproportionate.

In addition to the precautionary measures required by IHL, certain militaries, including the US, have policies, including executive orders and rules of engagement, that, for operational and strategic reasons, may influence the process of targeting. These policies can provide extra-legal limitations on the allowable threshold for likely incidental harm to civilians and damage to civilian objects (which the US military refers to as collateral damage).

Parties must also take all feasible precautions in defense to protect civilians and civilian objects under their control against the effects of attacks by the adversary.[507] In particular, each party must to the extent feasible

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[495] ICRC, Interpretative Guidance on the Notion of Direct Participation in Hostilities under international humanitarian law, Recommendation VI.
[496] ICRC, Customary IHL, Rule 7.
[497] ICRC, Customary IHL, Rules 8 and 10.
[498] ICRC, Customary IHL, Rule 156, p 597.
[499] ICRC, Customary IHL, Rule 11.
[500] ICRC, Customary IHL, Rule 12.
[501] ICRC, Customary IHL, Rule 14.
[502] ICRC, Customary IHL, Rule 156, page 599.
[503] See Geoffrey Corn, Ken Watkin, and Jamie Williamson, *The Law in War: A Concise Overview,* Routledge, 2018, chapter 6 and; New York City Bar, Committee on International Law, *The Legality Under International Law of Targeted Killings by Drones Launched by the United States,* June 2014, https://www2.nycbar.org/pdf/report/uploads/20072625-TheLegalityofTargetedInternationalKillingsbyUS-LaunchedDrones.pdf.
[504] ICRC, Customary IHL, Rule 15. See also Protocol II, article 13(1).
[505] ICRC, Customary IHL, Rules 16-19. Protocol I, article 57(2)(a) and (b)
[506] ICRC, Customary IHL, Rule 20; Protocol I, article 57(2)(c)
[507] ICRC, Customary IHL, Rule 22.

avoid locating military objectives within or near densely populated areas, and remove civilian persons and objects under its control from the vicinity of military objectives.[508] It is strictly prohibited to use "human shields", that is utilising the presence (or movements) of civilians or other protected persons to render certain points or areas (or military forces) immune from military operations.[509] Use of human shields is a war crime.[510] Al-Shabaab has been reported to use human shields and hide fighters amongst the civilian population.[511] In addition to violating humanitarian law, such conduct poses momentous challenges for US and Somali forces, making it more difficult to distinguish between civilians and legitimate military objectives, to avoid harming civilians, and to provide safe escape routes for the trapped civilians. However, Al-Shabaab's violations of the laws of war do not in any way lessen the obligation of the forces fighting Al-Shabaab to select lawful targets, to strike them in a way that is neither indiscriminate nor disproportionate, and to take all feasible measures to minimize harm to civilians.[512]

6.1 ALLEGED VIOLATIONS OF IHL DURING US AIR STRIKES

Each of the five incidents documented in this report involved potential violations of IHL. Given the physical harm to civilians these military operations caused, the attacks may have violated the principles of distinction and proportionality. The alleged violations, which include unlawful killings, may amount to war crimes.

While Al-Shabaab controls the areas of Lower Shabelle where the attacks took place, and members of Al-Shabaab were present in relatively large numbers in the parts of Lower Shabelle that were attacked, in some cases the rural areas and villages attacked had no organized armed presence at the time of the attack. In three instances, civilians who were not directly participating in hostilities were reportedly targeted and killed by strikes in areas where no members of armed opposition groups were present in the immediate vicinity of the attack. These attacks either targeted civilians, or those who planned the attack failed to take adequate measures to verify that the targets were military objectives, or those who carried out the attack failed to cancel or suspend the attack when it became apparent that they were wrongly directly or that the attack might be disproportionate. As a result, the attacks appear to violate the principle of distinction. In two attacks, US aircraft appear to have targeted Al-Shabaab vehicles on roads adjacent to civilians and civilian objects. In these cases, it appears that US forces had ample opportunity to carry out the attack before the vehicle entered, or drove by, the civilian areas.

6.2 OBLIGATION TO INVESTIGATE AND PROSECUTE

The US government is required under international law to conduct prompt, thorough, independent, impartial, transparent, and effective investigations into allegations of arbitrary deprivation of life and of violations of international humanitarian law, such as the acts described in this report.[513] The obligation to investigate such cases also exists in US domestic law.[514] Individuals who commit or order war crimes bear individual criminal responsibility.[515] Military commanders and civilian superiors may also be responsible for

[508] ICRC, Customary IHL, Rules 23 and 24.
[509] ICRC, Customary IHL, Rule 97; Fourth Geneva Convention, Article 28; Protocol I, Article 51(7);
[510] ICRC, Customary IHL, Rule 156, p. 602.
[511] Human Rights Watch, Al-Shabaab Rebels Impose Forced Marriages, use Students as 'Human Shields', 21 February 2012, https://www.hrw.org/news/2012/02/21/somalia-warring-parties-put-children-grave-risk.
[512] Protocol I, article 51(8): "Any violation of these prohibitions shall not release the Parties to the conflict from their legal obligations with respect to the civilian population and civilians, including the obligations to take the precautionary measures provided for in Article 57."
[513] ICRC, Customary IHL, Rule 158; Article 2(3) ICCPR. See Human Rights Committee, General Comment 31 on the nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13, paras 15, 16 and 18: General Comment 36 on Art 6: The Right to Life (2018), CCPR/C/GC/36, para. 27-28; See also UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Principles 9 to 20; UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, para 3; Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016) (published by OHCHR in 2017), para. 20.
[514] Law of War Manual, Chapter XVIII."
[515] ICRC, Customary IHL, Rule 151.

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the acts of their subordinates if they knew, or had reason to know, such crimes were about to be committed or were being committed and did not take the necessary measures to prevent them, or to punish those responsible for crimes that had already been committed.[516] The government of Somalia also has a duty to investigate potentially unlawful killings, as part of its obligation to protect the right to life of everyone under its jurisdiction.[517] This duty applies not only to allegations of unlawful killings by its own forces, but also to killings by other states and forces, particularly by those such as US military forces which are acting with the government's consent. The governments of the USA and Somalia must provide full reparation for victims of violations of international humanitarian law and for victims of violations of the right to life.[518]

All states have the right to vest universal jurisdiction in their national courts over war crimes committed in other states.[519] They must investigate war crimes over which they have jurisdiction and, if appropriate, prosecute the suspects or extradite them to another State able to prosecute them.[520]

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[516] ICRC, Customary IHL, Rules 152 and 153.
[517] Human Rights Committee, General Comment 36, paras 27
[518] ICRC, Customary IHL, Rule 150, available at: https://ihl-databases.icrc.org/customary-ihl/eng/docs/home and; UN General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law : resolution / adopted by the General Assembly*, 21 March 2006, A/RES/60/147, available at: https://www.refworld.org/docid/4721cb942.html and; Human Rights Committee, General Comment 36, paras 19 and 28.
[519] ICRC, Customary IHL, Rule 157.
[520] ICRC, Customary IHL, Rule 158.

7. CONCLUSION

> **"These people never thought they'd be killed by bombs. They are very Muslim, farmers, vulnerable. They lived a peaceful life, so this was very unexpected … I thank you for writing down what happened to our brothers. There's no one who came to ask us and sit with us to talk about the issue. No one from government came to speak to us. When we heard about you we were very happy … I want to confirm again that these people are my relatives and would never take any gun, never joined Al-Shabaab."**
>
> Liban, a farmer from Darusalaam village, Lower Shabelle.

In this report, Amnesty International has provided credible evidence that in the last two years, five US air strikes – carried out by manned aircraft and unmanned drones – in the Lower Shabelle region of Somalia killed at least 14 civilians and injured eight more. This finding directly contradicts the US government's claim that no civilians were killed in these strikes, despite a change to its rules of engagement in March 2017 that weakened civilian protections. By designating parts of Somalia to be an "area of active hostilities," and thus allowing attacks to proceed if there is a "reasonable certainty" that civilians will not be killed or injured (in contrast to the previous "near certainty" standard), the US government increased the likelihood of civilian death or injury from strikes as AFRICOM dramatically increased the number of air strikes it launched in Somalia, from 14 in 2016, to at least 35 in 2017, and at least 47 in 2018.

The evidence also suggests that members of the US government forces who planned and carried out these air strikes may have committed violations of international humanitarian law, and some attacks should be investigated as possible war crimes. In some strikes documented in the report US forces appear to have either targeted civilians or failed to verify that targets were military objectives. In others, evidence indicates that the US failed to take feasible precautions to distinguish between civilians and fighters or to choose appropriate means or methods in conducting strikes in order to minimize the harm caused to civilians and civilian objects, resulting in apparently indiscriminate or disproportionate attacks. Further, the findings in this report, and the responses received from AFRICOM to Amnesty International's allegations, raise serious concerns about the methodology employed by the US to assess strike outcomes and to determine the civilian or "combatant" status of individuals killed in its attacks.

This report includes findings from five incidents in the Lower Shabelle region investigated by Amnesty International. The USA conducted at least 76[521] more air strikes in Lower Shabelle and other regions of Somalia during this period, which Amnesty International did not investigate. The total number of civilian casualties resulting from US air strikes across the country as a whole is likely to be significantly higher. Additionally, in the first two months of 2019 US forces conducted 24 strikes; at this pace there would be

[521] Of the total at least 81 strikes reportedly conducted by the US during this period, at least 25 were carried out in the Lower Shabelle region, a further 45 were conducted outside of the Lower Shabelle region, and the geographical information provided by AFRICOM in a further 11 strikes was insufficient to conclude their specific location.

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over 140 US air strikes by the end of the year. According to AFRICOM, 225 people have been killed in strikes between 1 January and 1 March 2019, 81 of those in just three strikes alone in late February.[522] Again, the USA has claimed that no civilians were among those killed or injured in any of the 24 attacks. While these strikes fell outside of the scope of Amnesty International's research, the evidence in this report and the increasing scale of strikes and resulting death tolls raise further questions as to the veracity of the latest claims to have killed no civilians and highlights the urgent need for further scrutiny and in-depth investigation into attacks in Somalia.

The US and Somali governments have failed to adequately investigate allegations of civilian casualties resulting from US operations in Somalia, including all of the drone and air strikes documented in this report. A lack of transparency characterizes air strikes in Somalia, including the basis for selecting targets, ensuring civilians are protected, and the process and criteria employed by AFRICOM to assess the credibility of allegations of civilian casualties, and, when an allegation is deemed credible, how this is investigated. Furthermore, the US and Somali governments do not have adequate accountability mechanisms in place for reporting and responding to allegations of civilian casualties, including a way for survivors and families of victims to self-report these deaths. As a result, survivors of air strikes and the families of victims have been denied their right to justice, accountability and reparation, including compensation. The US and Somali governments have a moral imperative and a legal responsibility to remedy this situation; survivors of air strikes and the families of survivors and victims deserve this, at the very least.

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[522] See: AFRICOM, *Al-Shabaab Degraded by U.S., Federal Government of Somalia,* 25 February 2019, https://www.africom.mil/media-room/pressrelease/31562/al-shabaab-degraded-by-u-s-federal-government-of-somalia and; AFRICOM, *U.S., Federal Government of Somalia target al-Shabaab encampment,* 26 February 2019, https://www.africom.mil/media-room/pressrelease/31563/u-s-federal-government-of-somalia-target-al-shabaab-encampment and; AFRICOM, *U.S., Federal Government of Somalia target al-Shabaab terrorists,* 1 March 2019, https://www.africom.mil/media-room/pressrelease/31583/u-s-federal-government-of-somalia-target-al-shabaab-terrorists

8. RECOMMENDATIONS

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TO THE GOVERNMENT OF THE UNITED STATES OF AMERICA, INCLUDING AFRICOM, DEPARTMENT OF DEFENSE AND STATE DEPARTMENT:

- Conduct independent, impartial, thorough and transparent investigations into all credible allegations of civilian casualties of air strikes and other military operations in Somalia, including those documented in this report. Investigations should include proactively seeking to speak with eyewitnesses, survivors and families of victims despite constraints.
- Where there is sufficient admissible evidence of crimes, bring suspected perpetrators to justice in fair trials without recourse to the death penalty.
- Acknowledge civilian casualties caused by US attacks and offer compensation and explanation to survivors and families of civilians killed in US strikes regardless of whether or not the casualties were caused by a lawful attack.
- Provide victims of violations of international humanitarian law, and their families with access to justice and to full reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.
- Implement an effective mechanism to ensure a safe and accessible means for families and communities to self-report civilian casualties arising from US air strikes and other military operations.
- Since the air strikes are nearly always carried out in rural areas out of the control of the Somali government, posing challenges to implementation of accountability mechanisms, take effective steps to address such challenges, including by distributing information publicly about remedies available to victims, ensuring that mechanisms are geographically accessible to all affected by US air strikes. Development of any such mechanism should also take into account and address communication restrictions facing civilians in Somalia, for example due to threats from Al-Shabaab or the ban on internet-enabled mobile phones in Al-Shabaab territory.
- Establish a mechanism to engage local groups, survivors, witnesses and other outside sources, directly or through intermediaries, to corroborate external reports of civilian harm, in order to avoid, or at least minimize, further civilian casualties and damage to civilian objects.
- Publicly disclose:
    - Detailed information about investigations carried out into civilian casualties caused by US air strikes to date, including those detailed in this report, including findings, any remedies provided, and lessons learned;
    - Methodology employed to assess strike outcomes and to determine an individual's civilian or "combatant" status, including whether efforts were made to contact victims and their families;
    - AFRICOM's "commander's intent" related to civilian casualties;

- All military guidance on standards for investigation and deeming civilian casualty reports "credible", and the standards used by AFRICOM in this process;
- Individual acknowledgement of each and every air strike conducted, including the number of weapons released and the number of people killed and injured, broken down by location, date, age and gender, and the number categorized as "civilians", "militants" or "combatants" and the criteria used to determine such statuses;
- Clear explanations of the decision-making process for air strikes, including the chain of command and target selection criteria and procedures for the mitigation of civilian harm;
- US policies governing the use of lethal force, including with armed drones, both within Somalia and other fields of operation, including the 2017 directive designating parts of Somalia an "area of active hostilities" and the terms of the agreement with the government of Somalia.

- Fully comply with the rules of international humanitarian law in the planning and execution of all attacks, including by:
  - Reviewing the criteria for selecting targets, including for "signature strikes" and similar practices, to ensure they do not lead to targeting of civilians;
  - Ensuring that individuals are never targeted solely on the basis of their age, gender, geographical location, and proximity to Al-Shabaab;
  - Taking all feasible precautions in planning and execution of attacks, including cancelling strikes when there is doubt that the target is a military objective or when they are likely to be disproportionate or otherwise indiscriminate;
  - Reviewing the definitions of "combatants", "militants", and "non-combatants" to ensure they comply with international humanitarian law and adhere to the presumption of civilian status.

TO THE GOVERNMENT OF SOMALIA:

- Ensure that all air strikes carried out in Somalia are in line with international humanitarian law and that all reasonable steps are taken to ensure the protection of civilian life.
- Acknowledge civilian casualties caused by US attacks and offer compensation and explanation to survivors and families of civilians killed in US strikes regardless of whether or not the casualties were caused by a lawful attack.
- Provide victims of violations of international humanitarian law by US forces, and their families with access to justice and to full reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition from the US government.
- Conduct independent and impartial investigations into all credible allegations of civilian casualties resulting from US air strikes or other military operations conducted by the US, Somali or other States' forces. Investigations should include proactively seeking to speak with eyewitnesses, survivors and families of victims despite constraints.
- Implement an effective mechanism to ensure a safe and accessible means for families and communities to self-report civilian casualties arising from US air strikes and other military operations.
- Since the air strikes are nearly always carried out in rural areas out of the control of the Somali government, posing challenges to implementation of accountability mechanisms, take effective steps to address such challenges, including by distributing information publicly about remedies available to victims, ensuring that mechanisms are geographically accessible to all affected by attacks and proactively seeking to speak with eyewitnesses, survivors and families of victims despite constraints. Development of any such mechanism should also take into account and address communication

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restrictions facing civilians in Somalia, for example due to threats from Al-Shabaab on the ban on internet-enabled mobile phones in Al-Shabaab territory.

- Finalize the establishment and operationalization of the Somalia National Human Rights Commission and ensure the commission is functioning and has the necessary resources to investigate allegations of civilian casualties, including those resulting from US air strikes.
- Extend an invitation to relevant UN special procedure mandate holders to visit the country, including the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, and the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.
- Publicly disclose:
    - Detailed information on any agreements between the Somali and US governments governing US military operations in the country;
    - Detailed information on US air strikes including the number of strikes conducted, targets and any allegations of civilian casualties;
    - The results of all investigations into US air strikes, including the number of civilians killed and injured.

TO GOVERNMENTS OF STATES PROVIDING ASSISTANCE TO US DRONE AND OTHER AIR STRIKES:

- Require a comprehensive risk assessment to be undertaken before assistance is provided to the USA for armed drone or other air strikes and set out the circumstances under which such assistance must not be provided. In particular, assess whether the provision of that assistance could contribute to a human rights violation or abuse or a violation of international humanitarian law, and withhold such assistance where there is a reasonably foreseeable risk that they will contribute to such violations or abuses. Such assistance includes allowing the use of military bases, the sharing of intelligence or other information, or the provision of personnel.
- Ensure prompt, thorough, independent and impartial investigations into all cases where there are reasonable grounds to believe that authorities have provided assistance to a US air strike that has resulted in unlawful killings and/or any civilian casualties. This must include all attacks in which civilians are reported to have been killed or injured.
- Ensure that any assistance that is or may be provided for any lethal drone or air strike complies with international human rights law and international humanitarian law, in particular the right to life, by establishing – and disclosing publicly – robust binding standards to govern the provision of all forms of assistance for air strikes.

TO THE UNITED NATIONS, AFRICAN UNION AND EUROPEAN UNION:

- Call upon the Governments of the USA and Somalia to conduct independent, impartial, thorough investigations into all credible allegations of civilian casualties of air strikes and other military operations in Somalia, including those documented in this report, and to provide access to remedies for civilian casualties.
- In all their relations with Somalia, member States should support for Somalia to carry out independent, impartial, thorough and transparent investigations into all credible allegations of civilian casualties of air strikes and other military operations in Somalia, and implement an effective mechanism to ensure accountability and access to remedies for civilian casualties, regardless of the lawfulness of such operations, including but not limited to compensation, condolence payments, apologies and explanations to survivors and to families of victims and communities.

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- The European Union and its member States should engage with the governments of the USA and Somalia to urge them to implement the recommendations in the sections above.

TO AMISOM AND UN ASSISTANCE MISSION IN SOMALIA (UNSOM):

- Investigate and publicly report on all allegations of violations of international humanitarian and human rights law, paying particular attention to the use of air strikes by all parties, including the US and AMISOM; Investigative bodies should be given all necessary support, including resources, to conduct this work, in addition to cooperation from all parties in order to ascertain the facts and determine whether violations have been committed. If access is not granted to the areas where the alleged violations took place then AMISOM and UNSOM human rights officers should investigate by interviewing survivors in camps, through secure telecommunications and other remote research methods.

TO AL-SHABAAB:

- End all direct attacks on civilians, indiscriminate attacks and other serious violations of international humanitarian law.
- Immediately allow all humanitarian actors free and unfettered access to all territories under Al-Shabaab control, including specialized medical care for the treatment of serious injuries sustained during air strikes.
- Cooperate with investigations into alleged violations of international humanitarian law, including by allowing independent investigators such as human rights researchers and journalists unfettered access to the site of air strikes.

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THE HIDDEN US WAR IN SOMALIA:

CIVILIAN CASUALTIES FROM AIR STRIKES IN LOWER SHABELLE

Since April 2017, the United States of America has dramatically increased the number of air strikes – from manned aircraft and unmanned drones – it has launched in Somalia, tripling the rate of attacks. Despite this, the US government claims that it has not killed any civilians in Somalia during this period. In this report, Amnesty International provides credible evidence to the contrary. The report investigates five incidents in Lower Shabelle, Somalia, in which 14 civilians were killed and eight injured. It provides credible evidence that US air strikes were responsible for four of these incidents and that the fifth was most plausibly caused by a US air strike. In the cases presented in this report, civilians were killed and injured in attacks that may have violated international humanitarian law (IHL) and could, in some cases, constitute war crimes.

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