

Accountability for Al-Shabaab's Crimes in Somalia

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1. Introduction

Since the collapse of its central government in 1991, Somalia has been engulfed by cycles of civil war. Warlords, political factions, clans and Islamist groups have fought to assert control over large parts of the country, capitalizing on the vacuum left by state failure and collapse. Since the early 2000s, the most powerful of these groups, Islamist militant group al-Shabaab, has engaged in an all-out insurgency aimed at toppling Somalia's government. The group has occupied large parts of south and central Somalia, much of which it still holds.

The conflict has been marked by systematic violations of international humanitarian and human rights law. Al-Shabaab – on which this policy brief focusses – has committed grave abuses, such as indiscriminate attacks against civilians, targeted killings, sexual and gender-based violence, and forced recruitment (including widespread recruitment of children into its ranks). State forces, allied militias and other parties to the conflict have also been implicated in serious violations. Yet despite the scale and persistence of these crimes, there have been few meaningful steps towards accountability.

Successive Somali governments, backed by international partners, have relied heavily on military strategies, hoping for decisive victory over al-Shabaab. But it has become clear that military means alone cannot resolve this conflict.¹ Amnesties and rehabilitation programmes for al-Shabaab defectors have not generated the numbers of defections needed to weaken the group, while a lack of willingness to pursue political settlements that integrate accountability has prolonged the war and deepened its human toll.

This brief examines: (i) patterns of core international crimes committed in Somalia, with a particular focus on al-Shabaab; (ii) attempts at accountability to date; (iii) the obstacles that continue to impede justice and accountability for al-Shabaab fighters; and (iv) recommendations for strengthening accountability in this setting.

2. Al-Shabaab

Al-Shabaab (translated as 'The Youth'), Somalia's largest militant movement, emerged in 2006 from the military wing of the Islamic Courts Union. The group seeks to establish an Islamic state in East Africa, grounded in a strict interpretation of *Shari'ah*. Since the early 2000s, al-Shabaab has sought to overthrow Somalia's government – effectively achieving this at one point between 2009 and 2011 when it controlled much of southern Somalia, including the capital, Mogadishu.

Despite the group being brutal, it has delivered a form of order in areas under its control. While coercive, its rule is perceived of as predictable, and its *Shari'ah*-based dispute resolution is seen by many as swift and comparatively less corrupt than Somalia's formal justice

system, which is widely criticized for outdated laws, politicization and clan patronage. This has garnered the group support from many in the population.²

In August 2022, the Federal Government of Somalia launched a renewed offensive against al-Shabaab, initially retaking significant territory in the central regions of Somalia, such as Hiraa (east of the Shabelle) and Galgaduud. However, by spring–summer 2023 the momentum had shifted, underscoring the group's resilience and the limits of a purely militarized strategy for addressing this group.³

3. Overview of International Crimes Committed by Al-Shabaab

Somalia's conflict has been marked by persistent and widespread violations of international humanitarian and criminal law, with al-Shabaab members being principal perpetrators. Indiscriminate bombings of markets, hotels, schools and places of worship have killed thousands, with high-profile incidents such as the 2017 truck bombing in Mogadishu and the 2013 Westgate Mall siege in Nairobi illustrating the group's deliberate targeting of civilians.

The group's rule has been characterized by harsh corporal punishments, including public beheadings, amputations and stoning – punishments often carried out in front of communities to instil fear and demonstrate the group's coercive power.

Women and girls have suffered badly under the group. Al-Shabaab has engaged in abductions, rape, forced and early marriage, and sexual slavery.⁴ The group has imposed strict rules on women in the areas it controls, enforcing strict dress codes for women, and prohibiting women from working or appearing in public without male guardians.⁵ Women – often foreign women from Kenya – have been taken to the group's bases and compelled into domestic and sexual servitude.⁶

² Vanda Felbab-Brown, "The Limits of Punishment, Transitional Justice and Violent Extremism: Somalia Case Study", Institute for Integrated Transitions, United Nations University Centre for Policy Research, May 2018, p. 7 (<https://legal-tools.org/doc/ef0u8rvz/>). Orly M. Stern, "The Invisible Women of Al-Shabaab", Adam Smith International, 2019, p. 8 (<https://legal-tools.org/doc/uzvaylg3/>).

³ Daisy Muibu, "Somalia's Stalled Offensive Against al-Shabaab: Taking Stock of Obstacles", in *CTC Sentinel*, 2024, vol. 17, no. 2, p. 18.

⁴ Orly M. Stern, "Married in the Shadows: The Wives of al-Shabaab", Adam Smith International, 2020, p. 16 (<https://legal-tools.org/doc/wyxnac6p/>). Orly M. Stern and Clare Brown, "Child Recruitment by Al-Shabaab", United Nations International Children's Emergency Fund, 2024, p. 30. Cassidy Parker, "Nine Years in an Al-Shabaab Camp: One Woman's Story", in *ISS Today*, 21 November 2017.

⁵ Orly M. Stern, "Al-Shabaab's Gendered Economy", Adam Smith International, 2021, p. 8 (<https://legal-tools.org/doc/fi9a6ryo/>).

⁶ Fathima Badurdeen, "Women and Recruitment in the Al-Shabaab Network: Stories of Women Being Recruited by Women Recruiters in the Coastal Region of Kenya", in *The African Review: A Journal of African Politics, Development and International Affairs*, 2018, vol. 45, no. 1, p. 39. Diana Wanyonyi, "Escape

¹ Afyare A. Elmi, "Engaging Al-Shabaab in Somalia: Military Failures and the Merits of Dialogue", Middle East Council on Global Affairs, November 2024, p. 1 (<https://legal-tools.org/doc/x0ntu2kq/>).

A further hallmark of al-Shabaab's conduct has been the systematic recruitment and use of children by the group. Thousands of boys have been abducted or coerced into joining the group, trained in madrassas that double as indoctrination sites, and deployed into frontline combat. Children have also been used as spies, porters, assassins, and as 'wives' for fighters.⁷

Al-Shabaab exploits the population through predatory taxation, coercing businesses, individuals, and clans to pay levies, even in areas outside of its direct control.⁸ Those who resist face violent reprisals, including bombings and assassinations. These predatory taxes cause severe economic hardship, strip households of resources and livelihoods, and reinforce the group's dominance.⁹

Al-Shabaab has also weaponized famine and displacement. The group has repeatedly blockaded aid convoys, taxed or diverted humanitarian assistance, and restricted civilian movement in areas under its control. During the 2011 famine, al-Shabaab's obstruction of relief operations contributed significantly to excess mortality, with hundreds of thousands dying from hunger and disease.

Al-Shabaab has extended its violence to neighbouring states which contribute troops to the African Union Mission in Somalia ('AMISOM', now 'ATMIS'). Mass-casualty attacks in Nairobi, Kampala and Garissa reveal the group's strategy of punishing regional actors and destabilizing the wider Horn of Africa.

These patterns highlight the group's reliance on unlawful methods of warfare and terror, and the enormous toll these crimes exact on Somali civilians and the region. Taken together, these acts amount to war crimes and crimes against humanity under international law – reflecting systematic attacks against civilian populations, enslavement, persecution and other serious violations of international humanitarian law.

4. Attempts at Justice and Accountability for Al-Shabaab Fighters

Somalia has implemented a range of measures to deal with al-Shabaab fighters. The 'National Programme for the Treatment and Handling of Disengaged Combatants in Somalia' (the 'defectors' programme) was established by the Federal Government of Somalia, with international donor support, to create the means by which al-Shabaab's members who are seen as 'low-risk' can defect from the group, be rehabilitated and reintegrated into civilian society. A formalized screening process has been created, using a purpose-built screening tool and a screening team housed within the National Intelligence Security Agency ('NISA'), who determines if persons are 'low-risk' – and thereby eligible for rehabilitation and amnesty – or 'high-risk', in which case they are referred to the court system for prosecution.

'Low-risk' defectors are rehabilitated in purpose-built facilities, where they receive education and skills training, psychosocial support, religious counselling, and assistance in family reunification. Tailored rehabilitation programming has been created for men, women and children formerly associated with the group. An amnesty offer has been created, in terms of which low-risk defectors who go through this process receive amnesty from prosecution.

In contrast, those who are classified as 'high-risk', or who are captured on the battlefield (rather than voluntarily defecting), are typically referred to military courts for prosecution. These military trials frequently fall short of international standards of due process and often result in death sentences being awarded. Somalia's government has justified its reliance on military courts by citing the lack of secure civilian court facilities, judges' fear of retaliation for sentencing al-Shabaab militants, and gaps in terrorism legislation.¹⁰ In response, international partners, who tend to favour civilian criminal justice, invested in building a secure civilian court and prison complex in Mogadishu, intended to provide an alternative venue for trying high-risk cases. Yet

the transition away from military courts has been slow, and unresolved questions – such as whether the death penalty will continue to be applied – remain a challenge.¹¹

A final category is known as 'high-value' defectors. These are al-Shabaab commanders or influential figures, who bring followers with them when they defect, in exchange for protection, political privileges and immunity for past crimes.¹² These deals have been deeply controversial. Somali civil society groups and victims' organizations argue that granting impunity by way of amnesty and high value deals perpetuates a culture of unaccountable elites, undermines the rule of law and fosters resentment.¹³

Public attitudes toward each of these programmes have varied, with people's views reflecting their own experiences with al-Shabaab and broader frustrations with the state. Communities that have suffered heavily under the group often favour harsh punishments, including long prison terms and executions. Some express resentment toward the privileges extended to al-Shabaab defectors, while their victims receive little support from the state. The perception is that those who joined al-Shabaab are rewarded with rehabilitation programming, while those who resisted the group and suffered from its actions, continue to live in poverty and insecurity. Critics also resent the absence of even symbolic acts of contrition required from defectors and the lack of victim-facing elements. There are also fears within some communities that reintegrated fighters might return to violence, or might draw retribution from al-Shabaab, thereby risking the communities' security. In contrast, others see value in reintegration efforts, and recognize this as an essential step towards degrading al-Shabaab and thereby achieving peace.¹⁴

Despite the presence of screening tools and standard operating procedures, the amnesty process and programming for former members of al-Shabaab remains opaque and inconsistent, raising concerns about arbitrariness. This also leaves defectors uncertain about their fates when making decisions on whether to defect, which is problematic from a human rights perspective – given the significant ramifications that can arise from this decision.¹⁵

The uneven treatment of former fighters – lenience for elites, rehabilitative support for some, and harshly punitive trials for others – illustrates the profound challenges Somalia faces in reconciling the demands of accountability, reconciliation and security. Some further challenges to accountability are now discussed.

5. Obstacles to Accountability

Beyond the measures above, avenues for securing accountability for al-Shabaab's actions face serious obstacles at both the domestic and international levels.

5.1. Domestic Law

A range of obstacles stand in the way of justice and accountability in Somalia. Some of these stem from poorly functioning institutions. The justice sector is weak and is perceived by many as being corrupt, with those who are powerful and well-connected being able to evade justice, and with judges said to show partiality to clan members and relatives.¹⁶ A feeling permeates the country that the powerful can act with impunity.¹⁷

Somalia's laws that must be relied upon to prosecute former al-Shabaab members are outdated. Crucial pieces of legislation remain absent, or have only recently been passed – including an anti-terrorism law, only passed in 2023. As such, until recently, prosecutors had to rely on Somalia's 1962 Penal Code to prosecute al-Shabaab members, which did not adequately cover terrorism or atrocity crimes and which

¹¹ *Ibid.*, p. 22.

¹² *Ibid.*, p. 17.

¹³ *Ibid.*, p. 18.

¹⁴ *Ibid.*, pp. 10–11.

¹⁵ *Ibid.*, p. 4.

¹⁶ Luke Kelly, "What Accountability Means in Somalia", K4D (Knowledge, Evidence and Learning for Development), 24 June 2022.

¹⁷ Felbab-Brown, 2018, p. 18, see *supra* note 2.

from Al-Shabab", *DW*, 3 March 2018.

⁷ Stern and Brown, 2024, p. 30, see *supra* note 4.

⁸ Hiraal Institute, "The AS Finance System", July 2018, p. 3.

⁹ Felbab-Brown, 2018, p. 10, see *supra* note 2.

¹⁰ *Ibid.*, p. 21.

was out of sync with international law standards.¹⁸ Because the Penal Code pre-dated al-Shabaab, ‘membership’ in the group was not explicitly criminalized, so prosecutions had to proceed using alternative provisions – with the basis on which military courts sentenced al-Shabaab members and on which they imposed the death penalty often unclear.¹⁹

There have been specific challenges in prosecuting al-Shabaab’s crimes against women, as acts of sexual violence are not well covered in Somalia’s Penal Code, which still classifies rape as an offence against “modesty” and “sexual honour”, rather than as a violation of victims’ bodily integrity.²⁰ This problem has been exacerbated by women’s reluctance to report sexual crimes due to stigma and security risks, and for fear of being labelled as al-Shabaab sympathizers for this association with the group.²¹

A further challenge in Somalia’s accountability landscape is in the documentation and preservation of evidence. Weak institutions and state decline have resulted in reduced evidence collection capacity. Years of insecurity and displacement have left many violations unrecorded, entrenched by the fact that witness testimonies are vulnerable to loss over time.

5.2. International Law

The prospects of international prosecutions are even more challenging. Somalia is not a party to the Rome Statute of the International Criminal Court (‘ICC’), making it difficult to bring cases before this forum. Other international justice mechanisms, such as *ad hoc* or hybrid tribunals, would face significant political and logistical barriers, as well as questions of funding and jurisdiction. The lack of sustained international political will to create such mechanisms has left a gap in options beyond Somalia’s borders.

With regards to prosecuting international crimes domestically, national prosecutors in Somalia are frequently unaware of the elements of international crimes, and of how these can be identified and prosecuted – with training on this topic badly needed within Somalia, in order for this to become an option.

5.3. Customary Justice

Justice in Somalia falls at the intersections of three bodies of law – the formal legal system, *Shari’ah* law, and customary law, known as *xeer*. To a limited extent, *xeer* is used in the forgiving and reintegration of former al-Shabaab fighters – sometimes outside of the formal process for former fighters, and sometimes as part of the reintegration phase of the ‘low-risk’ defectors programme.²²

Yet *xeer* councils prioritize reconciliation through collective compensation payments (*diya*) between clans, often sidelining the culpability of individuals. While this helps prevent cycles of inter-clan violence, it does little to achieve individual-level accountability. Vanda explains that:

if no compensation is agreed upon or if one party deems the compensation inadequate, the family or clan is permitted, and in fact required by honour, to retaliate. Retaliation may not necessarily target the actual perpetrator, but rather any member of his clan or family. Such cycles of revenge and counter-revenge have repeatedly taken place in Somalia since 1991.²³

Adding to the challenge is that more powerful clans are sometimes the only clans represented in *xeer* councils and they often discriminate against other clans, leaving room for perceptions of bias and discrimi-

nation.²⁴

6. Negotiating with Al-Shabaab

The government’s approach to political dialogue with al-Shabaab further hampers accountability. For years successive administrations have publicly signalled openness to talks with the group, while at the same time pursuing an all-out military strategy. This has produced mixed messages: President Hassan Sheikh Mohamud’s current administration declared a ‘total war’ on al-Shabaab, while at times hinting that eventual negotiations may be unavoidable. At the 2024 Oslo Forum, for instance, the President announced Somalia’s readiness to talk, though without indicating any actions being taken towards that end.²⁵

Al-Shabaab has articulated its own preconditions for engagement, including the withdrawal of foreign forces and the full implementation of *Shari’ah* law in Somalia. While these demands appear rigid, they are not entirely removed from Somalia’s political discourse: as early as 2009, Somalia’s Parliament had declared its intention to integrate *Shari’ah* law into the Constitution.²⁶

The counter-terrorism policies of certain countries that back Somalia, particularly the United States, have kept the Somali government from viewing negotiations as a serious option. Such countries are reluctant to encourage dialogue with extremist movements, creating an obstacle to this happening.²⁷ Al-Shabaab’s formal allegiance to al-Qaeda amplifies this challenge, making international partners unwilling to contemplate dialogue with the group.²⁸ In fact, earlier attempts to negotiate with al-Shabaab’s predecessor, the Islamic Courts Union, collapsed quickly due to a lack of political will on both sides and strong international resistance.²⁹

Yet by failing to work towards genuine negotiations, the government has closed off a potential pathway for embedding accountability into a broader political settlement. Instead, accountability has remained fragmented – reduced to military prosecutions, amnesties for low-level actors, and opaque elite bargains – rather than being integrated into a comprehensive peace process capable of addressing grievances and securing victims’ rights.

If negotiations with al-Shabaab eventually do take place, accountability will be a central bargaining chip. Experience from other conflicts suggests that justice is often traded away in pursuit of peace, with amnesties or immunity often granted to insurgent leaders. A principled framework must be developed to prevent accountability being sidelined in any peace process, which includes clearly defining which crimes are non-amnestiable under international law, establishing victim-consultation processes, and exploring conditional amnesties that are tied to truth-telling or reparations. By embedding accountability parameters in advance, Somalia can ensure that a future peace settlement does not simply entrench impunity, but lays the groundwork for a more just post-conflict order.

7. What Is Needed Going Forward?

Any path towards accountability in Somalia must be both principled and pragmatic. Attempts to impose external justice mechanisms without grounding these in Somali realities are unlikely to gain traction, yet a purely local approach risks reinforcing existing patterns of impunity and exclusion. A blended model is therefore required – one that acknowledges the limits of the existing systems while building incrementally towards greater accountability. To this end, the following recommendations are made.

7.1. Victim-Centred Approaches

One priority is organizing broad-based societal dialogues on justice and reconciliation. These conversations should bring together state institutions, clan elders, religious leaders, civil society organizations and victims’ groups, to debate how best to balance reconciliation with

¹⁸ Somalia, Penal Code, 16 December 1962 (<https://legal-tools.org/doc/hwiur43d/>); Anne-Marie de Brouwer, Eefje de Volder and Christophe Paulussen, “Prosecuting the Nexus Between Terrorism, Conflict-Related Sexual Violence and Trafficking in Human Beings Before National Legal Mechanisms: Case Studies of Boko Haram and Al-Shabaab”, ASSER Research Paper No. 2020-03, Centre for International & European Law, 2020, p. 14; Felbab-Brown, 2018, p. 14, see *supra* note 2.

¹⁹ Felbab-Brown, 2018, p. 15, see *supra* note 2.

²⁰ Brouwer, Volder and Paulussen, 2020, p. 15, see *supra* note 18.

²¹ *Ibid.*, p. 16.

²² Felbab-Brown, 2018, p. 28, see *supra* note 2.

²³ *Ibid.*, p. 28.

²⁴ *Ibid.*, p. 28.

²⁵ Elmi, 2024, p. 2, see *supra* note 1.

²⁶ *Ibid.*, p. 4.

²⁷ *Ibid.*, p. 5.

²⁸ *Ibid.*, p. 5.

²⁹ Felbab-Brown, 2018, p. 13, see *supra* note 2.

accountability. They should explore the role of judicial and non-judicial mechanisms, including conditional amnesties, truth-telling requirements and disclosure of crimes, and identify which approaches would be most acceptable to Somali society.³⁰

Efforts at accountability must place victims, not only perpetrators, at their centre – something the current systems for dealing with former members of al-Shabaab fails to do. At present, government and donor attention overwhelmingly target the rehabilitation of defectors, leaving victims' communities neglected and sometimes resentful. Introducing victim-centred measures – such as community reparations, psychosocial support, public works and livelihood programming – would address this imbalance, help mitigate perceptions of unfairness, and build resilience against renewed recruitment. Reparations need not always be monetary; they can take the form of public apologies or symbolic recognition of harms suffered.

Programmes must also pay attention to feelings of community safety – ensuring that when former members of al-Shabaab are allowed to return to communities, adequate steps are taken to ensure communities do not feel at risk.

Embedding such measures within a national framework for accountability would ensure that justice is not reduced to punishing or rehabilitating perpetrators, but also extends to repairing the dignity and rights of those affected by the conflict.

7.2. Strengthening Domestic Courts

Expanding the use of civilian courts in trying former al-Shabaab members is also critical. The new secure court and prison complex in Mogadishu offers an opportunity to shift trials of 'high-risk' defectors away from military courts, where proceedings often lack due process. Ensuring that this and other civilian courts are operational and adequately resourced, with strong adherence to human rights standards, would represent a step towards fairer public trials with improved legitimacy. At the same time, rehabilitation support for 'high-risk' detainees should be expanded to reduce the likelihood of prisons becoming incubators for further radicalization.³¹

A further step would be to require a measure of accountability from high-value defectors. At a minimum, this could include disclosure of their crimes and acknowledgement of their victims, moving away from the current model of impunity and 'red-carpet treatment'.³²

7.3. National Framework for Accountability

Somalia would benefit from developing a coherent national framework for accountability. This would mean moving away from *ad hoc* amnesty declarations and deals and inconsistent treatment of former fighters towards a strategy that clearly defines the balance between justice and accountability. Anchoring such a framework in law and ensuring it is endorsed by Somali society through broad consultations, would provide a foundation for managing accountability in the long term.

Although al-Shabaab has arguably committed the worst of the atrocities in Somalia, other actors – including Somali security forces, allied clan militias, and contingents of the AMISOM or ATMIS – have also been implicated in serious violations. Reports have documented extrajudicial killings, sexual violence and indiscriminate attacks carried out by state or allied forces.³³ If accountability efforts focus exclu-

sively on al-Shabaab, they risk being perceived as victor's justice and may fail to address grievances against the state itself. A credible accountability framework should therefore adopt a comprehensive lens, ensuring that abuses by all parties to the conflict are subject to scrutiny.

8. Conclusion

Somalia's long conflict with al-Shabaab has produced widespread violations of international law and entrenched a culture of impunity. The government's reliance on militarized strategies, coupled with fragmented and inconsistent approaches to justice, has failed to deliver meaningful accountability. Instead, Somalia faces a patchwork of measures – elite bargains, *ad hoc* amnesties, military court prosecutions, and under-resourced reintegration schemes – that neither adequately deter future enlistment, nor provide redress for victims.

Yet the persistence of impunity is not inevitable. There are opportunities to reframe accountability in ways that are both realistic and responsive to Somali realities. Domestic mechanisms can be strengthened through updated laws, operationalization of secure civilian courts, and training for justice actors. Local approaches, including customary reconciliation processes, can play constructive roles if linked to safeguards that prevent discrimination and ensure inclusivity. Community-level healing and support must complement programmes for defectors, addressing widespread resentment and rebuilding trust. Victims, too often marginalized, must be placed at the heart of any accountability process.

Ultimately, accountability in Somalia must balance justice with reconciliation, deterrence with reintegration, and international standards with local legitimacy. Failing to act risks perpetuating the very conditions that allow al-Shabaab to persist: cycles of impunity, exclusion and militarization. Tackling these dynamics requires moving beyond a purely militarized response and embracing a more comprehensive, principled and locally grounded approach to justice.

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³⁰ *Ibid.*, p. 34.

³¹ *Ibid.*, p. 35.

³² *Ibid.*, p. 35.

³³ United States, Department of State, "2024 Country Reports on Human Rights

Practices: Somalia", 12 August 2025, pp. 3, 34 (<https://legal-tools.org/doc/rmibkjs/>).



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