

August 10, 2022

President Biden,

We are a group of human rights, peacebuilding, civil rights, government accountability, protection of civilians, humanitarian, and faith-based organizations writing to express concerns around your administration's review of U.S. counterterrorism policy in light of the reported expansion of U.S. military operations in Somalia and associated human rights and civilian harm risks.

Our groups have long raised serious human rights and legal concerns about the U.S. program of using lethal force to target individuals suspected of terrorism. Last year, many of our groups called for an end to the unlawful program of lethal strikes outside recognized battlefields, including through the use of drones. We noted that the program "has exacted an appalling toll on Muslim, Brown, and Black communities in multiple parts of the world."¹ We understand your counterterrorism review is ongoing, and ask that the process include meaningful civil society consultation. We believe it is essential the review results in greater transparency and rights-based reform of this program.

Amidst this ongoing review, *The New York Times* reported in May that you signed an order authorizing the U.S. military to once again deploy special operations troops inside Somalia.² In addition, the *Times* reported that you granted the Pentagon "standing authority" to target suspected leaders of al-Shabab. Our groups are deeply concerned about the risks of human rights abuses and civilian harm engendered by the possible continuation of U.S. lethal strikes and counterterrorism operations in Somalia. You have declared that the United States is "not at war."³ Our groups welcomed your administration's prior commitments to putting human rights at the center of foreign policy, overhauling U.S. civilian harm policies, and ensuring that the United States works to restore the rule of law. Recent reporting raises serious concerns, however, that your administration may be pursuing policies that move the United States further from these commitments, rather than adopting a new, rights-based approach.

Meanwhile, there has been no clear accountability or reform for over a decade of U.S. lethal strikes in Somalia. Despite credible reports of civilian harm from multiple civil society organizations and news sources, many of which followed intensive civil society investigations in

¹ Coalition Letter Calls for End to U.S. Lethal Strikes Abroad, June 13, 2020, available at: <https://www.aclu.org/letter/coalition-letter-calls-end-us-lethal-strikes-abroad?redirect=letter/110-groups-letter-president-biden-calling-end-us-program-lethal-strikes-abroad>

²Charlie Savage and Eric Schmitt, "Biden Approves Plan to Redeploy Several Hundred Ground Forces Into Somalia," May 16, 2022, <https://www.nytimes.com/2022/05/16/us/politics/biden-military-somalia.html?smid=tw-share>

³"Remarks by President Biden Before the 76th Session of the United Nations General Assembly," September 21, 2021, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/09/21/remarks-by-president-biden-before-the-76th-session-of-the-united-nations-general-assembly/>. Note that some of the undersigned groups do not, as an institutional matter, take a position on decisions to enter into war.

Somalia, the United States has continued to ignore or deny well-documented cases of civilian deaths and injuries caused by U.S. lethal strikes.⁴ Even families whose loved ones the U.S. has acknowledged were civilians have yet to receive amends or accountability for their devastating losses. Now, as the United States appears to be redeploying troops in Somalia and contemplating new lethal strikes, we urge you to take stock of the serious effects U.S. operations have had on families and communities there, to prioritize the protection of civilians and adherence to international human rights law and international humanitarian law, and to provide amends or redress to victims and survivors of U.S.-caused civilian harm.

The U.S. has, across multiple administrations, justified lethal operations in Somalia and beyond using a myriad of shifting legal and policy rationales, including a virtually limitless theory of “collective self-defense.” Without proper oversight and accountability, the executive branch's unilateral military actions have all too often violated not only U.S. law but also international human rights law safeguards and protections against unlawful use of extraterritorial force.⁵ We urge your administration to set a new course.

In particular, we ask you to:

- Ensure meaningful consultation with civil society to inform your ongoing counterterrorism review;
- Finalize and publicly release a review that acknowledges the tremendous harm caused by decades of ill-defined use of lethal force against vulnerable communities, overhauls prior lethal force policies to align with U.S. and international law, and centers human rights and the protection of civilians;
- Publicly disclose and explain the legal and policy rationale for any proposed lethal operations in Somalia, in light of past harms to civilians and the requirements of U.S. and international law;
- Commit to addressing past U.S.-caused civilian harm in Somalia, including by ensuring full assessments and investigations of all reported cases, publicly acknowledging civilian harm, and offering amends or redress for harm, including but not limited to condolence payments and formal apologies; and
- Adopt a conflict-sensitive approach centered in human rights, peacebuilding, the rule of law, and diplomacy.

Thank you for giving serious consideration to our recommendations as you work to complete your counterterrorism review and move U.S. policy further in the direction of rights and accountability.

⁴ Such reports include, for example, Amnesty International, *The Hidden U.S. War in Somalia*, March 20, 2019, available at: <https://www.amnesty.org/en/documents/afr52/9952/2019/en/>; Human Rights Watch, *Somalia: Inadequate US Airstrike Investigations*, June 16, 2020, available at: <https://www.hrw.org/news/2020/06/16/somalia-inadequate-us-airstrike-investigations>.

⁵ Some of the undersigned groups do not, as an institutional matter, take a position on U.S. domestic law. Signatories that do take a position argue that the use of the 2001 Authorization for Use of Military Force to pursue groups like al-Shabab has no basis in the law's text or purpose, and that the use of expansive theories of self-defense to combat partner forces' adversaries in Somalia and elsewhere has no basis under Article II of the Constitution.

Signed,

About Face: Veterans Against the War
American Civil Liberties Union (ACLU)
American Friends Service Committee
Amnesty International USA
Brennan Center for Justice
Center for Civilians in Conflict (CIVIC)
Center for Constitutional Rights
Center for International Policy
Center for Victims of Torture
Columbia Law School Human Rights Institute
Defending Rights and Dissent
Friends Committee on National Legislation
Government Information Watch
Human Rights First
Human Rights Watch
MPower Change
National Religious Campaign Against Torture
Presbyterian Church (USA)
Relieve US
Saferworld (Washington office)
September 11th Families for Peaceful Tomorrows
United Church of Christ, Justice and Local Church Ministries
Veterans for American Ideals and Outreach
Win Without War
Witness Somalia
Zomia Center