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Somalia: Urgent Human Rights Message to the Peace Talks in Kenya

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As the Somali National Reconciliation Conference in Mbagathi, Nairobi draws nearer to establishing a Transitional Federal Government after 13 years of unique state collapse and horrific factional violence, Amnesty International is calling for human rights to be made a high priority from the start of the five-year transitional period.

The peace and reconciliation process in Mbagathi, Nairobi is now in the final phase of discussions on "power-sharing" and formation of an inclusive Transitional National Assembly, which will elect a President who will appoint a Prime Minister to form a government. The delegates at the peace talks, who include the armed faction leaders, are currently selecting the Transitional National Assembly.

The establishment of a new Transitional Federal Government very soon - if not by the latest deadline of 31 July - and its international recognition must make a real and immediate difference. Somalis have suffered enormously since the state disintegrated in 1991 after the overthrow of the Siad Barre dictatorship. There must now be a clear end to the arbitrary killings of civilians, kidnappings, rape and looting, which are still being carried out with total impunity by faction militias and gunmen. The resumption of statehood must guarantee human rights and personal security for all citizens, as they regain a recognized citizenship and return from isolation to the world community of nations.

A new government will be under obligation to respect the Universal Declaration of Human Rights and international and regional human rights treaties and conventions, particularly those signed by previous governments of Somalia.

Somalia's new government must be committed to human rights and make a clean break with the gross abuses of the past 30 years, even though some of the perpetrators are still dominating the power-sharing. New human rights abuses must not be tolerated and those responsible for war crimes and crimes against humanity, committed in the past, must be held accountable.

Those entrusted with the responsibilities of government in the transitional period should make clear and public commitments to promote and protect human rights. New conflicts between local communities, clans or regions must be prevented. New violence and abuses must not be tolerated.

Despite humanitarian disaster, chronic clan-based warlordism, economic breakdown and destruction of most infrastructure, there are signs of hope in what is one of the least-developed countries

of the world. Through their own resources and minimal international assistance, civil society groups including human rights organizations working under dangerous conditions have supported a momentum towards reconstituting government structures and progress towards the rule of law and justice for all. There is widespread public support for the creation of a strong and independent National Human Rights Commission.

The role of human rights defenders must be recognized and respected by the new authorities. They are vital to build a human rights culture to protect all citizens - particularly the vulnerable categories of women, minorities and children - and support their rights and freedoms.

Amnesty International is appealing to the international community to give firm and generous support for human rights and reconstruction in Somalia. Human rights must be prominent in donor assistance strategies, particularly to respond rapidly to civil protection needs in the first few months of a new government. A UN human rights adviser for Somalia is urgently needed. Measures should be taken to implement the frequently-violated UN arms embargo and disband faction militias. Child soldiers should be demobilized and rehabilitated.

State collapse in Somalia led to serious international and regional insecurity and huge refugee flows and internal displacement. Amnesty International calls for an immediate halt to the forced return of rejected asylum seekers to the south. Conditions for safe return and sustainable livelihood for refugees will require major improvements in security, safe humanitarian access and substantial post-conflict reconstruction.

Background

These difficult peace talks - the 14th attempt, held by the regional Inter Governmental Authority for Development (IGAD) - began in October 2002. A ceasefire declaration signed by the warring parties that month has been constantly violated.

A Transitional Charter for the Somali Republic was adopted in February 2004, aiming "to foster reconciliation, national unity and good governance". It contains important provisions for human rights and the rule of law, guaranteeing separation of powers and the independence of the judiciary. Chapter Five on "Protection of the Fundamental Rights and Freedoms of the People" proclaims the equality of citizens before the law; the rights to life, personal liberty and security; fair trial rights, including the right to be brought before a court within 48 hours of arrest; the right to form political parties (except for any of "a military character or tribal character"), trade unions and social organizations, including human rights organizations; the rights to assemble, demonstrate and strike; and the right to freedom of opinion and expression, including the freedom of the press.

61 seats in the 275-seat interim parliament go to each of the four clans, to be divided out according to clan sub-divisions. 31 seats (half of each clan allocation) go to the unarmed minorities. 12% of all seats will be distributed to women in each group. Although these allocations represent advances for the rights of women and minorities, much more determined action is still needed to stop discrimination and violence against women and minorities.

Currently in the south there is a transitional government controlling only part of the capital of Mogadishu; rival armed clan-based factions control other areas. There are few local administrative or judicial structures. The more stable Puntland regional state government in the northeast is participating in the peace process. In the northwest the self-proclaimed and well-established Somaliland government is boycotting the process and pursuing its demand for recognition of its de facto independence.

For more information please call Amnesty International's press office in London, UK, on +44 20 7413 5566
Amnesty International, 1 Easton St., London WC1X 0DW. web: <http://www.amnesty.org>

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