

SOMALIA

Building human rights in the disintegrated state

1. INTRODUCTION

Human rights have been violently abused in Somalia throughout the past 25 years. Massive human rights violations during President Mohamed Siad Barre's rule from 1969 to 1991 were followed by the disintegration of the state and brutal civil wars marked by widespread atrocities against civilians as well as a horrific famine. A key question now is how respect for basic human rights can be attained after years of massive human rights abuses, civil war, outside intervention and seemingly intractable local political and factional conflicts. After nearly five years of no government, building respect for human rights cannot be solely dependent on the complex and lengthy process of peace-making, although peace between the armed factions is clearly essential for reconstruction.

Since the state of Somalia collapsed in 1991 after the overthrow of President Mohamed Siad Barre's government, there has been no recognized government or effective legal structure. The constant danger of further massive human rights abuses by warring groups remains, despite the United Nations (UN) intervention in 1992. After the UN withdrawal in March 1995, there are still frequent flare-ups of fighting between the armed factions in Mogadishu and in other regions in the south, as well as in the breakaway self-declared "Somaliland Republic" in the northwest, and associated reports of human rights abuses.

On the more positive side, there are several regions -- including in the northeast and parts of Somaliland -- which have been relatively little affected by political violence, armed conflict and human rights abuses since 1991. Many potential conflicts there and elsewhere have been defused and resolved through mediation by clan elders. Even in conflict-torn Mogadishu, there are new community-based civil organizations, including women's self-help groups and an emergent private press, which are part of the quest for social reconstruction by people not belonging directly to the political factions.

This Amnesty International report on building and promoting human rights in the disintegrated Somali state is intended for discussion and action both by Somalis -- who must themselves resolve the political conflicts -- and by all those concerned about the future of the region and its people. Amnesty International is proposing a strategy for building human rights which aims to bring an end to the pattern of appalling human rights abuses, from the long-term human rights crisis of the late 1980s to the human rights disaster which followed it. At this stage, when the desire among Somalis to end the futile cycle of fighting seems to be gaining ground, it is vital that human rights are given top priority. The human rights approach also needs to be built in to the processes of peace-making and development. The principles and objectives of the human rights approach are the subject of this discussion document. Working out the actual means to achieve them, in terms of specific projects and activities, will be a later stage.

These proposals for a strategy to protect and promote human rights are addressed particularly to the following:

- Somali political leaders and their organizations

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- Somali community groups and non-governmental organizations (NGOs)
 - Somali communities and refugee groups around the world, particularly in western countries and the Middle East
 - the UN and its specialized agencies for human rights and development
 - inter-governmental organizations (IGOs) working for peace and regional stability in the Horn of Africa, including the Organization of African Unity (OAU), the League of Arab States, the Inter-Governmental Authority for Drought and Desertification (IGADD), and the European Union (including particularly the European Commission's Somalia Unit)
 - governments which have historical connections with Somalia, particularly the United States of America, Italy, the United Kingdom and certain Middle Eastern states
 - international NGOs with a history of or interest in contributing to development in Somalia.

Unlike many Amnesty International reports, the main purpose here is not to document in detail the human rights violations and abuses which have occurred, even though these have been of the utmost seriousness. Instead, the recent human rights history is described in summarized form to set out the background to the present situation and to point the way forward. The abuses have been continuing during 1995, particularly from areas of clan fighting. The abuses have been difficult to document thoroughly, particularly because the worst-affected areas are among the most devastated in the world and isolated from normal access and communication. There has been a disturbing and prolonged series of serious human rights abuses by various factions, such as deliberate and arbitrary killings of civilian clan opponents; arbitrary detentions of political opponents including journalists and other non-violent critics -- legal structures to provide redress for abuses, or action against either criminals or those abusing their power are virtually non-existent; taking hostage UN and relief agency staff and other civilians; rape; torture and cruel, inhuman or degrading treatment of prisoners, including punishments of amputation and flogging; summary executions; and forced displacement of minority communities. Human rights abuses beyond Amnesty International's specialized mandate have included destruction of property, livestock and wells, which are vital to the Somali pastoralist economy, and there have been allegations of forced labour. People are also still being killed or maimed in Somaliland by landmines planted by the former Siad Barre army.

In accordance with its principles of impartiality and taking no side on political issues, Amnesty International takes no position on the present or future status or constitutional arrangement of the former Somali Republic. Amnesty International seeks to advance internationally recognized human rights for all Somalis. It addresses Somali political organizations and holds them responsible for protecting people's human rights in the areas they control. The organization has no intention of conveying "recognition" to any particular Somali political organization or faction-leader when it communicates with them about human rights. Nor does it prescribe solutions to political problems or involve itself in mediation between Somali political groups.

Amnesty International advocates that no one should be imprisoned for their opinions, beliefs or origin; that political detainees other than prisoners of conscience (who should not be imprisoned at all) should receive fair and prompt trials; that no one should be tortured or subjected to cruel, inhuman or degrading treatment or punishment; and that no one should be executed or arbitrarily killed. These universally applicable and internationally recognized principles are not dependent on a particular system of government.

Amnesty International usually addresses governments, citing their formal acceptance of the Universal Declaration of Human Rights as member-states of the United Nations, their international and regional human rights treaty commitments, and their own national constitutional and legal obligations. For example, Amnesty International consistently criticized human rights violations by President Mohamed Siad Barre's government between 1969 and 1991¹. Human rights protection is particularly difficult where there is no recognized state structure or a government with the means to enforce international human rights standard. Where there is a self-declared and unrecognized government, or a political organization with territory under its control, Amnesty International holds it responsible for respecting international human rights standards. The former state of Somalia was a party to several human rights treaties and humanitarian law treaties (*see Appendix II*). All Somali bodies claiming to exercise any form of governmental authority are consequently under an obligation to implement these treaties by enforcing respect for the standards they enshrine.

Amnesty International has repeatedly appealed to all the warring factions to respect basic humane standards in accordance with the Geneva Conventions and, in particular, to end and condemn all deliberate and arbitrary killings. It has called on all factions to abide by Common Article 3 of the Geneva Conventions which requires that all those taking no active part in hostilities, including both civilians and wounded or surrendered combatants, should be treated humanely: they should not be subjected to violence of life or person, such as murder, mutilation, cruel treatment or torture, should not be taken hostage, and should not suffer outrages upon their personal dignity, such as humiliating and degrading treatment.

The absence of the rule of law in much of the former Somali Republic is mirrored by the culture of impunity which has held sway. Former military, security and political officials of the government of President Mohamed Siad Barre (who died in exile in Nigeria in January 1995) were responsible for or personally carried out massive human rights violations in the 1970s and 1980. They have so far escaped justice and some of them are among current political faction leaders. After the collapse of the state in 1991, major human rights abuses have been committed by some of the factions, no less horrific than those committed earlier by state officials and including massacres of civilians. The dilemma is that peace can probably only be achieved through the agreement of the faction leaders, but their prominent participation in a transitional government would have serious human rights implications and cast doubt on whether the peace would really bring human rights. There can be no question of implicitly condoning gross human rights abuses or accepting total impunity. How the abuses of the past 25 years are eventually dealt with in respect of former state officials and security officers and the subsequent faction leaders and their militias will need

¹Amnesty International's main publications on Somalia are:
Somalia - A long-term human rights crisis, 1988: (AI Index: AFR 52/26/88, 52pp)
Somalia - Report on an Amnesty International visit and current human rights concerns, 1990 (AFR 52/01/90, 30pp)
Somalia - A human rights disaster, 1992 (AFR 52/01/92, 11pp)
Somalia - Update on a disaster, proposals for human rights, 1993 (AFR 52/01/93, 10pp)
(*See also the entries on Somalia in the yearly Amnesty International Report.*)

extensive discussion in due course among many sectors of Somali society. There are various routes which could be followed, for example setting up a "truth-telling forum" or embarking on formal judicial proceedings where there is sufficient evidence and when there is an effective and impartial criminal justice system. What is important at this stage is to ensure that there is no impunity from now. The seeming impunity so far for past abuses should not be taken for granted or seen as encouragement to commit new abuses and hope to get away with them.

During the UN intervention from 1992 to 1995, some UN and US troops are also alleged to have committed human rights violations. Canada, Belgium and Germany have opened investigations or have prosecuted some of those investigated in their national courts but this process involving similar questions of impunity is also still incomplete. Where there is preliminary evidence of human rights violations, the responsible authorities should pursue investigations in the appropriate jurisdiction.

Somali society is largely homogenous ethnically but it has been beset by internal clan conflicts which have led to violence and widespread human rights abuses. It has often been argued by Somalis that traditional Somali culture, which is still strong in the modern environment, provides mechanisms based on the clan structure for preventing and remedying abuses and for mediation and resolution of violent conflict. For whatever reasons, this did not prevent massive human rights violations by state officials of the Siad Barre government or abuses by armed clan factions when the state collapsed. Nevertheless, given that there is no state structure and any governmental institutions are extremely decentralized and likely to remain so, local administrative and judicial structures should give considerable weight to well-tried Somali cultural institutions and values alongside relevant international standards.

The task of building respect for human rights, no less than the search for political reconciliation between the faction leaders and their groups, lies with Somalis themselves. The international community has its responsibilities and concerns too, though there is a danger that the present political impasse, the disintegration of the state and the continuing sporadic fighting with associated human rights abuses, may be taken by the some of the international community as an excuse for disinterest and inaction. Many IGOs and NGOs, however, including Amnesty International, are anxious to help where they can. Multilateral and bilateral assistance by government donors, the UN and IGOs (for example, the European Union), is urgently needed to help to support or restart certain basic governmental functions and services. and especially to establish the rule of law and respect for human rights. The disintegration of the Somali state continues to present special problems for the international community in providing assistance for reconstruction and building human rights. The international community will therefore need to adapt its working methods to this situation and develop partnerships with local authorities and civil groups and communities. It is particularly important to support sectors of civil society which could act independently of the interests of the armed factions and their leadership disputes, and therefore work for wider values and goals beneficial to the whole society.

2. THE HUMAN RIGHTS BACKGROUND

After the independence of the Somali Republic in 1960, Somalis experienced nine years of multi-party civilian government during which the human rights record was generally commendable. In 1969 Major General Mohamed Siad Barre took power in a military coup, and a persistent pattern of political repression and gross human rights violations developed. Over the next 21 years the Siad Barre government was responsible for routine torture of political prisoners, thousands of detentions without charge or trial, grossly unfair political trials, many of which resulted in executions, and extrajudicial executions of thousands of civilians. In the northwest and some northeastern regions, thousands of civilians were killed because of their clan membership and consequent presumed support for armed opposition groups fighting against government forces from 1978.

The Siad Barre government was defeated and overthrown in early 1991 by United Somali Congress (USC) forces in the south and Somali National Movement (SNM) forces in the northwest. No central government emerged and the already disintegrating state of Somalia quickly collapsed. Clan wars in Mogadishu and other central and southern regions left some 30,000 civilians dead. The breakaway "Somaliland Republic" was declared in the northwest, led by the SNM, but it has not so far gained international recognition or recognition by other Somali factions. At least one million of the estimated nine million Somali population fled to neighbouring countries and a further estimated 1.7 million people fled to other Somali regions. In some areas minority communities were forcibly expelled by the controlling clan militias.

As famine deaths caused by drought and obstruction of aid by warring factions spiralled to 300,000, with 3,000 -- mostly children -- dying each day, the UN Secretary-General described it as "the worst humanitarian crisis in the world". UN Security Council Resolution 674 adopted on 3 December 1992 authorized a 37,000 strong US-led multi-national military task force (UNITAF) to intervene in Somalia. "Operation Restore Hope" aimed to "establish a secure environment for humanitarian relief operations". It handed over to a wider UN Somalia operation (UNOSOM II) in May 1993 with peace-making and institution-building functions. This enabled relief agencies to carry out their work and thus control the famine, but the political violence continued in several regions in the south. In an ensuing conflict between the UN and General Aideed's USC faction in Mogadishu, the UN suffered 136 fatalities and its forces killed hundreds of Somalis, including some civilians who seemed to have been victims of deliberate and arbitrary killing. The UN withdrew in March 1995, having failed to achieve peace and reconciliation between the Somali factions.

Two-and-a-half years of UN "peace-making" in the collapsed Somali state did not succeed in establishing a transitional government. The last 20,000 UN troops and 700 civilian staff departed relatively peacefully in March 1995 at the end of this much-criticized operation which cost the UN US\$1.6 billion and the USA an estimated further US\$2 billion, mostly on military-related costs. Astonishingly little was spent on civilian development and institution-building projects. For example, only US\$15.2 million was spent on reconstructing the police and judiciary, to which the USA, Norway, Japan, Italy, Germany, Denmark, Netherlands and Sweden contributed. Little attention was given to screening the new police and prison service to exclude individuals responsible for human rights abuses in the past.

Nearly all the international NGOs also left in early 1995 because of the security situation, although some humanitarian work by the UN and NGOs (both now based in Nairobi) is continuing in different areas where security permits. Many NGOs as well as the UN humanitarian agencies had international and Somali staff killed or kidnapped and relief supplies and property looted. A considerable proportion of their funds had to be spent on hiring armed guards for protection. Visiting foreign journalists had also been killed or kidnapped.

A detailed evaluation of the human rights impact of the controversial UN intervention is not made here. The UN mandate attempted the difficult task of combining peace-making (which encountered armed resistance) with democratic institution-building, which required political impartiality and patient confidence-building and negotiation. After UNOSOM used military force against General Aideed's USC faction militias following the killing of 23 UN Pakistani troops in June 1993, institution-building became a very small part of the operation. The military dimension became predominant. The operation's successes were few and some of these disappeared because the UN cut off funding when it pulled out.

The UN's record of work on promoting and protecting human rights was poor. A human rights office within the UNOSOM II Justice Division was hardly even started. An "Independent Expert for Somalia" was appointed by the UN in August 1993 on the recommendation of the UN Commission on Human Rights, but he visited Somalia only once and recommended waiting for better security before starting any human rights services there. His successor has not yet been appointed, although the Commission for Human Rights renewed the mandate for the post in March 1995.

Even more worryingly, troops under UN command and the US forces under their own separate command violated international human rights and humanitarian standards, including the UN's own standards, in cases of killings and detentions of Somalis. The UN adopted a policy of extraordinary secrecy and defensiveness and on some important issues apparently ignored the advice of some of its own legal and political staff in Somalia. The UN Secretary-General's Office responded hardly at all to inquiries and complaints. It has still not published any substantive report of the work of the UNOSOM II Justice Division. It did not reply to Amnesty International's human rights recommendations to it in March 1994. Even if national contingents were subject only to their own national laws and procedures, they wore the UN's blue berets and except for the US forces were under overall UN command and therefore accountable to the UN.

The UN's own internal investigatory mechanisms for dealing with alleged human rights violations by UN and US troops were grossly inadequate. They were inconsistent with the UN's own strict standards for such investigations, such as the Principles for the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions. For example, both the UN and USA persisted in maintaining that a US attack on a Mogadishu house on 12 July 1993 when US marines killed over 60 unresisting civilians was a legitimate and justified attack on a "command centre of General Aideed". However, there was no evidence that it was a "command centre", or legitimate military target at all. The UN and US troops were given little or no training for Somali conditions, nor were they apparently instructed about their obligations under international law. If the UN had dealt more correctly with human rights observance by its own troops it would have gained better standing with Somali political groups, when dealing, for example, with human rights

observance by militia forces. The UN's tarnished human rights record in Somalia severely affected its peace-making capabilities and even, to some extent, humanitarian and development activities by specialized UN agencies.

The extreme severity of the civil wars and associated human rights abuses -- particularly the deliberate and arbitrary killings of members of opposed clans and rape of women -- caused huge numbers of Somalis to flee to neighbouring countries such as Ethiopia and Kenya, and to other Somali regions controlled by their own clans which could guarantee their safety. Of the estimated two million Somali refugees around the world, tens of thousands have recently returned from Kenya under pressure from the Kenyan authorities. Somali refugees in Kenya have often been ill-treated and threatened with forcible return. Other countries have also put pressure on Somali refugees to return and have forcibly returned some. There are general concerns about safety for returnees. There is still no peace or security in several regions and urban areas and hardly any functioning basic infrastructure. Recently there have been reports of increasing malnutrition levels in some regions. Somaliland, in particular, is still devastated from 10 years of fighting in the 1980s between the Siad Barre government forces and SNM guerrillas. The international response to humanitarian appeals for emergency assistance and reconstruction in Somalia seems to have diminished: a UN appeal in December 1994 only raised one-tenth of the US\$70 million needed -- which suggests that future aid flows may also be less than needed. Furthermore, certain regions are unsafe for returning refugees or displaced persons if they belong to clans or sub-clans regarded as opposed to the dominant group, or to vulnerable minority clans or low-status communities (*see notes to the Clan Diagram in Appendix III*), and these would be at risk of human rights abuses if forcibly returned.

Renewed fighting since the UN withdrawal in early 1995 has already caused hundreds more civilians being killed deliberately or by random firing. There has been open conflict between USC factions in Mogadishu and between groups allied to them in some other regions. An uneasy peace prevailed in other regions. New fighting has flared up with accompanying human rights abuses -- or threatens to do so -- in some places such as Kismayu and Belet Weyne: Baidoa was suddenly seized from local Digil/Mirifle clan control by General Aideed's forces in September 1995. The new 6,500-strong police force, the judiciary, the prison service, and the eight regional and 58 district councils which the UN set up and funded in about half of the regions (but not in Somaliland) had no funding after the UN withdrew in March 1995 and consequently virtually collapsed except where taken over by local clans or militias.

The potential for armed conflict is considerable. Most Somali men (and many youths) possess automatic rifles. Political factions have well-armed militias with heavier weapons and armed trucks known as "technicals". Faction militias are shadowy bodies with little apparent control structure or accountability, and there are other independent armed groups which also operate with impunity. Clan alliances are loose and sometimes changing, and clan-based fighting tends to break out quickly over political issues or disputes which may not be overtly political but are connected with the overall political situation and absence of rule of law. However, mediation by clan elders, traditional leaders and Islamic religious leaders, following Somali cultural traditions, has succeeded in stopping or defusing many lesser conflicts. Traditional dispute-settlement mechanisms, including informal clan "courts", have also been utilized to punish crimes and compensate victims.

In the northwest the self-declared Somaliland Republic started to gradually rebuild a government, criminal justice system and regional administration but these are not yet strongly established. A National Charter proclaims adherence to the Universal Declaration of Human Rights and a Constitution is being drafted to lead to elections when President Mohamed Ibrahim Egal's extended two-year term of office expires at the end of 1996. In the capital, Hargeisa, there are some community-based groups, NGOs and newspapers. The economy and infrastructure, devastated by the years of fighting during the Siad Barre government, are slowly reviving.

However, Somaliland has also experienced clan faction fighting in recent months, although not on the scale of Mogadishu and not involving such abuses against civilians, as far as has been reported. A state of emergency declared in January 1995 is still in force, and around the central town of Burao fighting continues between Somaliland President Mohamed Ibrahim Egal's forces (including militias of his Habar Awal sub-clan of the large Issaq clan) and militias of the opposed Garhajis sub-clan of the same clan, which had earlier held Hargeisa airport for several months. Under the state of emergency, the Somaliland authorities have detained hundreds of captured Garhajis militias and has said it will put them on trial for treason, where they would face the death penalty, but judicial proceedings have not yet started. There have been no reports of detainees being ill-treated. The opposition group has links with former Somaliland President Abdirahman Ali Ahmed "Tur" who appeared to oppose Somaliland's independence with the support of General Aideed. The fighting led to tens of thousands of people fleeing to Ethiopia or other parts of Somaliland.

Although the judicial system throughout the former Somali Republic is in total disarray, there is a body of laws theoretically in place. The laws which were established in the Somali Republic in the 1960s are considered to be applicable now, but with the repressive national security legislation of the Siad Barre government removed. Together with relevant articles of the Constitution of the Somali Republic (1960), they are a useful starting-point for establishing the rule of law and adapting to the new situation. International assistance could assist in bringing the laws into full agreement with current international standards, including those aiming to abolish the death penalty worldwide. The death penalty was used extensively by the Siad Barre government, which executed thousands of government opponents after grossly unfair trials .

In practice the criminal justice system hardly functions in most of the former Somali Republic. The failure to develop a working system of justice despite the UNOSOM presence (although this did not extend to Somaliland) has led to arbitrary detentions, summary informal trials, executions and punishments which are cruel, inhuman and degrading. UNOSOM officials were apparently powerless to intervene while a *Shari'a* court established in north Mogadishu in August 1994 in territory controlled by Ali Mahdi's USC faction subjected prisoners to public executions, amputations and floggings. They were arrested and detained by court militias and convicted in summary trials which did not follow normal judicial procedures. They had no right to legal defence representation or appeal to a higher court against their conviction or sentence, or to appeal for clemency. The court has had one man stoned to death and at least four others executed by being shot. Some 18 people convicted of theft have had their right hands amputated, and 13 others have had their right hands and left feet amputated ("cross-limb amputation") -- the limbs were crudely chopped off and put on public display. Over 100 other people have been flogged for

disobeying Islamic laws on alcohol, dress or sexual behaviour. At the time of writing (early October 1995) several prisoners were awaiting trial before the court including five women.

Shari'a courts have also been established in Gedo region and other regions too, although these other courts are not reported to have inflicted amputations. In an incident in Somaliland in January 1993, an informal *Shari'a* court had five women executed by stoning for adultery. The Somaliland provisional government prevented any repeat of this and strengthened the normal courts instead. Recent calls by new Islamist groups to introduce *Shari'a* courts and penalties throughout Somalia may gain credence from the absence of an effective criminal justice system to control high levels of crime. In this legal vacuum, informal clan "courts" in some areas have also ordered executions for murder where the victim's relatives refused compensation as an alternative.

Amnesty International does not oppose *Shari'a* courts as such. Its concerns centre on the right to fair trial -- including the right to legal defence representation and appeal to a higher court -- and the right not to be subjected to punishments which are cruel, inhuman and degrading -- such as stoning, amputation and flogging. These punishments, which were not previously applicable in Somalia (although the 1960 Constitution declared Islam to be the religion of the state) are prohibited by international law. Summary trials and extreme punishments are no answer to the problem of the absence of effective policing and prosecutions. They do not serve the interests of justice, nor do they deal with human rights crimes by faction militias, who continue to act with impunity.

Amnesty International has also been concerned at detentions by General Aideed's militias of prisoners of conscience in mid-1995. Two Somali journalists reporting for international news agencies -- Aden Mohamed Ali (of Reuters) and Ali Mussa Abdi (of Agence France Presse and the British Broadcasting Corporation) -- were detained in August and September 1995 respectively, on account of published articles which they wrote. They were accused of "treason" on the grounds that their articles gave a "negative image" to General Aideed's declared national government. After some days in harsh conditions -- including, in Ali Mussa Abdi's case, being kept blind-folded, handcuffed and incommunicado -- they were transferred to the police Criminal Investigation Department where conditions were better and they were allowed family access. Aden Mohamed Ali was then taken to Mogadishu central prison, where scores of criminal prisoners are held. He was released uncharged after some 17 days and then fled the country. Ali Mussa Abdi (who said he had previously received 22 death threats) escaped to north Mogadishu after three weeks.

Information on other prisoners of conscience and political detainees held by political organizations has been difficult to obtain, although the number of those detained -- as distinct from others summarily executed, which allegedly used to happen frequently -- is believed to be small. Somali journalists have also on two occasions been briefly detained in Hargeisa by President Egal's security forces, including two cases in September 1995, and some critics of General Aideed from within his own organization are also believed to have been detained briefly. Eleven Pakistani and one Palestinian fishermen detained by General Aideed's forces in March 1995 are still being held -- in poor conditions -- reportedly partly as a means to press the Pakistan government to negotiate for their release and thus give recognition to General Aideed's government, which it has so far refused to do.

The conditions in which detainees are held are generally poor, although the work of the UNOSOM Justice Division, the International Committee of the Red Cross and the Somali Red Crescent (both of which have reportedly been given access to detainees in police stations and prisons) resulted in improvements.

At the time of writing, in early October 1995, governments in the region, as well as the UN, the OAU, the League of Arab States and others, are attempting to mediate and seek reconciliation between the Somali political groups. However, many observers believe that these efforts are unlikely to bring a quick end to the long-running political conflicts which periodically lead to outbreaks of fighting.

3. PEACE AND HUMAN RIGHTS

Since 1993 there have been several peace agreements and cease-fires between various of the fighting groups. Most were unsuccessful and had little positive effect. The most important was the March 1993 Addis Ababa Agreement, which was signed by all the contending factions except for the Somaliland groups, who refused to participate. It was a commitment "to put an end to hostilities and to reconcile our differences through peaceful means". It set out provisions for disarmament and security, rehabilitation and reconstruction, and transitional political and administrative mechanisms over a two-year period. It aimed to "prepare the country to enter a constitutional phase on which the institutions of democratic government, rule of law, decentralization of power, protection of human rights and individual liberties ... are all in place." A Transitional National Council was to be formed to function as a provisional government including representatives of elected regional councils and the political factions.

Regional and district councils were established by the UN in almost half of the regions of the former republic (except for Somaliland) but there was resistance to their formation elsewhere (including in Mogadishu). The main political provisions of the Addis Ababa Agreement were never implemented. Fighting broke out again in Mogadishu between the two rival USC/Hawiye clan factions even before the UN departure in March 1995. During 1995 there has also been new fighting between other Hawiye clan factions, as well as between factions in some other contested areas. The leader of the Garhajis opposition group in Somaliland featured prominently in General Aideed's claimed "national government" which was declared in June 1995 in defiance of Ali Mahdi's unrecognized "interim government" which was declared in 1991.

The warring groups appear to have paid little more attention to peace appeals by Somalis than to appeals or mediating efforts by foreign governments and others. Appeals by Amnesty International and the International Committee of the Red Cross (ICRC) for respect for international humanitarian law and protection of civilians from human rights abuses, have equally been ignored by the main warring faction leaders.

Peace is clearly essential to open the way for economic reconstruction and development. It is vital to re-establish normal life and enable refugees and displaced persons to return home safely. The protection and promotion of human rights are integral to a durable peace process. A peace agreement should incorporate specific human rights guarantees and should contain effective

implementation and monitoring mechanisms to ensure that human rights are respected and promoted. It should include the following measures for building a culture of human rights:

- commitment by all parties to respect and promote human rights and humanitarian standards;
- specific and effective mechanisms for independent human rights verification during the settlement or transitional process, including on-site monitoring and frequent and regular public reporting of violations;
- a program of human rights institution-building, which would include revising laws in line with international human rights standards and excluding the death penalty, drafting human rights articles for a future constitution, effective human rights training for law enforcement officials and the judiciary, human rights education at all levels including the general public, and safeguards to prevent, investigate, expose and punish human rights crimes in the future;
- protection of the human rights of vulnerable civilian groups, including women and children, minority clans and other communities at risk;
- protection and resettlement of internally displaced persons and returning refugees;
- security and free passage for humanitarian relief work;
- ensuring that there is no acceptance of impunity for human rights violators, and, as a first step, preventing those responsible for crimes against humanity or grave violations of human rights from returning to positions where they could again violate human rights.

These human rights measures should not wait until there is an agreed and working peace-and-reconciliation agreement between all the political groups. Nor should they wait until there is full security everywhere. A start has to be made as soon as possible.

4. PROPOSALS FOR A HUMAN RIGHTS STRATEGY

Proposals for a human rights strategy for the former Somali Republic are set out below. They address human rights issues arising from the recent history of human rights abuses and the current human rights situation, particularly in relation to Amnesty International's mandate. The proposals are designed both to fit into a long-term peace-and-reconciliation process, and also to generate initiatives independent of this process and suitable for activating without delay, whatever forms of government -- which are likely to be strongly decentralized in any case -- may be chosen.

The main issues are:

- holding Somali political authorities and organizations responsible for protecting human rights, and pressing them to stop and prevent abuses;
- promoting universal human rights standards;
- mobilizing international concern and action.

The proposals are set out as broad principles for a human rights program. The involvement and participation of all Somali groups is vital, but international assistance will also be needed. Agencies and donors from the international community -- including the UN, OAU, other IGOs, and governments, NGOs and human rights organizations -- could all develop their own plans. Their contributions would be in line with their own specific concerns, expertise and resources, but would need some degree of inter-agency coordination on the basis of agreed strategic principles.

4.1 Political agreement on human rights

If progress is to be made on human rights, political leaders and their organizations should make public and specific commitments to honour internationally recognized human rights standards and to accept the principle that their own forces must abide by them. Political leaders have to accept these responsibilities if the rule of law is to be established and respected. They can issue public appeals to their supporters to comply with these standards. They need to establish rules and standards of conduct for their militias and clear chain-of-command controls and to develop training programs for them suited to Somali culture and traditions and designed to instil respect for human rights. They have to demonstrate themselves willing to stop abuses by their own forces through proper systems of investigation and remedial measures. Political leaders should make prominent and visible efforts to end political violence.

All the Somali political organization have made nominal and "paper" commitments to peace, reconciliation and human rights in various conferences and peace agreements signed by their leaders. Yet few groups have abided by these commitments or shown the political will to take on their responsibilities for human rights and accept the principle of accountability. Too often, political leaders have sought to deny responsibility for the actions of militias or security forces acting for them and possibly on their orders. Since some of those alleged to have committed human rights abuses in the past are involved now in the peace process, it is important to ensure that there are firm safeguards and monitoring provisions to prevent any recurrence of the human rights abuses of the past.

Any self-declared government or faction leader claiming to exercise any governmental authority is under an obligation to respect and implement all human rights treaties ratified by previous Somali governments. This involves not only protecting human rights by stopping and preventing abuses, but also promoting human rights -- encouraging people to exercise their human rights and facilitating the work of civil society community groups and human rights activists.

4.2 Human rights monitoring

Ensuring respect for human rights requires cooperation with effective mechanisms for monitoring abuses and remedying them. An independent and impartial human rights monitoring function should be an integral part of any peace agreement. Mechanisms of conflict-resolution and mediation in Somali culture involving clan elders could provide a model for such monitoring. In the future, the laws and Constitution should incorporate human rights safeguards including a formal and independent monitoring mechanism, such as an Ombudsman. This office should be empowered to receive complaints of human rights violations, investigate them, and propose remedies, including bringing to justice those responsible for human rights violations. The inadequacy of previous investigations and complaints mechanisms points to the need to establish clear, effective and transparent procedures. International and Somali NGOs, community groups and human rights organizations could also play an important role in human rights monitoring and reporting.

4.3 A comprehensive human rights program

There needs to be a comprehensive and integrated human rights program. It should support international human rights standards as well as be relevant to Somali culture and traditions.

The process should start with an on-the-spot assessment of the current human rights situation and the immediate and long-term human rights needs and possibilities. This should be done in close consultation with relevant sectors of Somali society, including the political groups and independent groups from civil society. The assessment should also study the legacy of human rights abuses which led to the current situation. This would facilitate analysis of how to prevent abuses in the future. It should address the whole range of rights, including social, economic and cultural rights. It should consider long-term issues such as building up a system of law and justice, peace-making, preparations for democratic elections, establishing regional administrations and addressing famine and poverty.

The human rights program should aim to implement universal human rights standards as recognized in international human rights treaties, particularly those which have been ratified by previous Somali governments. It should also ensure respect for other UN standards, as well as the 1949 Geneva Conventions and their Additional Protocols (*see Appendix II*). When publicizing and promoting the program, it would be important to highlight consistencies between Somali cultural values and these standards. The political neutrality and impartiality essential in human rights activities should also be emphasized.

Human rights training and education is central to the creation of a culture of respect for human rights. A human rights education program could eventually be developed for inclusion in the curriculum of the formal education system as schools and colleges are re-established. Some broad guidelines about human rights training are set out in *Appendix I*.

Amnesty International proposes that the human rights program should include the goal of protecting the following six basic human rights, all of which have been frequently violated and denied in the recent past:

- the right not to be arbitrarily killed;
- the right to freedom of opinion and expression;
- the right to freedom of association;
- the right to fair trial;
- the right of a detainee to be treated humanely;
- the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

This is not by any means a complete list of the human rights which are important for Somalis, which include many rights outside Amnesty International's specialized mandate, including women's rights and the rights of the child, basic rights to food and sustenance, shelter and livelihood, the right to development and protection of the environment. In addition, given the recent history of political persecution on the basis of membership of a particular clan, there is an urgent need for all

groups to give special attention to protecting equal rights for all people regardless of their clan membership.

Amnesty International's contribution to the human rights program would be to focus particularly on these six rights, which are all within the organization's mandate. They are defined more fully in the relevant human rights treaties and standards listed in *Appendix II*. The right to fair trial, for example, includes the right to be tried by an independent and impartial court, the right to legal defence representation, and the right of appeal to a higher court. The rights to freedom of opinion, expression and association relate to issues of multi-party democracy, freedom of the press, freedom of religious belief and worship, trade union rights, and other rights. The death penalty, which was a key instrument of repression under the Siad Barre government, violates the right not to be subjected to cruel, inhuman and degrading punishment, as well as the right to life itself. Amnesty International calls for it to be completely abolished from criminal justice systems worldwide. As a first step, in line with UN recommendations, the death penalty should be restricted to the fewest possible and the most serious offences, with the best possible safeguards for the right to fair trial, and with a guarantee of the right to petition for clemency from the highest authorities.

4.4 Human rights projects

In implementing a Somali human rights program, specific human rights projects should be planned as part of the overall strategy for institutional development and reform. Aid programs should contain human rights elements wherever possible, for example including human rights training and education in other training programs and drawing connections between human rights and development issues. Aid programs should themselves be sound in human rights terms -- upholding international human rights standards and not seeming to condone abuses. Donors and relief and development agencies should establish human rights performance targets for their projects and systematically monitor and evaluate them in relation to human rights standards as they are being implemented, so that they can be modified if necessary while in operation.

There is widespread concern among international NGOs about the history of theft and misuse of their aid materials and funds. Their work has also been constrained by the security situation in general and by the policies or actions of particular Somali bodies. A group of aid agencies convened in Nairobi by the European Union's Special Envoy for Somalia -- the Somalia Aid Coordination Body (SACB) -- has developed a "Code of Conduct" intended to facilitate humanitarian work through guarantees of security and cooperation sought from the relevant Somali authorities. International NGOs do not want their aid to fuel political conflict or violence. Amnesty International suggests that they develop human rights projects as a way of improving the environment for their own specialized projects.

4.5 Somali human rights organizations

Somali community groups and NGOs should play an important role in the reconstruction of civil society, the promotion of democracy and the creation of a consensus on human rights and coexistence. They are also essential to human rights promotion and monitoring in partnership with international organizations. Some such groups are already emerging locally as various sectors of the society seek some degree of autonomy from the controlling political organizations. This process is at an early stage and well-established NGO-type organizations hardly exist yet. However, encouraging signs of the development of civil society are found within various sectors, such as women's organizations, sports bodies, arts groups (theatre, poetry and music, for example), the business community, as well as among lawyers and journalists. Journalists, however, have been at risk from the political factions when their articles have been taken as criticism.

Somali communities in many countries in the world, who keep in close contact with their families at home, are also concerned about human rights there. A number of Somali exiles have been active abroad in working for peace and reconstruction.

The approach of most international NGOs is to base their work on small-scale, low-cost assistance, focusing on a grass-roots (or "bottom-up" as opposed to "top-down") approach, in close partnership with local communities. Such an approach appears most appropriate to the Somali situation and most likely to ensure that aid does not become itself a cause of conflict. Requests have been made to various agencies for funding to start or develop Somali community-based organizations and NGOs. An on-the-spot assessment of their capacities could identify those most committed to human rights and impartiality and most likely to be effective.

Specific training for those wishing to form local human rights organizations will be needed. It should include the following:

- getting started: creating a voluntary core action-group, assessing human rights needs, determining objectives, maintaining independence and impartiality, drafting a constitution for the group, recruiting members, training members in human rights, and launching the organization;
- creating an organizational structure and internal procedures, setting up an office, recruiting and training staff, assessing performance, planning and budgeting, seeking funding, local fund-raising;
- researching and documenting human rights violations;
- human rights advocacy: acting against abuses, campaigning, assisting and counselling victims;
- news media work;
- relations with the authorities, political organizations and the general public;
- networking and relations with other national and international organizations;
- human rights education and outreach;
- reflecting human rights values in their own work and practices, particularly in regard to equal rights and opportunities without discrimination on the basis of clan identity or gender.

5. RECOMMENDATIONS FOR ACTION TO BUILD HUMAN RIGHTS

Amnesty International seeks to promote human rights as well as exposing and campaigning against human rights abuses. It makes the following recommendations to Somali groups and other organizations and individuals concerned about human rights for the Somali people:

5.1 Amnesty International urges the Somali political leaders and organizations to:

- ◆take immediate steps to stop any human rights abuses by their own militias and supporters;
- ◆make public and specific commitments to observe and promote recognized human rights standards, including setting out their own strategies and plans for protecting the human rights of all the Somali people;
- ◆publicly insist on compliance with the law by their militias and supporters, and establish clear chain-of-command controls over their militias;
- ◆investigate impartially any human rights abuses by their militias or supporters and take remedial action consistent with international standards and through an impartial justice system when this has been properly established.

5.2 Amnesty International appeals to Somali community groups and NGOs and Somali community groups abroad to:

- ◆press the political factions to make human rights commitments and abide by them;
- ◆promote universal human rights standards and non-partisan respect for human rights;
- ◆monitor and report on human rights abuses by any group.

5.3 Amnesty International requests the UN:

- ◆*Centre for Human Rights*: the new Independent Expert for Somalia should be appointed as soon as possible, in accordance with the 1995 Commission on Human Rights resolution, so that the Centre can develop an Advisory Services program for human rights in the former Somali Republic. It should start with a needs assessment mission and preparation of a comprehensive human rights program, in consultation and cooperation with all sectors of Somali society. A permanent field presence covering all regions of the former state would be useful to enable it to monitor and publicly report on human rights observance and promotion in cooperation with Somali groups and international agencies.
- ◆*UN agencies*: UNDP and other UN agencies (such as UNICEF, WHO and UNESCO) should develop their own human rights programs, working in coordination with each other and relevant international and Somali NGOs, and incorporating human rights elements such as human rights training in their core programs.

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- ◆ *Peace-keeping*: the UN Secretary-General should closely examine the UNOSOM II operation for lessons for the future, with particular regard to human rights observance by UN troops, human rights monitoring and investigation procedures, public human rights education, public reporting of the UN's human rights activities, and working with local NGOs to develop their capacity for human rights work.

5.4 Amnesty International's recommendations to relevant governments and IGOs:

- ◆ African, Middle Eastern and Western governments, as well as relevant IGOs such as the OAU and others involved in mediation and peace-making, should ensure that human rights guarantees are an integral part of any peace settlement;
- ◆ they should participate in developing a coordinated human rights program with national and international NGOs;
- ◆ they should include human rights elements in aid projects, promote human rights through aid policies and ensure their aid projects are sound in human rights terms and uphold international human rights;
- ◆ they should monitor human rights abuses and press for compliance with international human rights treaty standards by the relevant Somali bodies.

5.5 Amnesty International urges international NGOs to:

- ◆ integrate human rights and human rights training into their projects;
- ◆ participate in a coordinated human rights program;
- ◆ help to develop Somali community groups, NGOs and human rights groups, and work closely with them in human rights protection and promotion activities;
- ◆ promote an environment of respect for human rights and ensure that their projects are sound in human rights terms.

APPENDIX I

GUIDELINES FOR HUMAN RIGHTS TRAINING

These guidelines are proposed for institution-building, training for community-based groups and NGOs from Somali civil society, and broader human rights education.

1. Identify target groups for training

- select key target groups (or individuals committed to sharing what they learn on a group basis) for training. Examples are relevant officials (especially judges, prosecutors, police, prison officers, regional and district administration officials), professional groups (especially lawyers, journalists, health professionals), community-based organizations and NGOs, such as women's self-help groups and emerging human rights organizations;
- course participants should be selected on the basis of their commitment to human rights and impartiality, relevant skills and experience, and ability to implement the program;
- training for institution-building should concentrate on relevant future officials.

2. Establish goals for training

- train officials (e.g. police, prisons, security, justice, local administration officials) in practical implementation of international human rights treaties and standards;
- seek to instil values likely to result in respect for human rights and dignity, equal rights regardless of clan membership, and equal opportunities;
- raise human rights awareness generally, and on the six rights listed above (page 15);
- involve relevant community groups, NGOs and representatives of civil society committed to human rights in planning projects and participating in them;
- prioritize the human rights needs and construct courses appropriately;
- successful completion and implementation of the courses should be accepted as part of standard professional training and career advancement;
- work towards capacity-building for local groups to enable them to become self-reliant and their programs to become self-supporting.

3. Use appropriate trainers

- some trainers should be selected on account of their professional links to trainee groups;
- Somalis should be the trainers where possible, so as to create a pool of local trainers, particularly from members of the target groups listed above;
- expatriate consultants or trainers should have a sound understanding of human rights, local political situations and Somali culture;
- trainers should have sound training experience and skills and demonstrable impartiality as personal examples of human rights principles in their past and present activities.

4. Relate training methods and materials to the Somali situation

- assess Somali oral and written communication systems for the most effective methods to reach wide audiences, e.g. involving singers, poets and theatre groups;
- ensure all course content is politically neutral and not clan-biased;
- courses should be appropriate to the educational level of trainees and include educational upgrading, literacy or professional training wherever needed;
- use the Somali language, with translated materials, wherever possible;
- use radio and audio-visual materials appropriate to the Somali situation.

5. Make training practical and action-oriented

- training should relate to real experiences, real problems of values and local human rights situations, including incidents illustrating recent patterns of human rights abuses;
- training should be designed particularly for those involved in human rights activities, especially human rights defenders, to enable them to understand the principles needed to interpret situations that may arise;
- courses for institution-building should focus on particular areas and could include situational role-playing (as well as role-reversals), for example prosecutors, judges and defendants; police and detainees; interrogators and suspects; guards and prisoners.

6. Evaluate and follow-up

- evaluation by the trainers, trainees and program administrators at the end of each course;
- identify shortcomings and revise promptly in the light of difficulties, unrealistic deadlines and expectations, institutional blockages or implementation difficulties;
- compile useful indicators of performance evaluation and means of assessment;
- follow-up to be integrated into all courses, including support for those trained, and advice for those becoming trainers themselves or administering training programs;
- maintain regular contact between course participants, for example through networks, reunions or newsletters for sharing experiences and implementing what was learned;
- assess and benefit from the value of training already done, for example by UNOSOM Justice Division for police and prisons officers and judges, by the Swedish Life and Peace Institute for regional and district councils, and by the US-based Fund for Peace for human rights organizations.

APPENDIX II

SOME OF THE RELEVANT INTERNATIONAL AND REGIONAL HUMAN RIGHTS TREATIES AND STANDARDS

Treaties and Ratifications

- The Universal Declaration of Human Rights (*accepted by Somalia when it joined the UN in 1960*)
- The International Covenant on Civil and Political Rights, with its two Optional Protocols (*ratified by Somalia in 1990 except for Protocol II*)
- The International Covenant on Economic, Social and Cultural Rights (*ratified by Somalia in 1990*)
- The 1949 Geneva Conventions, with their two Additional Protocols (*ratified by Somalia in 1962, except for the Additional Protocols*)
- The African Charter on Human and Peoples' Rights (*ratified by Somalia in 1986*)
- The UN Convention Relating to the Status of Refugees and its 1967 Protocol (*ratified by Somalia in 1978*)
- The OAU Convention governing the Specific Aspects of Refugee Problems in Africa (*ratified by Somalia in 1969*)
- The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*ratified by Somalia in 1990*)

Standards

- The UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions
- The UN Basic Principles on the Use of Force and Firearms by Law-enforcement Officials
- The UN Code of Conduct for Law-enforcement Officials
- The UN Standard Minimum Rules for the Treatment of Prisoners
- The UN Body of Principles for the Protection of All Prisoners under Any Form of Detention or Imprisonment
- The UN Basic Principles on the Independence of the Judiciary
- The UN Guidelines on the Role of Prosecutors
- The UN Basic Principles on the Role of Lawyers
- The UN Declaration of Basic Principles of Justice for Victims of Criminal Abuse of Power
- The UN Declaration against Violence against Women
- The UN Convention on the Rights of the Child
- The ILO Convention on Freedom of Association and Protection of the Right to Organize

APPENDIX III**THE MAIN SOMALI CLANS AND POLITICAL ORGANIZATIONS**

(clan diagram insert)

Notes

1. Particular clans or sub-clans are associated with certain political organizations (as indicated above) but the identification is not always complete. They are not all territorially distinct. There have been changing alliances between groups as well as internal conflicts.

2. The main political organizations are:

United Somali Congress (USC): formed in exile in 1989 by Hawiye clan members. It ousted President Siad Barre in 1991 but then split into two rival factions headed by General Mohamed Farah Aideed and Ali Mahdi respectively. The USC/Aideed faction is based on General Aideed's Habar Gedir sub-clan, controlling most of south Mogadishu. The USC/Ali Mahdi faction is based on Ali Mahdi's Abgal sub-clan, which controls north Mogadishu.

Somali National Alliance (SNA): a loose (and sometimes changing) alliance of political organizations, headed by General Mohamed Farah Aideed. In June 1995 a dissident faction claimed it had replaced him. SNA member organizations included Colonel Ahmed Omar Jess' faction of the **Somali Patriotic Movement (SPM)**, based on the Ogaden clan.

Somali Salvation Alliance (SSA): a loose alliance of political organizations (called by UNOSOM "the Group of 12"), headed by Ali Mahdi. Other SSA members are General Mohamed Said Hersi "Morgan" and his faction of the **Somali Patriotic Movement (SPM)**, which controls Kismayu port;

the **Somali Salvation Democratic Front** (SSDF), formed in exile in 1978 to fight against the Siad Barre government, based on the Majerten clan and controlling the Northeastern Region; the **Somali National Front** (SNF), based on the Marehan clan, containing many former officials and soldiers of the Siad Barre government and controlling Gedo region; and another Hawiye sub-clan faction headed by Osman Ali Hassan "Atto", who formerly supported General Aideed.

Somali National Movement (SNM): formed in exile in 1981 by members of the Issaq clan from the north-west. Its armed force defeated the Siad Barre army in the northwest in 1991. The SNM became the leading group in the self-declared "**Republic of Somaliland**" in May 1991, alongside other clan-based political organizations in Somaliland - the **United Somali Party** (Dulbahante and Warsangeli), the **Somali Democratic Alliance** (Gadabursi) and the **United Somali Front** (Isse).

3. The following minority groups have been vulnerable to abuses by the dominant Darod and Hawiye clan militias:

- the Rahanweyn (Digil/Mirifle) clan, whose main political organization is the Somali Democratic Movement; it consists of agro-pastoral communities in Bay region mainly and is vulnerable to more powerful and heavily-armed neighbouring clans;
- small urban communities of foreign origin, including fairly prosperous families of Indian or Yemeni origin, the Hamar community in Mogadishu (which is also known as Hamar) and the Barawan community in Brava (or Barawa) port;
- the small sea-faring Bajuni community of East African Swahili origin;
- agriculturalist "Bantu" communities of East African origin (also known as "Gosha");
- a few individual Christian converts from Islam who may be at risk from militant Islamist groups;
- Ethiopian refugees, mostly of the Oromo ethnic group, who fled Ethiopia many years ago;
- small "caste-groups" such as the Tomal, Midgan and Yibir, who traditionally engage in occupations such as metal and leather work and hunting.