

# AMNESTY INTERNATIONAL

## Media Briefing

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### **Somalia: Amnesty International calls on the United Nations Commission on Human Rights to support human rights reconstruction**

As the Somalia Peace and Reconciliation Conference being held in Mbagathi, Kenya, moves towards the formation of a new and inclusive interim government for Somalia, human rights in Somalia are the subject of renewed attention at this annual session of the UN Commission on Human Rights in Geneva.

Strong international support for human rights reconstruction is now needed more than ever. Within a few months, if the various Somali political-military faction leaders can overcome obstacles to agreement, Somalia could have a viable caretaker government with the possibility of stopping the fighting and violence. This would open the way to the holding of the first multi-party elections since the 1960s, when democracy was cut short by two decades of dictatorship, and end 12 years of state collapse which continues to threaten international and regional security.

Somali citizens desperately want the peace talks leaders (heads of armed factions, many of them responsible for starting conflict and perpetuating human rights abuses) to allow them to live in peace and security with meaningful protection of their basic human rights. Many doubts remain as to whether these leaders are committed and able to deliver responsible and accountable government.

Nineteen faction leaders and the current Transitional National Government (TNG) signed a Ceasefire Declaration on 27 October 2002. Yet there have been scores of ceasefire violations, and the UN Security Council's Panel of Experts recently documented the continuing flow of arms to these armed groups in violation of the international arms embargo. International ceasefire monitoring is about to commence. But in the absence of a system of justice and policing, crimes by militias and freelance ex-militias go unpunished despite faction leaders' claims to control particular areas. Talk of "smart sanctions" on leaders' dubiously acquired foreign assets, business contracts and foreign travel, has yet to be made real.

After its latest observer visit to the peace talks in Kenya, and meetings with the organisers, international partner governments and certain faction leaders, Amnesty International calls for human rights to be put at the forefront of the reconciliation discussions and interim government formation. Six 'reconciliation committee' reports are being finalised on an interim constitution, return of illegally-acquired land and property, disarmament and replacement of militias by disciplined military and police forces, economic reconstruction, improved international and regional relations, and conflict resolution and reconciliation (including human rights). At present the influence of civil society activists appears to be minimal.

Amnesty International is on record for opposing a general amnesty for war crimes, crimes against humanity and gross human rights abuses of the past three decades, whether by the Siad Barre government (some of whose former members are currently seeking office again) or during the faction wars and anarchy

since 1991. Any new government must ratify the statutes of the International Criminal Court so that new war crimes and crimes against humanity could be reported to it, if local jurisdictions are unwilling or unable to take action. The option of a Truth and Reconciliation Commission is also being explored. Amnesty International recalls the huge scale of some crimes such as the bombing of Hargeisa in 1988, when at least 15,000 people were killed, and other atrocities which would require prosecution. Full legal safeguards should be provided for fair trial without recourse to the death penalty. An interim government committed to the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights, and the human rights treaties signed earlier by Somalia and binding the future government, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, all ratified in 1990, could hardly attract international acceptability if it contained perpetrators of gross human rights abuses.

### **Human rights monitoring**

Considerable international support will be required for the ceasefire monitoring. However, due to the broad and ill-defined nature of armed conflict in Somalia in the disintegrated-state situation and the consequent prevailing culture of violence among political faction, it is vital not to confine cease-fire monitoring to a narrow frame of inter-faction combat. The faction fighting in Somalia involves persistent breaches of Common Article 3 of the Geneva Conventions. It results directly in extreme harm to civilians, and indirectly affects the wider population far beyond any actual single incident. The elements of intimidation, repression of fundamental freedoms, and violence by non-state actors, underlie the long-term pattern of conflict and human rights abuses, notably the kidnappings, rape, killings, plunder and financial extortion rampant in several areas.

Amnesty International therefore recommends that human rights monitoring is added to the task of the cease-fire monitors, so as to begin to address the wider questions of impunity and accountability which will be central to ensuring that there is lasting peace and the beginnings of the rule of law during the period of the next stage of interim government and beyond. The international community should provide assistance and support for the provision of human rights advisers and monitors, which would be most effective if it starts without delay and at the same time as the cease-fire monitoring.

Somali human rights defenders are already involved in peace and they should be involved in the monitoring and be guaranteed protection from reprisal.

### **Human rights in transition**

It is time to look ahead to the promotion and protection of human rights during the interim. Human rights strategies and projects need to be prepared with special attention to the most vulnerable Somali groups such as women, the minorities and internally displaced persons (IDPs).

Women need protection from gender-targeted violence, including female genital mutilation, and greater representation in public life and decision-making. The minorities continually face social exclusion, discrimination and violence committed with impunity. There are over one-third million IDPs, mostly women and children, facing the most extreme deprivation.

Human rights achievements also need to be recognised and supported as appropriate. In Somaliland in the northwest, which unilaterally declared independence in 1991 on the overthrow of the Siad Barre government, there is generally peace and personal security, freedom of the media, and an active local NGO community. A smooth transfer of power was effected on President Egal's death in May 2002, and there have been multi-party elections for local councils and the presidency. In all other areas of the former Somali state, particularly Mogadishu, Baidoa and Puntland, there are continuing human rights abuses and outbreaks of faction fighting. Human rights defenders are constantly at risk.

Amnesty International calls on the international community to press for a major turn-around on human rights by Somali faction leaders. To the extent that it is possible, an interim government should comprise only members with a clean human rights record and non-involvement with abuses. The current political leaders and potential interim government members must pledge commitment to peace and justice and to prevent and punish new abuses by faction militias.

Amnesty International recommends that investigations and documentation should start during the interim period and at the international level to document past abuses. As the situation hopefully moves to post-conflict reconstruction and development, issues of impunity will need to be dealt with for the sake of transitional and restorative justice. A change of record and proven activity to rescue Somalia from its 12-year crisis of disintegration would be recognized.

#### Public Document

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