

£SOMALIA

@Update on a Disaster - Proposals for Human Rights

Introduction

A new phase is now opening in the unprecedented international response to the human rights disaster which has occurred in Somalia over the past two years, and which has involved massive loss of life through famine and thousands of deliberate killings of civilians. From the beginning of May 1993, the United Nations is set to embark on one of its biggest-ever operations, aiming to restore peace, seek political reconciliation and rebuild Somalia - already one of the world's poorest countries, shattered by over two decades of repressive dictatorship.

Human rights must be a priority for a new Somalia. But there is a danger that striving to make peace between the warlords and their numerous armed groups (many of which have been guilty of gross human rights abuses), and working to facilitate relief supplies of food and medicine to the needy, may lead the international community to give insufficient attention to the fundamental human rights issues underlying this disaster.

In this report, Amnesty International reviews the progress made in the past four months since "Operation Restore Hope" sent US and other foreign troops into Somalia, and sets out new proposals for the long-term protection of basic human rights.

"Operation Restore Hope"

"Operation Restore Hope" was launched in Somalia in early December 1992 when the United Nations' Security Council authorized a task force led by the United States of America (UNITAF) to establish "a secure environment for humanitarian relief operations in Somalia" under UN Security Council Resolution 794 (1992). This military operation involved some 37,000 troops and logistical officers, mainly from the US (of whom almost half have now been withdrawn), but including contingents from over 20 other nations too. It was a dramatic response arising from international horror at the scale of the human rights disaster in Somalia that seemed to have no remedy, controversial in some quarters but supported by African, Arab and Islamic intergovernmental organizations.

At the end of 1991 the then UN Secretary-General, Javier Pérez de Cuéllar, had described the Somali crisis as "the worst humanitarian crisis in the world". The crisis continued throughout 1992. In August 1992 Amnesty International reported as follows:

"Civil war, insecurity and anarchic violence in much of the country combine with the drought and famine sweeping through the Horn of Africa to threaten much of the surviving Somali population with further massive loss of life. The collapse of the Somali state and its economy have intensified the difficulties of international relief agencies in tackling this severe humanitarian crisis. Just keeping imminent mass starvation at bay has engaged the International Committee of the Red Cross (ICRC) in its biggest current operational program. Hundreds of children and many adults are still dying each day in the devastated country. At least a quarter of the six-million population have become refugees or are living as displaced

persons in their own country." (Somalia: A Human Rights Disaster, AI Index: AFR 52/01/92.)

After just four months, "Operation Restore Hope" is now drawing to its conclusion. On 1 May 1993 it is scheduled to hand over to an expanded UN operation, UNOSOM II. This is to be one of the UN's biggest-ever operations of this kind.

Towards a more secure environment

The UNITAF force which entered the capital, Mogadishu, in December 1992 met with no initial resistance but has continued to attract sniper fire, violent harassment and occasional rioting. It has been partially less successful in enforcing an arms embargo and a cease-fire agreed in January 1993 between the different armed groups, especially the opposed forces of Ali Mahdi and General Mohamed Farah Aideed in Mogadishu, and others in Kismayu and certain other areas. Its operations have been limited to 40 per cent of the country and it has not yet extended its activities to the "Somaliland Republic", the northern part of the country, which declared its unilateral independence in May 1991 but has no international recognition. The UNITAF force has nevertheless greatly facilitated relief operations, which have dramatically reduced malnutrition and starvation deaths, and it has enabled a much greater proportion of food aid to reach the target populations without being stolen by armed militias of the political groups and by bandits, although there are still serious security threats to food relief and relief agency staff and property.

Security problems still remain for the UNOSOM II force, especially in relation to the warring groups in central and south-western Somalia and to the security of relief agency operations. At least a dozen relief workers of the UN, the ICRC and various international and Somali non-governmental organizations have been killed in the past nine months, mostly, if not all, reportedly by groups belonging to General Aideed's Somali National Alliance (SNA). UNITAF forces have shot dead several Somalis in incidents where violent opposition appears to have been threatened, and their own forces have suffered some casualties. The worst inter-Somali fighting was in Kismayu in late February 1993 when control of the town fluctuated between forces of General Mohamed Said Hersi "Morgan" (leader of the Somali National Front [SNF] and son-in-law of the former Head of State, President Siad Barre) and forces of Colonel Ahmed Omar Jess (leader of the section of the Somali Patriotic Movement [SPM], which is part of General Aideed's alliance). In late December 1992 the southern port of Kismayu had been the scene of a cold-blooded massacre of hundreds of civilians belonging to the Majarten, Warsangeli and Dulbahante clans by the Ogaden-clan-based SPM (although all these four clans belong to the wider Darod clan-family), shortly before a UNITAF force reached the town. Further clan-based fighting occurred in Kismayu in February 1993, despite the presence of a UNITAF force there. UNITAF also appeared to have been unable to bring an end to the hostilities in central Somalia between SNA groups and the Somali Salvation Democratic Front (SSDF), which controls the northeastern region.

Progress on political reconciliation

The initial UN operation in Somalia (UNOSOM) which began in April 1992 was a much smaller affair than UNITAF and was restricted to peace-keeping and peace-building, but the UN's political reconciliation activities continued throughout the subsequent military intervention. The UN has convened several meetings of Somali armed groups and a wide range of other Somali representatives and individuals, including Islamic groups, women's organizations, clan elders, relief committees and

intellectuals in exile, with the aim of promoting national reconciliation and returning Somalia to normality with new institutions of government acceptable to all Somalis.

Despite constant breaches of a cease-fire agreement between the fighting groups in January 1993, slow progress towards a political settlement has been made, although there cannot be confidence in mere declarations of intent by the main warlords, whose actions have frequently contradicted their words. In March 1993 a UN Conference on National Reconciliation meeting in Addis Ababa ended with agreement by 15 armed political groups to set up a 78-member Transitional National Council (TNC) as an interim political and legislative authority for Somalia for a two-year period. The TNC is to establish administrative departments for civil, social, economic and humanitarian affairs and new councils in the 18 previously-designated regions. However, the issue of "Somaliland" remains unresolved, since the Somali National Movement (SNM) heading the provisional government there boycotted the meeting and the subsequent agreement. Other fears about the TNC, which seems likely to be dominated by General Aideed's SNA alliance, were immediately expressed by a group of Somali intellectuals excluded from the TNC, who stated: "In no way should the destiny of the Somali people remain any longer at the mercy of the ruthless warlords whose role has so far been anything but constructive".

In the economically devastated Somaliland, there have also been inter-clan wars and political tensions, but not on such a massive scale. The UN proposes an enlarged operation to remove hundreds of thousands of land-mines planted in 1988 by President Siad Barre's army, led by General "Morgan", during the war against the opposition SNM, in which tens of thousands of civilians were killed by government forces.

It is likely that peace in Somalia can only be achieved and maintained through agreements between the various warlords and armed groups who have created the insecurity. But reconciliation, reconstruction, and the prevention of further human rights abuses also need the involvement and support of Somali groups committed to peace and human rights who have their roots in civil society, not just the armed groups.

UNOSOM II

The UN Secretary-General, Dr Boutros Boutros-Ghali, proposed an unprecedented UN program in Somalia, which was approved by the UN Security Council in Resolution 814 (1993) on 26 March 1993. The date of 1 May 1993 was agreed for the transfer of the UNITAF operation back to the UN for the establishment of a unique UN peace-building operation, to be called UNOSOM II. It was approved for an initial six-month period, and will cost US\$300 million for the first two months alone. This will involve a UN-led military operation with 20,000 troops and 8,000 support personnel from 30 countries (many from the current UNITAF contingents, supplemented by a US tactical quick reaction force), which will aim to bring all fighting in the country to an end. The UNOSOM II force is authorized under Resolution 814 to use force to achieve this end, and to disarm and demobilize all the armed groups. It is also to establish a Somali police force (a process which has already begun) and to assist in the formation of a constitution and governmental, legal and judicial institutions, which do not currently exist. There are plans for further relief and construction work involving UN agencies and non-governmental organizations, including those assisting refugees and displaced persons to return home safely. In March 1993 a UN Conference on Humanitarian Assistance for Somalia secured donor pledges of US\$130 million for a program drawn up by the UN Department of Humanitarian Affairs.

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The UNOSOM II program has been drawn up to cover the whole of Somalia. With regard to the Somaliland issue in the north, the UN Secretary-General has stated that "the deployment of UNOSOM in the north would not prejudice in any way the decision of the Somali people on their national future". The two-year provisional government set up in Somaliland in May 1991 comes to an end in May 1993 and it remains to be seen, in view of the differing and sometimes violently conflictive views held by clan-based political groups there about the form of central government and political leadership appropriate for the area, what position a new administration in Somaliland will take on the UN operation.

The UN Secretary-General, in his report of early March 1993, stated that the UN would not prescribe what political structures should emerge for Somalia in general but he affirmed the need for representative democratic government at national and regional level, including free and fair elections, and observance of UN standards of human rights and justice.

The UNOSOM II program is designed to phase in a transitional period when, once security is consolidated, civilian institutions will be established, including the handover of responsibility for law and order from the UN military force to a Somali police force.

Human Rights

In its August 1992 report on the human rights disaster in Somalia, Amnesty International reported on the background of human rights violations by the former government of President Siad Barre from 1969 to 1991 which had led to such a disastrous situation by early 1992. It said that civil war and anarchic violence had led to the deaths of over 10,000 people in Mogadishu alone since Siad Barre was overthrown by General Aideed's United Somali Congress (USC) force in January 1991. The collapse of the state and economy had then intensified the problems of the world's relief agencies in seeking to avert massive further deaths by starvation. The report also described killings during 1992 by General Aideed's forces, citing the testimony of a survivor of a massacre of unarmed civilians in the southwestern Gedo region in April and May 1992. Old men, women and children had been killed, tortured or mutilated, and women gang-raped, because they belonged to Siad Barre's Marehan clan. Before then, and again later in 1992, a Marehan clan force (the Somali National Front) headed by General "Morgan" had committed almost identical atrocities against members of clans supporting General Aideed - the Hawiye, Rahanwein and Digil.

Amnesty International appealed to all Somali political groups in August 1992 *"to take immediate steps to end deliberate and arbitrary killings, to stop torture and mutilations, and formally to commit themselves to work for the human rights of all Somalis irrespective of clan membership or political opinion"*. It urged them to *"unreservedly condemn the deliberate and arbitrary killings and the grave abuses that have occurred and pledge themselves to observe the minimum humane standards set out in the Geneva Conventions... (which require that) all those taking no active part in hostilities, including both civilians and wounded or surrendered combatants, should be treated humanely"*.

For the most part Amnesty International's appeal seemed to have been ignored by the armed groups which had committed many abuses in the previous year or more. Later in 1992 many more civilians were killed in the southwest in intermittent fighting between the Somali National Front and General Aideed's alliance. One prominent victim of clan warfare was Dr Mohamed Ahmed Warsame, a Somali gynaecologist, who was abducted in Mogadishu on 11 November 1992 by gunmen reportedly loyal to General Aideed, and

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never seen again. This was only hours after he returned from exile to work at a maternity clinic run by SOS Kinderdorf, an Austrian relief agency. In Kismayu between 8 and 10 December 1992, SPM troops loyal to Colonel Omar Jess deliberately killed hundreds of unarmed members of the opposed "Harti" clans of the Darod clan-family, including Islamic religious leaders, businessmen, professional workers, clan elders, women and children. On 2 January 1993, Sean Devereux, a UNICEF employee and British citizen, was shot dead by unidentified gunmen in Kismayu, allegedly because of his criticisms of the killings there the previous month.

Human rights abuses have also been reported in Somaliland since the SNM came to power in May 1991, including the application at the demand of some new Islamic religious groups of certain Islamic law (Shari'a) penalties which are cruel, inhuman and degrading punishments, and as such prohibited by international law. Women have been whipped for contravening strict Islamic clothing rules, for selling alcohol and for sexual offences. On 8 January 1993 five women were publicly stoned to death in Hargeisa for adultery. They were arrested by an Islamic group on 4 January, taken into police custody, and tried by an informal Islamic "court" on 7 January. They had no legal representation. Details of the incident are unclear but according to one account the five women admitted adultery but denied that the "court" had any authority to try them. One woman who denied the offence was freed. The other five were condemned to death under Islamic law provisions. They were not allowed to make any kind of appeal against the sentence or verdict. The next day the five condemned women were taken out, put in holes in the ground and buried up to their necks, and stoned to death by a crowd assembled by the religious group which had arrested them. Neither those ruling Somaliland nor the SNM intervened at any stage of these events. After the stonings, the SNM security forces arrested Sheikh Dahir Ahmed Yunis and 15 others involved in the incident. They are still detained, despite popular demonstrations after their arrest, calling for their release. They have not so far been brought to trial - there is no established judiciary, in any case.

The UN Security Council Resolution of 26 March 1993, noting "with deep regret and concern the continuing reports of widespread violations of international humanitarian law", called for "investigation and prosecution of serious violations of international humanitarian law", and re-affirmed that "those responsible for such acts be held individually accountable".

The human rights issues in Somalia since January 1991, when Siad Barre's government was overthrown, have in the main concerned abuses committed by armed political groups headed by particular warlords and operating arbitrarily in the absence of any central government authority. Ali Mahdi, the USC president, claimed to be interim President of Somalia, but his sub-clan-based militia only controlled parts of Mogadishu, where USC chairman General Aideed's sub-clan force and other sub-clan militias held other parts of the city. In other areas in the southwest and central Somalia, two opposed "coalitions" emerged, linked to Ali Mahdi and General Aideed respectively, but except for the northeast where the DFSS claimed to have established a quasi-governmental structure, there were no governmental institutions or rule of law. In some areas, identifiable clan-based armed groups such as the SNF and SPM held sway, and in Mogadishu informal Islamic groups appeared at times to be asserting power to impose Shari'a law, but none of these groups developed recognizable administrative or judicial structures. In Somaliland, a central governmental structure headed by the SNM and based on clan power-sharing had been created in 1991 but this had fragmented by early 1992, although informal clan-based regional administrations appeared to exist.

Despite the absence of central government and the rule of law, the warlords leading the armed groups

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which have committed massive human rights abuses against their own Somali people, mostly because of the victims' clan membership, must be held responsible for these crimes. This must be so whether the abuses were committed as a result of specific orders in a chain of command, or through the leadership implicitly encouraging or condoning crimes, or through the leadership's failure to exert control over their followers who depended on them for weapons and food. In the chaotic economic situation, members of these armed groups killed and looted with impunity.

There is a special need now for all possible measures to be taken to prevent the recurrence of human rights abuses by the Somali warlords and their armed groups, or by former members of the Siad Barre government forces, both during the UNOSOM II operation and when it ends in 1993 or later.

In addition, there is evidently a need for the behaviour of the international forces to be monitored by appropriate and impartial mechanisms, as far as their observance of universally recognized human rights standards is concerned. When the UNITAF international force entered Somalia in December 1992, the legal standards governing the actions of these foreign troops were based on international humanitarian law, principally the Geneva Conventions relating to conduct in war, and their own national law governing the actions of their own armed forces. Up to the end of April 1993, when the first phase of the UN-authorized international intervention came to an end, dozens of Somalis have been shot dead and some apparently detained for short periods by the various national contingents of the UNITAF forces, although they had no specific powers of arrest and detention. Whether or not these forces carried out internal investigations into these incidents was for some time unclear. In March and April 1993, the US military authorities investigated the shooting of a Somali youth and decided not to prefer charges, but a US soldier was convicted by a court martial held by the US force in Somalia of aggravated assault of two Somali civilians, and the Canadian military authorities force are still investigating two incidents involving Canadian soldiers - the death of a Somali civilian in custody, allegedly as a result of being beaten, and an alleged unlawful killing of a Somali civilian.

The success or failure of this extraordinary international intervention in the human rights disaster in Somalia will have important effects on human rights trends in Africa and elsewhere in the years to come. Human rights protection and monitoring must therefore be a priority in any plans for the future of Somalia. This is essential for the time when law and order will rest on a newly-constituted and newly-trained national police force. There would be particular dangers if the new security forces contained individuals known to have committed human rights violations in the past.

Amnesty International's proposals for human rights

Amnesty International is urging the UN to add specific human rights components to UNOSOM II. The UN's objectives in Somalia clearly encompass both the current protection of human rights and the establishment of constitutional provisions and legal and other institutions to protect human rights in the future. Part of this is the creation of a Somali police force, to establish the rule of law and maintain laws in accordance with internationally accepted principles and practices for the protection of human rights.

Amnesty International welcomes the recommendation of the UN Commission on Human Rights on 8 March 1993 that an independent human rights expert be appointed to assist the UN Secretary General's Special Representative for Somalia to develop "a long-term programme of advisory services for re-establishing human rights and the rule of law, including a democratic constitution, as well as the eventual

holding of periodic and genuine elections by universal suffrage and secret ballot". The Commission also recommended that a human rights unit be attached to UNOSOM II "to assist in the promotion and protection of human rights and in encouraging respect for humanitarian law as well as in the implementation of the recommendations of the independent expert".

In the past, Amnesty International has on a number of occasions published its proposals to protect human rights in Somalia, for example, in its reports on human rights violations by the government of President Siad Barre - "Somalia: a long-term human rights crisis" (1988) and "Somalia: report on an Amnesty International visit and current human rights concerns" (1990).

Amnesty International is now making the following further proposals to the UN and the international community for the current and future protection of basic human rights of the Somali people:

1) Human rights advisors

An international group of civilian human rights advisors should be established to work closely with the UNOSOM II force, other foreign forces and the new Somali police force. This group should have specific responsibilities to advise and train these forces on implementation of humanitarian law and international human rights standards, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Code of Conduct for Law Enforcement Officials (and the Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials) and the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (and the UN Manual on these Principles).

2) Human rights monitoring

An independent and impartial group of civilian human rights monitors should be established to receive complaints and collect reports of violations of human rights and humanitarian law, to investigate all such reports and where appropriate to transmit them to the relevant UN or other authority for further investigation and prompt corrective action, and to publish the group's conclusions concerning such reports regularly and without delay.

3) Drafting a new constitution and laws

The UN should provide independent experts to advise in the drafting of human rights articles in a new constitution for Somalia and the incorporation of human rights guarantees and safeguards into new legislation, drawing on UN standards and norms in the field of human rights, crime prevention and criminal justice.

4) Training in human rights

The UN should institute a vigorous public information program on human rights (as already authorized by the Security Council), to include specific human rights training for police, security and prisons officers (as mentioned above), and also for other government personnel, judges and lawyers.

5) Establishing the truth about human rights abuses

The UN should initiate a study by independent and impartial researchers, and in conjunction with the appropriate thematic mechanisms of the UN Commission on Human Rights relating to torture, extrajudicial executions, "disappearances" and arbitrary detention, of the pattern of human rights violations in Somalia over the past two decades, and report on the root causes of the recent human rights

disaster. The study should, among other things, collect evidence from the public in Somalia and elsewhere, with a view to establishing a "truth-telling forum" within the country with the long-term aim of preventing any recurrence of such abuses. There should be provisions to ensure that those responsible for human rights crimes should not again be allowed to hold any position of authority where they could commit human rights violations, for example by having powers of arrest and detention or being in command of armed units or detention centres.

6) Prosecution of those responsible for human rights abuses

The UN should extend such investigations with a view to bringing to justice, in accordance with international fair trial standards, persons responsible for grave violations of human rights and international humanitarian law, including officials of the former government of President Siad Barre and leaders of subsequently active political groups, in furtherance of the internationally-recognized principle that there should be no impunity for such offences and no safe haven for the offenders, wherever they may be. In order to do this, the UN will have to facilitate the establishment of a national or international judicial institution capable of undertaking such prosecutions as well as affording the accused a trial which satisfies international standards of fairness.

7) Human rights support

The international community should provide security and material support for the activities of Somali citizens who want to promote human rights, both during the UN operation and when it ends. This would include groups engaged in monitoring human rights abuses, those formulating proposals to prevent human rights violations, and others who take on the task of making humanitarian and human rights principles better known and respected throughout Somali society.

Amnesty International also renews the appeal it addressed in August 1992 to all Somali political groups, military or civilian:

"For the future of human rights for all Somali citizens irrespective of clan membership or political opinion, Amnesty International appeals to all sides publicly and explicitly to adopt internationally recognized human rights objectives so that abuses can be brought to an end and so that safeguards and structures based on the rule of law can be firmly established."