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African Union: Put Protection of Civilians at the Forefront of Efforts to Address Peace and Security in Somalia

In advance of the 18th Ordinary Summit of the Heads of State and Government of the African Union (AU) focusing on "*Boosting Intra Africa Trade*" Amnesty International calls on leaders in Africa to put the respect for human rights and the protection of civilians at the forefront of its efforts to address peace and security challenges in Somalia.

Amnesty International commends the attention that the African Union has brought to the particularly critical situation in Somalia. However, the organization warns that efforts to improve peace and security in Somalia will not bear fruit unless the African Union takes concrete action to better protect civilians and support an improvement of the human rights of all Somalis.

Somali civilians, particularly in the southern and central parts of the country, face a humanitarian crisis, which has worsened in 2011 and is compounded by the human rights abuses committed by all parties to the armed conflict. Since October 2011 there has been a scale-up in military operations in the country, with the intervention of the Kenyan and Ethiopian armed forces aiming to dislodge the Islamist armed group al-Shabab. This has caused more displacement, increasing civilians' vulnerability to the humanitarian crisis and brings more arms into a country already awash with weapons, potentially fuelling further human rights abuses. Amnesty International has been calling on all states to end arms transfers to all parties to the conflict in Somalia, including Transitional Federal Government forces and allied militia, until effective mechanisms are in place to prevent such material assistance from being used in committing violations of international humanitarian and human rights law, including the recruitment or use of child soldiers.

Last month, the African Union Peace and Security Council requested that a new strategy be endorsed for the African Union operation in Somalia (AMISOM, the African Union Mission in Somalia). This request includes increasing the number of AMISOM troops to allow Kenyan troops in Somalia to join the force and an expansion of AMISOM's military capabilities and operations in parts of the country captured by Ethiopian and pro-Transitional Federal Government militia. The African Union must ensure that the respect and protection of human rights of all Somalis are at the heart of AMISOM's actions and policies in Somalia.

In southern Somalia, several air strikes, some of which have been acknowledged by the Kenyan air force, appear to have resulted in death and injury to civilians and to have disrupted humanitarian access and operations. For instance, an air strike on 30 October hit a camp for internally displaced people in Jilib, Lower Juba, killing at least five people, including three children and injuring at least 52 others, including 31 children. The Kenyan army stated that it had targeted an al-Shabab military camp in an air raid on that day in the same area, but denied killing civilians. Though Kenya's Prime Minister said that civilian deaths resulting from Kenya's military operations in Somalia would be investigated, there is no information as to whether an investigation was conducted into what happened in Jilib or on its findings. On 15 January, another air strike on Jilib is alleged to have killed four children. The Kenyan authorities have also made statements calling on humanitarian organizations to work in areas

they have captured, which in the polarized context of armed conflict in the country, may undermine the perception of neutrality and impartiality of aid agencies and could jeopardize their access, already limited by insecurity and restrictions, to populations in need. On 28 November, al-Shabab announced it was banning 16 humanitarian organizations from areas under their control, claiming they lacked neutrality.

In areas of southern and central Somalia controlled by al-Shabab, forced recruitment of children for the purpose of enlisting them for fighting is reported to be on the rise, partly as a response by the armed group to the military pressure it is facing. Amnesty International also continues to receive reports of “punishment” killings by al-Shabab of persons they accuse of spying for Somalia’s Transitional Federal Government or its allies; these unlawful killings are sometimes committed in public, as the armed group aims to instil fear and prevent dissent among the local population.

Kenyan and Ethiopian armed forces fight alongside militia loosely affiliated with Somalia’s Transitional Federal Government (TFG). Amnesty International has received reports that in some towns under the control of these militia, persons have been extra-judicially executed and arbitrarily detained. The lack of adequate human rights monitoring, documenting and reporting in these areas allows human rights abuses to go unchecked.

In Mogadishu, the withdrawal of al-Shabab in August 2011 and AMISOM’s commitment to better control its use of artillery weapons in the city and to record civilian casualties has created hope that the protection of civilians will improve. However, parts of the capital have continued to witness fighting between the TFG and AMISOM and al-Shabab. Regular explosions and bombings and fighting among different TFG units have resulted in civilian casualties. Along with the large flow of people displaced by drought and lack of access to aid into Mogadishu, reports of looting of aid and rapes of women and girls in IDP camps in the capital, sometimes by men in TFG uniforms, have increased. The TFG has sought to address infighting among TFG troops and looting of aid through a military court, which has sentenced alleged perpetrators to death after summary or unfair trials.

Although civil society and aid actors have more space to operate in the capital, they remain at serious risk of killings and threats. On 18 December journalist Abdisalan Sheikh Hassan was shot dead by a man in military uniform in Mogadishu. On 30 December, two aid workers were killed in Mogadishu. It is crucial that TFG investigations into the killings are completed and the perpetrators brought to justice in fair trials without recourse to the death penalty, for security to improve in Mogadishu. The TFG has recently committed again to sign an action plan with the United Nations to prevent the recruitment and use of child soldiers in its forces, but has yet to establish screening mechanisms to ensure its forces and allied militia do not include persons under 18. Amnesty International also remains concerned at the fate of child soldiers defecting or captured from armed groups by the TFG and its allies.

The recent military scale-up in Somalia also has an impact on Somali refugees and asylum-seekers. More people have fled because of fighting or fear that fighting or air strikes may occur where they live. The border between Somalia and Kenya, which tens of thousands of Somalis have crossed to find sanctuary over the years, is becoming more and more insecure, affecting the ability of Somali nationals to seek asylum and protection. Kenya’s stated aim to create a buffer zone in Somalia where Somali refugees could be relocated undermines the fundamental right to seek asylum and the international prohibition on *non-refoulement*. In the Dadaab refugee camps in North Eastern Kenya, which hosts some 460,000 mostly Somali refugees, security has drastically deteriorated. The threat of kidnappings and a recent increase in attacks on Kenyan security forces in Dadaab have restricted aid agencies abilities to provide humanitarian assistance and protection to refugees. In addition, two refugee community leaders were recently killed in Dadaab. The Kenyan security forces have rounded up refugees, and concerns remain about Kenyan police abuses of refugees.

To help improve the protection of civilians and respect and protection of human rights in Somalia, the African Union should:

- Call on AU member states military engaged in Somalia or contributing troops to AMISOM to observe the principle of distinction between civilians and civilian objects, and military objectives at all times, and to take all feasible precautions in attack, and in assessing the expected effects of attack, in order to protect civilians. This includes doing everything feasible to verify that targets are military objectives; using only those means and methods of warfare that can be applied in compliance with the principle of distinction; giving effective advance warning of attacks which may affect the civilian population, unless circumstances do not permit; and respect the prohibition on attacks which may be expected to cause death and injury to civilians or damage to civilian objects which would be excessive in relation to the anticipated military advantage. Such precautions must also take into account the effect that fighting may have on relief operations to support the civilian population, particularly given the acute humanitarian crisis currently affecting civilians in southern Somalia.
- Ensure that all troops from AU member states deployed in Somalia are fully trained in international humanitarian and human rights law, and that all reports of unlawful attacks in Somalia in which AU member states and AMISOM may have been involved are fully, independently and impartially investigated. The results of such investigations should be made public and available to the Somali population. Victims of violations of international law must receive reparation, and anyone, including those with command responsibility reasonably suspected of violating international humanitarian law must be brought to justice in fair trials.
- Ensure that AMISOM's proposed new strategy, concept of operations and rules of engagement are designed in accordance with applicable international humanitarian law, including with respect to new military capabilities envisaged, including air capabilities, and that AMISOM's commitment to stop indiscriminate attacks and to record and investigate civilian casualties are given adequate resources and support. All AMISOM troop contributing countries should fully adhere to AMISOM's «indirect fire policy » and commitment to record civilian casualties, as well as receive training on gender-based violence and on how to prevent sexual exploitation and abuse. The AU must ensure that all AMISOM troop contributing countries respect a clear command and control structure
- Call on all AU member states to respect the UN arms embargo on Somalia, including the obligation to request exemptions for any security sector assistance to the TFG to the UN Sanctions Committee on Somalia. The AU should also ensure that TFG forces receive training on accountable arms management and safe storage, according to international standards and best practice procedures, so as to monitor risks that arms and security equipment may be diverted or misused.
- Call on the TFG to establish and run an impartial screening or vetting mechanism as part of recruitment procedures into its security forces, to ensure that they do not include persons under the age of 18, or persons reasonably suspected of violations of humanitarian law or human rights abuses, pending independent and impartial investigations.
- Call on the TFG to open or complete independent and impartial investigations into all alleged abuses by its forces and allied militia and to bring to justice, in fair trials and without application of the death penalty, those found responsible.
- In order to monitor progress on human rights in Somalia, press the UN to enhance monitoring, documenting and public reporting mechanisms on all violations of

international human rights and humanitarian law committed in Somalia by all parties to the conflict. Demand the establishment of an independent and impartial Commission of Inquiry, or similar mechanism, to investigate and map crimes under international law committed in Somalia and recommend further measures for accountability.

- Call on all African Union Member States to allow entry to individuals fleeing from conflict in Somalia, give them protection and assistance and not to forcibly return any individual to South and Central Somalia. With respect to the situation of refugees in Kenya, call on the international community to open or increase resettlement programmes for Somali refugees in Kenya, to provide support to integration projects for refugees in Kenya, both in refugee camps and in urban areas, and to engage with the Kenyan government to reinforce the protection of refugees against abuses, including abuses by Kenyan security forces.