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UK conference on Somalia must prioritize the protection of civilians and human rights

On 23 February 2012, the UK government is hosting an international conference on Somalia, with senior representatives of some 40 governments and intergovernmental organizations (including Somalia, Ethiopia, Kenya, Uganda, the United States, Turkey, the United Arab Emirates, Nigeria, Sweden, the United Nations, the African Union and the European Union).

Discussions ahead and during the conference aim to enhance international coordination and strategies on piracy, counter-terrorism and stability in Somalia, at a time when military operations in the country have increased and before the end of Somalia's Transitional Federal Government's mandate in August 2012.

Amnesty International presses all participants to make the protection of civilians and human rights the centre of their policies and actions on Somalia. Human rights and the protection of civilians are sidelined in international discussions on the country, despite twenty years of armed conflict in South and Central Somalia and countless civilian victims. For security and stability to improve in Somalia, effective action is needed to address the dire human rights situation and the lack of safety for civilians.

What is the current human rights situation in Somalia?

Somalia has been ravaged by conflict and a breakdown in the rule of law since 1991, and the last five years have witnessed an upsurge in fighting and attacks on civilians. The armed conflict pits Islamist armed groups, mainly al-Shabab, against an internationally recognized Transitional Federal Government (TFG), supported by an African Union peace support operation, named AMISOM (the African Union Mission in Somalia).

Though there is no accurate record of casualties, thousands of civilians have been killed and injured in attacks and hundreds of thousands traumatized by war and violence. Millions have been displaced by conflict. There are currently almost 1.36 million internally displaced persons in the country, and almost 970,000 Somali refugees in neighbouring countries. Conflict, insecurity and restrictions on access for humanitarian organizations have also fuelled a humanitarian and food crisis in Somalia, which worsened in 2011.

Since October 2011, there has been a scale up in military operations in Somalia, aimed at dislodging al-Shabab, which still controls many parts of South-Central Somalia. Kenyan troops crossed into southern Somalia, while Ethiopian troops captured Beletweyne, a border town, on 31 December.

In Mogadishu, after al-Shabab's withdrawal from the capital in August 2011, AMISOM and TFG forces are stepping up military operations in the Afgoye corridor on the outskirts of Mogadishu, where some 400,000 displaced persons live, causing thousands fearing being caught in fighting to flee into Mogadishu.

Increasing military operations have caused more displacement, increased civilians' vulnerability to attacks and the humanitarian crisis and brought more arms into a country already awash with weapons, potentially fuelling further human rights abuses.

Several air strikes, some of which have been acknowledged by the Kenyan government, have caused death and injury to civilians and displacement and 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. On 15 January, another air strike on Jilib is alleged to have killed four children.

Kenyan and Ethiopian armed forces fight alongside militia loosely affiliated with the TFG. Amnesty International has received reports that in some towns captured by these militia, persons have been extra-judicially executed and arbitrarily detained.

In areas of southern and central Somalia under its control, al-Shabab is reported to increase its forced recruitment of children for fighting, in response to the military pressure it is facing. Amnesty International also continues to receive reports of "punishment" killings, including beheadings, 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. On 28 November, al-Shabab announced it was banning 16 humanitarian organizations from areas under their control, claiming they lacked neutrality.

Parts of Mogadishu, despite al-Shabab's withdrawal, have continued to witness fighting between the TFG and AMISOM and al-Shabab. Regular explosions and bombings attributed to al-Shabab, 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.

Civil society and aid actors remain at 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. On 28 January, radio director Hassan Osman Abdi was killed by unidentified gunmen in front of his home in Mogadishu.

Increased military operations in Somalia have also affected Somali refugees and asylum-seekers. The border between Somalia and Kenya, which tens of thousands of Somalis have crossed to find sanctuary over the years, is becoming more insecure, affecting the ability of Somali nationals to seek asylum and protection. In the Dadaab refugee camps in North Eastern Kenya, which hosts some 480,000 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' ability 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.

What does Amnesty International think the international community should do to improve human rights and the protection of civilians in Somalia?

The international community should ensure, at a minimum, that its current policies and actions on Somalia, including its tacit or active support to forces currently engaged in fighting, do not contribute to fuel further human rights violations. It should call on these forces to

respect international humanitarian law at all times, including the obligation to distinguish between civilians and civilian objects and legitimate military targets.

It should also demand that all reports of unlawful attacks in Somalia in which forces they support 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 should receive reparation, and anyone, including those with command responsibility reasonably suspected of violating international humanitarian law must be brought to justice in fair trials.

Amnesty International believes the international community should also take comprehensive measures to start addressing the dire human rights situation for Somalis, which lacks attention.

In order to monitor progress or setback on human rights in Somalia, the international community should call for increased UN 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. It should also strengthen the UN arms embargo on Somalia, to ensure that no weapons or security assistance are misused or diverted.

The international community must take concerted action to tackle the children's rights crisis in Somalia, which threatens the future of the country. Amnesty International documented in a report, *In the line of fire: Somalia's children under attack* (<http://www.amnesty.org/en/news-and-updates/report/children-somalia-facing-war-crimes-2011-07-20>), how children were victims of unlawful attacks, forcibly recruited into armed groups and forces, how girls were forcibly married to fighters and how schools and teachers were targeted for attack.

The international community should initiate action to address wide ranging impunity for decades of human rights violations and abuses in Somalia, some of which could amount to war crimes. Unless impunity is tackled, perpetrators of human rights abuses will have no incentive to stop and others will be encouraged to commit abuses.

The international community should also provide more support and resources to help rebuild the rule of law and the justice system.

Somali refugees and asylum-seekers, who have fled conflict and human rights abuses, must not be penalized by the current military operations in Somalia. The international community must ensure that they receive sanctuary, protection and assistance.

How can human rights monitoring be strengthened?

There is a UN human rights unit working on Somalia, as part of the UN Political Office for Somalia. The international community should expand the resources of this unit to allow it to increase its human rights monitoring, documenting and reporting on Somalia.

The international community should also ensure that the UN human rights unit has political support, and could encourage the UN Security Council to demand more human rights monitoring, particularly at a time when increasing military operations are enhancing risks for the civilian population.

The international community must also take into account all available information of alleged violations of international human rights and humanitarian law, including by TFG and pro-TFG forces, to assess any progress or setback made on human rights and ensure that international support does not, however inadvertently, fuel further human rights abuses.

The international community should also ensure that Somali civil society organizations are fully consulted in the formulation of international policies on Somalia, and that they receive adequate support, in terms of safety and capacity-building.

Why should the UN arms embargo on Somalia be strengthened? Isn't it working?

In a February 2010 briefing on arms transfers and security assistance to Somalia (<http://www.amnesty.org/en/library/asset/AFR52/001/2010/en/86225a8e-1db3-427c-a2ca-03adbf632e87/afr520012010en.pdf>), Amnesty International called on all states to all supplies of weapons, military and security equipment and financial assistance for the purchase of weapons to Somali parties to the conflict until adequate safeguards are in place to ensure that such supplies are not used to commit further human rights violations.

The UN arms embargo provides for exemptions to give security assistance to the TFG, as long as states wishing to provide such support notify the UN Sanctions Committee. Yet, this obligation is not respected by all states. For instance, Kenya and Ethiopia have yet to notify the Sanctions Committee about support they give to TFG-allied militias.

At the UK conference, a call should be made on all 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, and to cooperate with the UN Monitoring Group and the Sanctions Committee.

States should take into account all available information on alleged human rights violations by TFG and pro-TFG forces before providing such assistance. They should ask the UN Security Council to review progress made in the establishment of effective, independent and impartial accountability and oversight mechanisms for all TFG military, security and police forces and affiliated militia.

They should also review any steps taken by 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.

They should also ask for information on steps taken to ensure that militia fighting alongside or on behalf of the TFG respect their obligations under international humanitarian law, including the prohibition on recruiting and using child soldiers, and the principles of distinction and proportionality in their conduct of hostilities.

The UN Monitoring Group, tasked with monitoring the arms embargo, had its mandate expanded in July 2011 to identify persons responsible for attacks on civilians, sexual violence and child recruitment. The international community should ensure that the UN Monitoring Group is properly resourced to fulfil this expanded mandate.

What should be done to improve the plight of children?

Children have been forcibly recruited to fight by al-Shabab on a large-scale, and in some areas in a systematic manner. Such recruitment has been conducted in schools, and teachers have also been targeted by the armed group. Girls have also been used to support fighters, and some have been forcibly married. As military operations step up against al-Shabab, the armed group is carrying out further child recruitment.

The TFG has also been accused of having child soldiers in its ranks, though on a less wider scale than al-Shabab. Children are said to be used mainly by militia affiliated to the TFG. No adequate screening mechanism to ensure that TFG forces do not include children has yet been put in place. Amnesty International is also concerned at the TFG treatment of children who have disassociated themselves from armed opposition groups. There are no adequate demobilisation, disarmament and reintegration programs for these children, and some of them are reportedly detained by TFG security forces without access to independent monitors.

The international community should press the TFG to immediately fulfil its commitment to sign and implement an action plan with the UN to end the recruitment and use of children in armed forces and groups.

It should also demand the establishment of impartial screening mechanisms to ensure that TFG forces and TFG allied militia do not include persons under the age of 18 before supporting the TFG security sector.

The international community should press TFG and pro-TFG forces to treat children captured or disassociated from armed opposition groups humanely, to provide them with the care and protection they require and to give them access to independent monitors. Children should only be detained as a measure of last resort.

The international community should also provide technical and financial assistance for demobilisation, disarmament and reintegration programs for child soldiers, and for the provision of psychosocial support.

What about impunity?

Impunity for human rights violations and abuses is not being addressed by the Somali authorities or by the international community. Calls by international and Somali civil society for a Commission of Inquiry into crimes under international law committed in Somalia have yet to be acted upon. The Somali civilian population is left on its own to bear the brunt of a deadly cycle of violence and impunity.

Yet, the international community has discussed accountability in Somalia with respect to corruption, mismanagement of funds and crimes of piracy. The international community has made substantial efforts to investigate and prosecute those suspected of involvement in piracy.

The international community should demand the establishment of an independent and impartial UN Commission of Inquiry, or similar mechanism, to investigate and map crimes under international law committed in Somalia and recommend further measures for accountability.

How do you think the rule of law could be restored when Somalia is a failed state?

In such a situation of breakdown of the rule of law, the international community must start giving substantial technical and financial assistance to rebuild the rule of law and the justice system. Particular attention must be paid to the building of an effective, accountable police force.

Human rights violations and abuses are mostly not investigated by the TFG and individuals responsible are not brought to justice. Recently, the TFG has made some efforts to carry out investigations into human rights abuses which take place in areas under its control and to arrest suspects, notably in the case of the December killing of a journalist. However, such efforts have mostly not led to criminal prosecutions.

The international community must also press the TFG to start or pursue prompt, thorough and impartial investigations into human rights violations and abuses committed in the areas it controls. States must insist that perpetrators are brought to justice, in fair trials and without the death penalty.