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Technical assistance and capacity-building

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2010]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

The urgent need for protection of civilians and accountability for war crimes in Somalia

“We left because death and injury had become the order of the day. Dead people were scattered everywhere. We could not go anywhere without seeing a corpse. At night we could not sleep because of the sound of bullets.” A young Somali woman interviewed by Amnesty International in Kenya in March 2009

Since March 2009, little has changed for civilians in Somalia and the human rights situation has deteriorated. Armed groups opposed to the Transitional Federal Government (TFG), mainly al-Shabaab and Hizbul Islam factions, currently in control of much of south and central Somalia, are now responsible for the majority of abuses against civilians, in defiance of their obligations under international humanitarian law. The TFG has made positive statements in favour of the respect for human rights, but has done little to make them a reality, partly because it has control on limited territory. The TFG must show Somali civilians that it can implement its commitments and respect international human rights and humanitarian law.

In the areas they control, armed opposition groups are responsible for a pattern of unlawful killings, torture and other ill-treatment, including stoning of women and men to death, public executions, amputations and floggings, using unlawful and arbitrary quasi-judicial bodies. They claim that such acts are committed in order to enforce their own interpretation of Islamic law, or against persons they allege are sympathisers of the TFG. In reality these acts, which are crimes under international law, aim through public displays of cruelty at intimidating and instilling fear in the civilian population.

Reports of recruitment and use of children through coercion or deceit by armed opposition groups into their forces continue, raising fears that this has become a widespread practice. Al-Shabaab factions in particular have encouraged male children and teenagers to join their ranks, have issued public threats against agencies active in children’s education, and have also imposed restrictions on women’s rights, including on their dress code and their freedom of movement.

Armed opposition groups have also imposed drastic restrictions on journalists and civil society activists, issued death threats against them, closed down and occupied their workplace. As a consequence, many journalists and civil society activists have had to flee the country, exercise self-censorship or go into hiding. As a result, information reaching outside observers on the real situation of Somali civilians in areas controlled by armed groups is increasingly limited.

Armed opposition groups have impeded civilians’ access to humanitarian aid in a situation where more than three million Somalia people depend on emergency assistance for their survival. While in 2009 armed opposition groups dismantled many roadblocks manned by TFG forces and armed gangs, armed opposition groups have also been responsible for restricting humanitarian operations, including by making threatening statements against international and Somali aid workers and imposing conditions on humanitarian agencies, such as forbidding the employment of female staff as aid workers. Ten people working in the aid sector were killed in south and central Somalia in 2009. Since December 2009, at least three were murdered.

Armed opposition groups continue to claim that government-allied forces are responsible for the killing of civilians through their shelling of civilian-populated areas. Yet, these armed opposition groups repeatedly use weapons such as mortars, which are inherently indiscriminate when used in densely civilian-populated areas, to attack government-allied forces in cities, endangering civilians living in the vicinity of government-held positions. They use the cover of residential areas to launch attacks, blurring further the distinction between civilians and military targets. Armed opposition groups claimed responsibility for at least three suicide attacks in 2009, including the one in June in a hotel in Beletweyne in which the then Minister of Security and several civilians were killed. Armed opposition groups are making no efforts to distinguish between legitimate military targets and civilians and to mitigate the effects of the conflict on the civilian population.

The contempt for human rights principles expressed by spokespersons of some armed opposition groups has a negative impact on Somali and international efforts to improve the human rights and humanitarian situation in Somalia. International actors can do more to help protect Somali civilians: they should provide full funding to humanitarian programmes in Somalia and in neighbouring countries that host hundreds of thousands of Somali refugees. They should also spearhead and support efforts to address accountability for serious crimes under international law which continue to be committed in Somalia. In this respect, international actors do not put enough pressure on the TFG to respect its own obligations under international law.

The TFG has made positive statements regarding human rights. It made commitments to ensure justice and reconciliation under the 2008 Djibouti agreement. It also signed the first African Convention on the Rights of Internally Displaced Persons in August 2009 and committed to ratify the UN Convention on the Rights of the Child in November 2009. After returning to Mogadishu in February 2009, newly appointed President Sheikh Sharif Sheikh Ahmed asked African Union peace support troops not to respond to armed groups' attacks by shelling the city with heavy artillery, in order to prevent civilian casualties.

These positive statements of intention have not been matched by concrete action by the TFG. Amnesty International recognises that the TFG is in a difficult position since it does not exercise authority on most of south and central Somalia and is repeatedly attacked by armed opposition groups. However, Somali civilians and civil society groups continue to report the killings and injuries of civilians in Mogadishu as a result of shelling by TFG security forces and African Union Mission in Somalia (AMISOM) troops. Local sources have reported to Amnesty International hearing and seeing mortars and other heavy artillery being fired from TFG and African Union bases towards the urban districts of Mogadishu populated and frequented by civilians, where armed groups are based. For instance, the Bakara market, an area of Mogadishu controlled by the armed groups, has been repeatedly shelled, including at day time, in the past six months. Yet Bakara market is frequented by civilians said to come from as far as Afgooye to buy and sell food. TFG and AMISOM troops must immediately cease all indiscriminate or disproportionate attacks, which are prohibited under international law, and cause deaths, injuries, destruction of homes and displacement. These attacks are being exploited by armed groups to feed their propaganda against the TFG and AMISOM.

The international community should publicly condemn such attacks and call for those who order or commit them to be held accountable for war crimes. All international actors involved in supporting the security sector of the TFG should urgently provide technical assistance for the establishment of credible oversight mechanisms over government and allied forces.

Amnesty International welcomes the report of the Special Representative of the Secretary-General on the human rights of internally displaced persons on his mission to Somalia (A/HRC/13/21) and looks forward to the report of the Independent Expert on the situation of human rights in Somalia (A/HRC/13/65). Amnesty International welcomes these two experts' support for the establishment of an independent Commission of Inquiry, or similar mechanism, to address impunity for crimes under international law in Somalia. Concrete steps to ensure accountability should not be further delayed, as they can contribute to break the cycle of violence in which civilians are trapped.

Amnesty International calls on the Human Rights Council to urge all relevant actors to whom the experts' recommendations are addressed to act on them without delay.
