



London Conference on Somalia: Placing Human Rights at the Center of Reform May 6, 2013

Throughout Somalia's armed conflict, successive transitional governments and international actors have overlooked widespread human rights abuses by all parties. The failure to address these abuses and the culture of impunity in which they have taken place has contributed to ongoing conflict and insecurity. A substantial improvement in the respect for human rights and accountability for serious abuses is now essential. Given the scale and nature of the crisis that has wracked the country for two decades, the needs are significant.

The 2013 London Conference is an important opportunity for the new Somali government to convert its positive public commitments into its security and justice reform agendas. The conference offers the government and international supporters the chance to identify and commit to concrete measures that will help to enhance human rights protection and accountability, particularly for the most vulnerable citizens including women, children and displaced people.

The Somali government and its supporters should focus commitments to urgent reforms in the following areas:

Vetting in Security Sector Reform

Throughout the conflict in Somalia, Human Rights Watch has documented serious abuses by the Somali security forces, including the army, police, intelligence agencies, and government-affiliated militia. Abuses documented include murder, rape, torture, arbitrary arrest and detention, and looting. These abuses were committed with almost complete impunity.

For example, a March 2013 [Human Rights Watch report](#) documents the involvement of government military forces and affiliated militia in abuses against the displaced population in Mogadishu, including rape, beatings, looting of assistance, arbitrary arrests and detention, and clan-based discrimination. Victims of abuses told Human Rights Watch repeatedly that they have nowhere to turn to for redress and do not trust the authorities. Creating a relationship of trust between the

civilian population and the security forces, first and foremost with the police, is critical.

Accountability must be central to security sector reform. Clear command and control structures should be put in place and both the army and the police should be appropriately vetted, trained, and held to account for abuses. The responsibility of vetting should be shared between the Somali government and the countries offering training and assistance to recruits.

Army

Vetting measures to remove abusive commanders and individuals from existing forces and new recruits should be an immediate priority. The government should take these short-term steps to send a clear message that abuses will be investigated and abusers will be held to account:

- Government and military officials at the highest levels should immediately issue clear and public orders to ensure that the Somali National Armed Forces (SNAF) and allied militias comply with international humanitarian and human rights law; and
- Suspend SNAF personnel against whom there are credible allegations of abuse until the allegations are properly investigated and appropriate disciplinary or criminal prosecutions carried out.

Medium-term measures should include:

- Establishing clear vetting procedures to identify and remove individuals responsible for serious abuses, including sexual violence, during recruitment and integration of new forces into the SNAF;
- Establishing hiring criteria that includes an individual's human rights record, setting up an information database into which formal and informal information on human rights records can be deposited, and establishing clear complaints procedures;
- Ensuring that all recruits are individually vetted; and
- Ensuring that the human rights and humanitarian law components of trainings given to existing and new recruits is reinforced and includes training on responding to sexual violence and other issues of particular concern.

Establishing an accountable, rights-respecting army will also mean ensuring that children are excluded from these forces. In a [2012 report](#) on abuses against children in Somalia, Human Rights Watch documented the continued presence of individuals under age 18 within the Somali forces, including within government affiliated militia, and highlighted the need to ensure that stringent screening procedures are in place prior to further recruitment or integration.

The government, with assistance of international actors including the United Nations, should therefore:

- Prioritize the speedy implementation of the national action plan against the recruitment of children, signed with the United Nations;
- Establish rigorous and systematic screening procedures to ensure that no one under the age of 18 is conscripted into the armed forces and that all recruits, including those integrated from militia forces, are screened according to the same high-level standards; and
- Cooperate with the United Nations Children’s Fund (UNICEF) and other child protection agencies to demobilize children within government forces and affiliated militias and transfer them to appropriate civilian rehabilitation and reintegration programs.

Police

As part of the reform of the police, the government, notably the Ministry of Interior and National Security, should take similar short and medium-term measures aimed at establishing vetting measures as outlined for the army above. The government should also seek to establish or strengthen codes of conduct, a public complaints unit in which members of the public can file grievances against the police, and an internal police oversight body to investigate misconduct. Such mechanisms will require financial and political support in order to be effective.

In addition, the Somali authorities should ensure that its police can respond to the needs of the most vulnerable members of society. Establishing a competent and accountable police force in Mogadishu, capable of providing basic security and redress, is key and should not be overlooked in the effort to extend security control over new areas vacated by al-Shabaab.

Furthermore, the Somali authorities and donors supporting the police should give special attention to the security needs of women and girls in the process of police reform, particularly by:

- Ensuring that police officers at all levels receive appropriate training on human rights;
- Recruiting more female police officers to act as focal points in police stations;
- Supporting specialized training for police and other security personnel to assist investigations and prosecutions of sexual violence;
- Adopting procedures to protect the confidentiality of persons reporting sexual assault;
- Taking all necessary measures to protect women’s security, particularly at camps for

internally displaced Somalis where they face a significant risk of rape. Ensuring that sufficient, competent, and trained police are deployed to protect these displaced communities;

- Appropriately discipline or prosecute police or other security forces responsible for sexual violence ;and
- After the above measures have been adopted, directing the police to conduct public outreach to strengthen trust in the police so that more cases of sexual violence and other crimes will be reported.

Accountability in Justice Sector Reform

Establishing a justice system in Somalia capable of delivering justice in accordance with international standards both to victims of abuse and to criminal suspects is a top priority. It will require extensive and ongoing attention and support. The recent deeply flawed and groundless trial of a woman who alleged rape by government forces and a journalist who interviewed her has highlighted the many failings of the current justice system. Somali police, rather than investigating the rape allegations, expended their very limited financial resources on discrediting this woman's character. In addition, the April 14, 2013 attack on the Mogadishu court complex underscores the importance of ensuring protection of judges and lawyers, who are often working at great physical risk.

While strengthening the justice system is a long-term challenge, the government can take some immediate steps to improve respect for due process and fair trial rights. The government should:

- Publicly commit to protecting basic fair trial rights of all defendants, including the rights to legal counsel, to presumption of innocence, to present a defense, and to an appeal;
- End trials of civilians in military courts; civilians should only be prosecuted in civilian courts; and
- Immediately impose a moratorium on executions as a first step towards abolishing the death penalty.

While the government has publicly committed to combatting sexual violence, Somali authorities need to take meaningful steps to prevent crimes against women and girls from continuing with impunity. Any justice sector reform needs to effectively address and respond to sexual violence and take into consideration the barriers that women and girls face in accessing justice, including stigma and victimization. The government should:

- Properly fund and support the Office of the Attorney General in its investigations and

prosecutions of sexual violence cases;

- Provide specialized training to professionals to conduct forensic examinations;
- Build the capacity of prosecutors and judges to effectively deal with cases of sexual violence; and
- Revise the penal code and other legislation to ensure that all forms of sexual violence can be appropriately prosecuted and that the punishment is proportionate to the crime.

While the government, and particularly the president and prime minister, have publicly committed to tackling the climate of impunity surrounding the many killings of journalists in the country, much more needs to be done for these commitments to become a reality. Concrete action would send an important message that the new government is committed to the right to free expression and accountability more broadly. The government should:

- Initiate effective and impartial investigations into the killings of journalists, and fairly prosecute all those responsible.

Finally, given the scale and nature of the human rights abuses committed in Somalia, addressing them will require tackling longstanding impunity. Even a significantly strengthened national justice system will not be able to tackle this alone, but will need to be reinforced by international efforts. The government and international actors should therefore:

- Call for and support the establishment of a United Nations commission of inquiry—or a comparable, appropriate mechanism—to document and map serious international crimes committed in Somalia and recommend measures to improve accountability.

International and National Human Rights Monitoring

The establishment of strong and independent oversight mechanisms, both international and national, that are capable of systematically monitoring and reporting on the human rights situation in Somalia is crucial to improving the human rights situation.

International human rights monitoring will enhance information on developments on the ground, inform policy and programmatic responses in all spheres, including in the security and judicial sectors, and build a body of evidence that will be crucial to long-term accountability efforts. It will also help to monitor the new government's progress. The Somali government and key donors should:

- Support an enlarged Office of the UN High Commissioner for Human Rights (OHCHR) presence in the new UN mission and ensure that this presence has sufficient resources,

including staff with expertise on sexual violence, and capacity to conduct significantly increased human rights monitoring and public reporting.

In addition, an active and independent national human rights institution may help to promote and protect human rights at the national level. If the Somali government through the parliament establishes such a commission, it should:

- Ensure that the national human rights commission is set up and functions in accordance with the Paris Principles on National Human Rights Institutions;
- Ensure that the commission has a broad mandate with the power to independently initiate investigations, to have unhindered access to witnesses, documents, and locations, including government officials and agencies, and to set its own priorities without government interference;
- Ensure that commissioners have guarantees of independence, including terms of appointment, tenure and removal clearly specified in law; and
- Dedicate adequate funding and material resources to the commission for it to effectively undertake its responsibilities.

The establishment of such a commission will not in itself contribute to an improvement in the human rights situation, and should not be seen as a replacement to internal oversight mechanisms within the security forces, an independent judiciary, a fair and competent justice system, and international human rights monitoring mechanisms.

Women's Rights

Curtailing violence and discrimination against women should be a top priority. High levels of sexual and gender-based violence persist in Somalia, creating long-term threats to security and to women's health. Women in IDP camps are particularly vulnerable to sexual violence. Along with the security sector and judicial reforms mentioned above, Somalia authorities should:

- Ensure that women are able as a matter of law and practice to equally and fully participate in any future transitional processes;
- Adequately respond to survivors of sexual violence. Health professionals should receive specialized training to provide care and treatment to survivors. The authorities should sufficiently fund treatment including medical, psychological and rehabilitation programs, and legal support; and
- Support civil society organizations that protect and promote women's rights, including those acting on behalf of women's rights defenders.