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**TECHNICAL ASSISTANCE AND CAPACITY-BUILDING**

**Report of the independent expert on the situation of human rights  
in Somalia, Shamsul Bari\***

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\* The report was submitted after the deadline in order to include the most recent developments.

## Summary

There was a general expectation that the human rights situation in Somalia would improve with the relocation of the new Transitional Federal Government to Mogadishu in early 2009. However, President Sheikh Sharif's Government was heavily challenged by hard-line Islamist opposition groups, principally Al-Shabaab and Hizbul Islam, beginning with a significant offensive for control of Mogadishu on 7 May 2009. Repeated, inaccurate and indiscriminate exchanges of mortar fire between all parties have resulted in numerous civilians being killed and many injured, with bombs landing on civilian homes, marketplaces and mosques, as well as causing tens of thousands to flee the capital and other areas of the conflict. The extreme interpretations of sharia law by armed opposition groups, mainly Al-Shabaab and Hizbul Islam and local clan militias in control of Kismayo, has led to severe corporal punishment – for example, amputations and stoning – that illustrates the extent to which violence is still substituted for the rule of law in many areas. Grave violations committed against women and children have been reported throughout the country, including the recruitment and use of children by all parties to the conflict. Reports of killing, maiming and sexual and gender-based violence in the context of the conflict are also rife.

Troops of the African Union Mission in Somalia (AMISOM) which guards Mogadishu and key Government installations have frequently been targeted by the Islamists, the worst such incident occurring in September 2009 when the Deputy Force Commander and at least 17 peacekeepers were killed in coordinated suicide attacks on AMISOM troops. As the latter retaliated against the attacks, many of which were launched from civilian populated areas such as Baakara Market, there were reports of civilian casualties resulting therefrom and from the opposition forces' counter-attacks. There was also significant displacement of population from the capital. Journalists and human rights defenders in all parts of Somalia, including in Puntland and Somaliland, continue to face increasing risks, severe threats and targeted killings for their work. The most devastating of these attacks was the suicide bombing on 3 December 2009 of the graduation ceremony of medical students in which Government ministers, doctors, journalists, medical students and teachers were killed.

The independent expert welcomes the Government's recent decision to ratify the Convention on the Rights of the Child, but reiterates his concern about the continuing violations of human rights and humanitarian law in Somalia. He believes that the key tasks of the Government include the establishment of the rule of law and good governance in Somalia. This will help generate popular support for its efforts to ensure peace and reconciliation. He urges all parties to the conflict to come together for the sake of peace in Somalia, where the people have suffered one of the worst nightmares in history from which they deserve to be released. He stresses the negative impact of piracy, mixed migrations and related human trafficking in Somalia, which could undermine the fragile stability of Puntland and Somaliland. He therefore urges the international community to deal with the ground realities of these phenomena with a holistic approach; highlights the urgent need to establish an appropriate mechanism to combat impunity and hold the perpetrators of the potential war crimes and massive human rights and humanitarian law violations accountable; recommends that the United Nations moves the hub of its activities from Nairobi to the safer areas in Somalia; and urges the international community to provide the necessary funds to the Government and to the United Nations to enable them to fulfil their various responsibilities.

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## **I. INTRODUCTION**

1. The present report is submitted pursuant to Human Rights Council resolution 12/26 of September 2009, in which the Human Rights Council expressed its deep concern at the human rights and humanitarian situation in Somalia and renewed the mandate of the independent expert for one year, requesting him to submit a report thereon to the thirteen session of the Human Rights Council in March 2010. To this end, the independent expert undertook his fourth field visit to Kenya and Somalia from 12 to 24 January 2010. He visited Hargeisa in Somaliland and Bossaso and Garowe in Puntland. In Kenya, he held meetings in Nairobi and visited the Dadaab refugee camps. He was, unfortunately, unable to visit Mogadishu and the south-central regions of Somalia.

2. It may be recalled that the independent expert had presented his third report to the Council in September 2009. The present report covers the period from September 2009 to February 2010. It is based on the independent expert's meetings with Somali stakeholders, members of the Transitional Federal Government and Parliament, civil society organizations, refugees and the United Nations.

3. The independent expert is grateful to all interlocutors, as well as to the United Nations Political Office for Somalia (UNPOS), OHCHR, the United Nations Department of Safety and Security, UNHCR, the United Nations Development Programme (UNDP) and the United Nations Children's Fund (UNICEF) staff for their hospitality and logistical support during his stay in Nairobi and his trips to Hargeisa, Bossaso and Garowe.

## **II. MEETINGS AND INFORMATION-GATHERING**

### **A. Meetings with the Transitional Federal Government**

4. The visit of the President of Somalia to Nairobi during the independent expert's stay in the city gave the expert the opportunity to meet the President for the first time since the latter assumed office. The independent expert also had separate meetings with the Minister for Gender, Women and Family Affairs, Fauzia Mohamed Sheikh, who is also the Focal Point for Human Rights, and the Minister for Finance and Deputy Prime Minister, Sharif Hassan Sheikh Aden. He expresses his gratitude to them for agreeing to see him despite their tight schedule.

5. The independent expert conveyed to the President his concerns about the continuing human rights and humanitarian law violations in Somalia and underlined the importance of the role of the Government in protecting the people. Despite the Government's limited resources and capacity, there is a need for it to demonstrate that it is nevertheless determined, committed and able to lead the country out of the conflict and bring peace, reconciliation and recovery.

6. The President shared the expert's concerns but underlined the many challenges his Government faced. He said that human rights would continue to be violated for as long as war prevailed in Somalia and peace and stability had not returned. The primary need for his country, therefore, was to improve the security situation; this in turn would ensure protection of the population and improve their human rights. There was also a need to build the capacity of the

Government to discharge its various responsibilities. The Government needed more troops to end the insurgency, as well as the support of the international community both financially and in terms of technical support.

7. The Minister for Gender, Women and Family Affairs and the Minister for Finance echoed the views of the President. They emphasized that the Government was awaiting fulfilment of the pledges made by the international community at the International Conference on Somalia held in Brussels in April 2009 to fund Government activities.

8. The Government hopes that the tide would turn soon in the fight against anti-Government elements, particularly Al-Shabaab. It is in the process of adding more troops to its security forces and training them properly; some troops have already been trained in neighbouring countries. The Government's efforts are hampered by a lack of resources, however, and sometimes the troops cannot even be paid their salaries or provided with sufficient food allowance. Nevertheless, the Government hopes to take on the enemy in the near future.

9. The Government has plans for improving the education and health system in the country; for example, the Government hopes to open more educational institutions, including in camps for internally displaced persons (IDPs). Such institutions would help prevent children in the camps joining Al-Shabaab. Given many people's financial difficulties and the need to survive in a war-torn country, children's primary reason for joining Al-Shabaab is to feed themselves and help their families. Al-Shabaab is taking advantage of this situation and recruiting children from poorer families by offering them money. The Government also wants to create jobs in IDP camps so families can support their children rather than send them to join opposition forces. It is also seeking to return IDPs.

10. The Government believes that Al-Shabaab is fast losing the people's trust, especially since the suicide bombing at Shamo Hotel in December 2009, during which innocent people and children were killed. People saw how Al-Shabaab was destroying mosques, attacking symbols of indigenous Sufi culture and killing people in the name of jihad. Al-Shabaab is planting fear into the minds of the people in areas under their control and receiving support from Al-Qaida and other unpopular foreign criminal elements. The Government is thinking of creating human rights courts that would help people follow up their cases against the perpetrators of human rights violations. The Government's removal of the heads of the security forces and police demonstrated the determination of Government to clean up the administration. The ratification of the Convention on the Rights of the Child is under way.

### **B. Meetings with United Nations officials and others**

11. There is a general consensus among United Nations officials that the survival of the Transitional Federal Government for one year in a very challenging security situation is in itself a significant achievement. The Government has undertaken a number of initiatives which showed that it has started to take up the functions of State seriously. The initiatives include: relocation of the new Government to Mogadishu; formulation of an annual budget for Somalia for the first time in years; collection of revenue internally; the launching of a radio station, etc.

12. Additionally, the Government has sought dialogue and reconciliation with the armed opposition groups. Partial success has been achieved in this regard, but not enough to transform the political arena. This approach and the concomitant resilience of the Government in withstanding and repulsing the military offensives of the armed opposition can be said to have broken the back of the ideological thrust of the religious extremists that seek to overthrow the Government. The Government's policy in terms of reconciliation and reaching out to people and opposition forces, as well as the development of security-sector institutions and a coordination mechanism with the international community, was contained in a set of documents prepared by the Government and presented to the meeting of the International Contact Group on Somalia in Jeddah, Saudi Arabia, in December 2009. The preparation of such documents shows the Government's maturity.

13. The Government is engaged in speeding up the accommodation and integration process with Ahlu Sunnah, as well as bringing the reconciliation process to local level and engaging different sections of the community, including the diaspora, by reporting on and explaining the Government's programmes and priorities. The Government has also made known its readiness to approach and negotiate with all willing armed opposition groups. All this work requires time to produce result. The international community must therefore continue its support to the Government and, more importantly, provide the financial and other assistance the Government needs to succeed in this regard.

14. The lack of necessary support from the international community to the Government is a matter of serious concern and threatens its survival. The infighting between various groups within the Transitional Federal Government is another matter of concern. The declaration of support by Al-Shabaab to the insurrection of Al-Huti Shiaist rebels in Yemen should be taken seriously by the international community. Regionalization and internationalization of the Somali conflict could rapidly affect all countries in the Horn of Africa.

15. It will not be possible to restore peace and security in Somalia by watching passively the deteriorating security, humanitarian and human rights situation. A policy of simply containing attacks against Mogadishu will not last long. The capacity of the Government to protect civilians – including women, children, IDPs and minorities – against the wave of violence and harsh imposition of sharia law by the Islamist forces (leading to cruel, inhuman and degrading treatment on a daily basis) must be helped to develop rapidly.

16. A new development in the fight between the forces of the Transitional Federal Government and Al-Shabaab is the latter's professionalization and internationalization as a result of influx of foreign jihadists coming from Afghanistan, Pakistan and the Gulf countries. The outsiders are reportedly taking over from Somali nationalist jihadists. The bomb attack at the Shamo Hotel in Mogadishu during the graduation ceremony of medical students is said to have provoked a split within the movement. The attack was reportedly launched by foreign fighters against the will of Somali nationalists.

17. There are credible reports that the training camps of the jihadists are well-organized and young boys are being recruited from Madrasas and Koranic schools to be trained and enrolled as fighters. An appalling new dimension of the conflict is the involvement of young boys from the Somali diaspora, mainly from Minneapolis in the United States of America and the Nordic countries. It is troubling that the perpetrators of the two recent attacks were from the diaspora

and those behind these attacks did not hesitate to claim responsibility for their actions. This new strategy of Al-Shabaab is probably to replace local clan-affiliated leaders with foreign jihadists, which might deepen the split within the extremist Islamist movement.

18. Al-Shabaab is more focused on the training needs of its troops than the Transitional Federal Government. Its training camps for Somali youths are better organized. Government troops are not paid regularly and some of them even sleep under trees. There is a need for more troops simply to defend Mogadishu properly. To achieve even this, the proposed short-term goal of the Government to have 10,000 troops ready soon will be insufficient unless there is support from the major clans.

19. There is a need for more coordination among and within the United Nations agencies. Some feel that the commitment of the United Nations to the people of Somalia would be better demonstrated if its offices serving Somalia from Nairobi were to move to Somalia itself. A positive development in this regard is the recent assessment by the Department of Safety and Security of possible relocation of the United Nations to Mogadishu and identification of an area in the Somali capital where a secure United Nations compound could be built close to AMISOM. The United Nations agencies should move away from the so-called “Nairobi syndrome”, which means that United Nations operations for Somalia based in Nairobi are actually working *on* Somalia rather than *in* Somalia.

20. On the humanitarian and human rights front, the situation of women and children had become more precarious as they bear the brunt of the Somali conflict. Somalia has one of the highest maternal mortality rates (14–17 per cent) due to the disintegration of public medical institutions. Women’s literacy is around 12–14 per cent, while 80 per cent of young girls married early. Although the Somali Constitution of 1991 criminalized female genital mutilations, 97 per cent of young girls still face such mutilations.

21. There are no credible statistics on violence against women. Cases of gender-based violence recorded by women’s organizations, support programmes and others show that reports of rape are increasing in some areas, though this could be due in part to a greater willingness to report. As Somali women are more dynamic in the marketplace since they have to earn a living and support their family, they are exposed to vulnerable situations. Women are often victims of rape by warlords.

22. Any peace agreement in Somalia should give greater voice to women. No amnesty should be allowed for violence against women that qualifies as crimes against humanity, in line with Security Council resolutions 1325 and 1820. Women are often the victims in clan infighting. The time has come for women to be at the centre of the peace process. The Government should announce a clear policy for the protection of women and children.

23. The main concern regarding children is their recruitment by all parties to the conflict. There are, however, some positive developments. Despite insecurity in the south-central region, child health days organized by UNICEF reached, for the first time ever, children and women in the infamous Afgoye Corridor, considered to be world’s most densely populated IDP settlement, and six districts of Mogadishu. Some one million Somali children were vaccinated in 2009, which would not have been possible without the cooperation of all, including the opposition forces.

24. By mid-2009, over 11,000 children were enrolled in community schools in Mogadishu and 33,000 in Afgoye, the two most war-affected regions in Somalia. This was a 100 per cent increase in enrolment since the end of 2008 and was possible largely because most of the actors involved had cooperated. There is also significant community support for UNICEF activities, even in war-affected areas. Such experience shows that community-based approaches have a better chance of success in Somalia. There is a need, therefore, to involve the people and civil society in finding solutions to the country's long-standing problems.

25. Developments in relation to food security, particularly in the context of drought in some areas of the south-central region, are matters of serious concern. The situation is compounded by restrictions imposed by Al-Shabaab on the World Food Programme (WFP), resulting in the suspension of its humanitarian assistance programme for vulnerable populations. This suspension was triggered by the Al-Shabaab attack on WFP offices in August 2009 in Buale and Wajid, where seven international staff were posted. Thereafter, WFP continued working using national staff only; however, new developments soon led to their withdrawal as well.

26. Following the above incident, an 11-point list of demands was issued by Al-Shabaab, which included a number of restrictions to be placed on the local population. These included banning of women from working for the United Nations and payment of USD 30,000 every six months for the security of United Nations staff. The United Nations as a whole rejected these conditions. As a result, the central shura of Al-Shabaab issued a directive whereby, as from 1 January 2010, no food would be allowed in from abroad. Only locally procured food would be permitted. On 18 December 2009, WFP decided to suspend its operation in the south-central region.

27. An important development in recent months has been the emergence of new group dynamics of the Islamist forces. The conflict between clan dynamics and the moderate Sufi tradition of Islam, on the one hand, and the stern Wahabi/Salafi tradition of Islam that was being imposed in urban areas by jihadists from outside, on the other, are important elements to bear in mind in understanding the evolving situation in south-central Somalia.

28. Two new dimensions are being introduced by the Islamist forces to the conflict in Somalia: international jihad elements in Somalia are being linked to the Al-Huti insurrection in Yemen and the Al-Quds Brigade of Palestine; and jihad is being used as a political tool and the Al-Shabaab operations are being professionalized. Their operations are now planned well in advance and implemented with greater precision and brutality. Such professionalism was not present in 2008.

29. Al-Shabaab appears to be operating not just within the traditional clan system in Somalia but also by accommodating minorities that lack the protection of the major clans. It is also promoting inter-ethnic marriages. Its ally Hizbul Islam controls access to the Afgoye Corridor. It also controls the port city of Kismayo and is generating income by imposing local taxes and levies on the international khat trade. Al-Shabaab's relationship with the local population varies from location to location. Although it has managed to gain support of the local population in many places, its extreme interpretation of sharia law (including corporal punishment imposed through summary, if any, proceedings and the strictest dress code), have alienated the sympathy of women in particular. It has taken over United Nations property and premises in many places and is doing business with its equipment. There are indications that Al-Shabaab is cash-starved.

30. The regionalization and internationalization of the Somali conflict with the introduction of Al-Qaida elements and the impact of piracy-related activities in Puntland could be a threat to international peace and security. Somalia for Yemen is becoming like Pakistan for Afghanistan.

### **C. Meetings with refugees in Dadaab, Kenya**

31. The independent expert's talks with newly arrived refugees from Somalia at the Dadaab refugee camps in Kenya were, as before, his main source of first-hand information on the situation in Mogadishu and the south-central region. His other source was newly arriving IDPs in Bossaso, Puntland.

32. During his previous visits to the Dadaab camps, refugees had expressed a rather positive view of hard-line Islamists. During this visit, the expert was struck by the anger refugees felt towards such Islamists. Women were particularly vocal in opposing their extreme interpretation of sharia law, corporal punishments – including floggings and amputations – and the requirement for women to cover their faces fully. They felt such an interpretation was in conflict with Somali culture and the Islam to which they were accustomed. Therefore, they did not at present see any alternative to the Transitional Federal Government. If Al-Shabaab took control of Mogadishu and the south-central region, none of the IDPs would return to those areas. Many had fled the region to protect their children from forcible recruitment by Islamists. They warned that such recruitment could spread to the refugee camps.

33. The refugees with whom the independent expert spoke called for greater military and financial support for the Government from the international community. They urged the expert to seek support for the Government to create job opportunities in Somalia, which would relieve the situation for the population.

34. The refugees also called for higher education opportunities for young boys and girls who had completed their secondary schooling in the camps. In this respect, the independent expert noted with appreciation that, in line with his previous recommendation, the World University Service of Canada had provided 28 scholarships to Somali refugees in 2009. Similarly, Egypt and Malaysia had provided the Government with a number of scholarships for Somali students.

35. As in the past, the refugees once again emphasized the importance of being involved in the peace process. The independent expert was heartened to hear Somali refugees claiming that, while their country was experiencing war and violence, they were practising democracy and respect for human rights in the camps, as representatives were elected from within communities and all decisions were taken after free and fair discussions prior to their endorsement by UNHCR.

36. According to UNHCR reports, there are presently some 310,000 Somali refugees in Kenya (another 163,000 in Yemen, and about 100,000 in Djibouti, Ethiopia, Eritrea and Uganda, among others). New arrivals in Kenya had continued unabated, although the numbers were not as high as one year previously. In December 2009, some 3,329 refugees arrived in Kenya, while the corresponding figure in January 2009 was 8,894 (2,134 arrived in Yemen in December 2009). The single greatest reason given by the refugees for seeking refuge abroad was insecurity.

### **III. DEVELOPMENTS IN POLITICAL, SECURITY AND HUMANITARIAN FIELDS**

#### **A. Political developments**

37. The Transitional Federal Government celebrated, on 29 January 2010, its first anniversary as a government of national unity in Mogadishu. On this occasion, the President highlighted the achievements of the transitional federal institutions, noting that significant advances had been made in re-establishing the Somali security forces and institution-building. He announced Government plans in 2010 to look to strengthening institutions providing essential services, such as education and health. He reiterated his call to all Somalis to join the peace process.

38. On 15 December 2009, the High-Level Committee established under the Djibouti peace process met in Nairobi, chaired by UNPOS. The Somali delegation was led by the Prime Minister. Participants discussed the Government's initiatives to engage groups still outside the peace process. They also discussed the Government's preparation of a six-month budget and its efforts to finance some of its programmes through its own resources. They underlined the critical role of security stabilization as a precondition for successful implementation of humanitarian and recovery programmes in the country. The meeting further welcomed the documents that the Government had prepared for the International Contact Group meeting which subsequently took place in Jeddah, Saudi Arabia, on 17 December 2009 under the auspices of the Organization of the Islamic Conference and Saudi Arabia. Over 120 delegates from Governments and institutions attended the meeting.

39. As a follow-up to the Jeddah meeting, the Special Representative of the Secretary-General for Somalia, accompanied by the Commissioner for Peace and Security of the African Union, visited Mogadishu on 25 January 2010. They discussed with the Government a wide range of issues, including the international community's support to Somalia, human rights, the fight against impunity and humanitarian assistance.

#### **B. Security situation**

40. The renewed fighting in Mogadishu has once again exposed the vulnerability of the civilian population – especially women and children – to violence and inhuman suffering. As in the past, there have been allegations of the use of improvised explosive devices and indiscriminate firing of mortars into areas populated or frequented by civilians by all parties to the conflict, without respect for provisions of international humanitarian law. As a result, civilian deaths and casualties, including of women and young children, have been significant. Massive displacement of the population has continued, with access of the affected population to humanitarian assistance restricted.

41. On 3 December 2009, hard-line Islamists launched one of their most brutal attacks targeting prominent Somalis, including Government ministers, students and journalists. The

attack took place in the meeting hall of Shamo Hotel in Mogadishu, where hundreds of people were attending a graduation ceremony, only the second in 20 years. The independent expert strongly condemned the attack in a public statement.<sup>1</sup>

42. At least 30 people were killed and 80 injured in Somalia following violent confrontations between various factions from 29 December 2009 to 5 January 2010. Six people were reported to have died, while 50 more were injured, when Al-Shabaab allegedly fired mortars at the presidential palace in Mogadishu on 1 February 2010. On 30 January 2010, at least 19 people, among them women and children, were reported killed when Al-Shabaab attacked Government and African Union bases in Mogadishu.

### **C. Humanitarian situation**

43. The humanitarian situation in Somalia continues to be severely affected by the ongoing fighting, particularly in the south-central region. Factors which continue to drive the protracted and complex humanitarian emergency in Somalia include the following:

- Armed conflict in the south-central region which creates generalized insecurity and conditions that increase criminality and protection concerns, all of which lead to a reduction in access for humanitarian actors. Eight humanitarian aid workers were killed between January and October 2009 and ten are still being held captive in Somalia.
- Significant internal population displacement, particularly in and around Mogadishu and along the Afgoye Corridor, owing to conflict, with increasing displacement due to drought and loss of livelihood in other parts of Somalia. As a result of the major attack launched in May 2009 by hard-line armed groups, the Afgoye Corridor has become home to an estimated 360,000 IDPs. It is reported that over 150,000 of these IDPs have arrived in the corridor since May 2009, mainly fleeing Mogadishu-based violence.
- An economic crisis prompted by a devalued currency, continuing high food prices and a sharp decrease in remittances from the diaspora; and
- A severe drought in parts of the south-central region that expanded northward into Somaliland and Puntland, affecting a large number of pastoral and agro-pastoral communities.

44. On 2 February 2010, UNHCR reported a sharp rise in violence in Somalia in January which regrettably left nearly 260 civilians dead, in addition to uprooting over 80,000 and causing widespread destruction. According to UNHCR, many IDPs are sleeping in the open with little shelter and water. There are growing concerns about health conditions of particularly vulnerable groups such as children, women and the elderly.<sup>2</sup>

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<sup>1</sup> See <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9664&LangID=e>.

<sup>2</sup> See summary available from <http://www.unhcr.org/4b6819bc9.html>.

#### **IV. HUMAN RIGHTS SITUATION IN THE SOUTH-CENTRAL REGION**

45. The new Transitional Federal Government was greeted initially with some optimism by the local population in Mogadishu in January 2009. There was general expectation that the human rights situation would improve. However, President Sheikh Sharif's Government was heavily challenged by hard-line Islamist opposition groups, principally Al-Shabaab and Hizbul Islam, beginning with a major offensive for control of Mogadishu on 7 May 2009. Outside Mogadishu, which was itself only partly controlled by Government forces, alliances between and within armed groups changed constantly, resulting in a continuing volatile situation in south-central Somalia. In some areas not controlled by either Al-Shabaab, Hizbul Islam or the Transitional Federal Government, local administrations were set up by local communities, where the situation was slightly better.

46. As the fighting between the Government and the armed Islamists (and in some places within the armed groups) was primarily concentrated in the south-central region, it is there that most of the human rights violations occurred. The spillover effect was also felt in the north.

47. In the absence of an effective central Government and in the context of ongoing armed conflicts, civilians, especially women and children, continued to suffer from indiscriminate attacks and retaliatory acts from both sides. The continuous flow of arms to all parties to the conflict and the lack of accountability for serious violations of human rights and humanitarian law exacerbated the culture of impunity. Below is a summary of human rights violations suffered by the population in the south-central region grouped under four broad categories.

##### **A. The right to life and physical integrity**

48. The horrific attacks by hard-line Islamists during the period under review left a large number of persons dead and wounded. The most devastating of such attacks was the suicide bombing of the graduation ceremony of medical students, mentioned earlier, on 3 December 2009. Protection of civilians in the conflict thus remains one of the most serious concerns in relation to the right to life and physical integrity. Conducting hostilities in an urban area, with Al-Shabaab taking up positions and firing from civilian areas, and retaliatory fire from Government forces supported by AMISOM inevitably increased the risks to the civilians. There have been allegations that the principles of proportionality and of only attacking clearly identified military targets have not been respected. The introduction of suicide-bombing by the insurgents has added a new dimension to the conflict.

49. The AMISOM troops who guarded Mogadishu and key Government installations were themselves frequently targeted by the Islamists. The worst incident of this kind occurred in September 2009 when the Deputy Force Commander and at least 17 peacekeepers were killed in coordinated suicide attacks on AMISOM troops. Retaliatory attacks by the latter reportedly also caused civilian casualties.

50. To topple the Transitional Federal Government at any cost, the Islamist forces were reported not to have spared even hospitals and the surviving medical institutions in Mogadishu. It has been reported that, on 25 January 2010, they carried out a vicious attack on a hospital behind Mogadishu Airport run by AMISOM, killing innocent Somali patients. This was reportedly the second attack on this health centre which treats Somali civilians.

### **B. Freedom of opinion and expression**

51. As in most conflict situations, freedom of opinion and expression have become a particular victim in the south-central region. To muzzle the media, targeted attacks by the Islamist opposition have claimed the lives of media executives, reporters, photojournalists and cameramen working with electronic media. Large numbers of journalists have also been wounded and arrested.

52. According to the National Union of Somali Journalists, in 2009, nine journalists were killed either in the line of duty or in targeted, brutal attacks, making Somalia the most dangerous place for journalists in Africa. Seven out of the nine journalists were killed in Mogadishu. One was killed in Afgoye and another in Beledweyne. A total of 12 journalists were wounded and 15 others arrested in Somalia in 2009. Another 100 journalists reportedly received death threats, causing many of them to leave their respective areas or to exercise self-censorship.

### **C. Violence against women**

53. Domestic violence victimizing women continues to be a major problem in all parts of Somalia. Women victims of sexual and gender-based violence have no functioning judicial system to which they can turn. Rape and other forms of sexual and gender-based violence are dealt with by clans as a civil dispute, not involving the victim, and are often solved by either the payment of blood money or a forced marriage between the victim and the perpetrator.

54. Women reportedly continue to face cruel, inhuman and degrading treatment on a daily basis, particularly in Al-Shabaab-controlled areas. On 18 November 2009, according to reports from a village near the town of Wajid, a 20-year-old divorcee woman accused of committing adultery was taken to an open area where she was buried up to her waist and then stoned to death in front of a large crowd.

55. It may be mentioned in this connection that men are also subjected to inhuman and cruel treatment for their illicit relationships with women. In November 2009, a man was stoned to death for rape in the port town of Merka. Under the Al-Shabaab's interpretation of sharia law, anyone who was ever married – even a divorcee – who has an affair, is liable to be found guilty of adultery and punished by stoning to death. Following this incident, the independent expert issued a public statement and strongly condemned executions by stoning in Al-Shabaab-controlled areas, urging all Islamist groups and religious leaders to abide by human rights and international humanitarian law obligations.

#### **D. Children's rights**

56. The major violation of human rights of children is the recruitment of child soldiers by all parties to the conflict in Somalia. The Islamists normally recruit them from Madrasas and Koranic schools. A survey commissioned by UNICEF revealed the alarming scale and nature of child recruitment. Children are being recruited, even for use on the front line, and are the victims of rape and other forms of sexual violence. Children's education continues to suffer as more and more schools close as a result of the conflict, especially in Mogadishu.

57. Despite this grim picture, the good news is that UNICEF efforts benefited some 1.8 million people in 2009, mostly children, with basic health and nutrition services provided through, inter alia, a network of maternal and child health centres. Child health days – including an essential life-saving health and nutrition package – benefited over 1 million children under 5 and 800,000 women of childbearing age. These interventions were able to reach even most difficult areas, such as Afgoye and parts of Mogadishu, in south Somalia. UNICEF also supported access to quality education for more than 157,000 emergency-affected children by providing school supplies and textbooks.

### **V. HUMAN RIGHTS SITUATION IN PUNTLAND**

#### **A. Meeting with the Puntland Government**

58. In the absence of the President of Puntland, the independent expert met with the Vice-President, Abdi Samed, and the entire cabinet on 20 January 2010. The independent expert believes that their readiness for such a meeting could be taken as evidence of their commitment to his mandate. The discussions were focused primarily on the human rights situation of IDPs, the policy response of the Government to piracy and human trafficking.

59. Out of 1.5 million IDPs in Somalia, Puntland hosts 104,000. The Vice-President reiterated the commitment of the authorities to continuing to welcome them; however, with limited resources, Puntland felt overburdened with IDPs and refugees and asylum-seekers from Ethiopia and Eritrea. The Puntland Government sees the new arrivals as a major security threat in the context of infiltration of hard-line Islamists from the south. It claimed that some IDPs had committed politically motivated assassinations. This led the Government at one point to ask IDPs to return to places in the south of the country where there was peace. The independent expert urged the Government to continue to protect the rights and freedoms of IDPs and drew attention to the report of the Representative of the Secretary-General on the human rights of internally displaced persons, who visited Somalia from 14 to 21 October 2009.<sup>3</sup>

60. With regard to piracy off the Somali coasts and the huge sums of money it generates through ransom payment, the Puntland Government considered that it posed a threat not only for Somalia but for the region as a whole. Millions of US dollars are paid to organized pirates in

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<sup>3</sup> A/HRC/13/21/Add.2.

ransom, who see this as a lucrative industry compared to spending many weeks at sea in search of fish. With poor or no Government patrolling, the Somali coast is today home to heavily armed pirates who capture maritime fleets or fishing boats for ransom.

61. The effect of piracy and the income it generates on a pastoralist society such as Somalia can be well imagined. In a society where the weight of tradition is used to regulate social life, piracy is helping to destroy social structures. Pirates who earn a lot of money are playing an increased role in the society that has led, inter alia, to trafficking in persons, in particular of women and young girls. The pirates' connections with the clan system undermine the efforts of the local authorities to hold them accountable. Advocacy activities engaging community leaders, traditional elders and Islamic scholars to prevent new recruitment and convince pirates to engage in a normal social reintegration have been undertaken by the Government. More than 200 pirates have been arrested and 21 boats, 8 vehicles and large quantity of arms and ammunitions confiscated from pirates. The Puntland authorities have managed to free hostages and repossess fishing boats captured by the pirates belonging to neighbouring Yemeni and Omani fishermen. The political will of Puntland is not sufficient to fight against the phenomenon unless the international community is committed to dealing with the realities on the ground, including the protection of the right to Somalis to fish freely in their water and develop accountability mechanisms against foreign vessels dumping toxic and nuclear wastes in Somali waters.

62. With regard to human trafficking, thousands of Somali teenagers flee war and chaos in south-central Somalia and sail to Yemen, where officials who have long welcomed Somali refugees are now concerned that extremist elements could find growing Somali refugee camps in Yemen a fertile ground for recruiting and human trafficking. Human smuggling is thus a major concern for the Puntland authorities. It is attracting vulnerable IDPs and illegal migrants from Ethiopia and Eritrea to choose this path.

63. The independent expert was pleased to learn from his meeting with Abdi Yasin, the Deputy Minister of Interior of Puntland, whom he met separately in Bossaso, that the latter had not only read the expert's most recent report to the Human Rights Council, but also taken action to deal with the concern the expert had expressed therein about the terrible detention conditions of the central prison in Garowe, in particular keeping prisoners in shackles. Concerning IDPs, he informed the expert that young pastoralists who once used to walk long distances behind their camels in the vast pastures of Somalia were now playing with millions of US dollars generated by piracy. The consequence of this on Somali society is a matter for serious reflection by all concerned.

## **B. General comments on the human rights situation in Puntland**

64. It appears to the independent expert that the Government of Puntland has made some significant achievements in reorganizing police and security forces and shown its commitment to rule of law and democracy. However, a continuous influx of new arrivals of IDPs from the south-central region, piracy and human trafficking are challenging the stability of Puntland. Whatever the reason, the high-handedness of Government's response to what it considers to be threats emanating from Islamist infiltrators coming from the south remain a matter of concern. There have been reports of arrest/harassment of IDPs, refugees, asylum-seekers, journalists and those involved in the media.

65. From the independent expert's meeting with representatives of Puntland civil society, he learnt about the gaps that existed with regard to human rights, rule of law and access to justice. He was pleased to learn that, with UNDP funds provided under a project, a team of 15 lawyers and 16 paralegals have been employed to improve access to justice for vulnerable groups, particularly through monitoring human rights violations committed against minorities, IDPs, economic migrants and refugees. One representative raised a concern about the limited capacity of the judiciary when the region was witnessing increased criminality generated by the influx of mixed migrants and related human trafficking.

66. Only a limited number of judges are trained to apply the criminal law inherited from Italy. Murder cases are more often than not dealt with under sharia law. The same judge could decide to apply both the Italian-inherited criminal law and sharia law in a case. While the majority of the population appears to be in favour of the application of sharia law, the issue of harmonization of the various Somali laws appears not to be a priority. Minorities who lack the protection of the major clans are likely to be victims of the discrepancies between customary, criminal and sharia law.

67. From his visit to an IDP camp in Bossaso, the independent expert learnt that, while the living conditions in the camp, like those of the local population in the vicinity, remain harsh, the relative stability of Puntland provides the IDPs with opportunities to improve their social and economic conditions. For the women and children in the camp (who are in the majority), the lack of physical security, rape and other instances of sexual and gender-based violence in and around the settlements and domestic violence are reported to be common. Access to primary education for internally displaced children and health care at the General Hospital of Bossasso remain limited. Despite this, however, many IDPs said they preferred the durable solution of local reintegration to risking travelling to Yemen or returning to the south of the country.

## **VI. HUMAN RIGHTS SITUATION IN SOMALILAND**

68. During his visit to Somaliland, the independent expert had the opportunity to meet with the Minister of Justice, the Minister of Interior, the Speaker of the House of Elders, members of civil society organizations and the President of the Somaliland Human Rights Commission. He also visited the Mandhera prison outside Hargeisa and interacted with students of Hargeisa University. These exchanges, in addition to briefings from United Nations agencies, provided a good insight into the human rights situation in Somaliland.

### **A. Access to justice and rule of law**

69. The independent expert expresses his gratitude to the Minister of Justice for his frankness in discussing the human rights of IDPs, refugees and asylum-seekers and some discrepancies relating to rule of law and access to justice. The Minister sought to underline the Government's efforts to improve access to justice. He stated that there were now some 100 judges employed across Somaliland. The judges resort to a combination of civil, customary and sharia law, but only a small number of judges have appropriate legal qualifications in these fields.

70. The expert raised with the Minister concerns that he had heard that the courts at all levels in Somaliland failed to challenge arbitrary and illegal detention of journalists, human rights defenders and "undisciplined" juveniles. The Constitution of Somaliland requires that

individuals taken into custody be brought before a judge within 48 hours of arrest. Police officials regularly flout this requirement and judges do normally not challenge them. Journalists are often targets of intimidation and abuse by Government officials. While detention sometimes last only a few hours, the fact remains that Government officials at all levels and the police have, for example, ordered on occasions arrests of journalists in response simply to critical reporting, or to pre-empt such reporting.

71. According to the Minister of Justice, many journalists lacked professionalism and had never studied or got a degree on journalism. It was important that they abide by the rules and regulations governing media ethics. He, however, readily recognized concerns relating to abuses committed by the regional security committees.

### **B. Human rights violations committed by the regional security committees**

72. The main problem with the regional security committees was that their acts were, according to a scholar, “based on Siyad Barre’s draconian decrees and not the 1963 law.”<sup>4</sup> The 1963 Public Order Law did not grant broad powers of detention and other extraordinary powers to the authorities, except in a state of emergency. The current Somaliland administration, however, claims that the law makes the security committees legal and gives them the power to detain anyone “seen as a menace to public order”. However, the committees are primarily used not for alleged national security offences, but to deal with ordinary criminal and juvenile cases in order to save the Government the trouble of proving charges in court.

73. It appears to independent expert that the regional security committees are used in some regions of Somaliland as much as or even more frequently than the courts to incarcerate people, including juveniles. During his visit to the Mandhera prison, the expert was shocked to see that a large number of juveniles were in jail at the request of parents who alleged that their children were disobedient, involved with gangs, drank alcohol or were violent. Many were not accused of anything amounting to a criminal offence under the law but were simply sent there by the regional security committees who took decisions based on traditional Somali law, or *Xeer*. The expert was, in particular, saddened to see a teacher being held in jail to protect him from clan revenge for a murder committed by his cousin who fled to Kenya and was believed to be dead. Although, the expert respects the local culture and tradition, a way must be found to deal with individual and collective fundamental freedoms in compliance with international standards.

### **C. Need for capacity-building**

74. The circumstances detailed above underline the importance of capacity-building in Somaliland to improve compliance of law enforcement officials with human rights standards. Training of the police and security forces is particularly necessary, and the expert believes that UNPOS Human Rights Unit could play an important role in this regard, in collaboration with UNDP. The Minister of Interior stressed his Government’s disappointment at the suspension of

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<sup>4</sup> Ibrahim Hashi Jama, “Public Order Law in Somaliland: Learning the Lessons of Democracy”, December 2004. Available from [http://www.somalilandlaw.com/PUBLIC\\_ORDER\\_LAW\\_IN\\_SOMALILAND\\_Article.htm](http://www.somalilandlaw.com/PUBLIC_ORDER_LAW_IN_SOMALILAND_Article.htm).

the police training programme by UNDP. On the question of human rights violations committed by the regional security committees, the Minister believed that could be resolved in the context of a broader reform of justice undertaken under the UNDP Rule of Law and Security Programme.

## VII. OBSERVATIONS ON THE SITUATION IN SOMALIA

75. The situation in Somalia has continued to be one of the most difficult humanitarian crises in the world in recent years. It is also among the most dangerous for all concerned – the people, the warring factions and the international community as a whole. The security situation has worsened, with more lethal fighting. As a result, the humanitarian and human rights situation continues to be deplorable. Too many people are being killed, maimed, gagged, silenced, humiliated, made homeless and displaced within and outside the country. It is a free-for-all situation, with total impunity. What is happening to the people of Somalia is a scandal and a blot on humanity's conscience.

76. This unconscionable state of affairs appears to have been endless. Two decades of suffering of a people is too long. There are, of course, other such crises in the world – in Afghanistan, Iraq, Palestine, Sudan, etc. – but in all these, international efforts have been engaged, more or less, in finding solutions. In Somalia, there has been no sustained international effort. What the United Nations and others are doing can only be described as first aid. As a result, the situation has gone from bad to worse; if it is allowed to fester, it can only deteriorate.

77. By all indications, Somalia is turning into a hot spot for international terrorism which, left unattended, is bound to spill over to neighbouring countries. Equally importantly, the growing menace of piracy in and around Somalia waters is fast assuming alarming proportions given its exploitation by professional criminal syndicates. It is no longer the work of some unemployed youths looking for a livelihood and easy money. The criminals are taking advantage of the lack of an effective central Government. The international community must act fast and in a united manner to prevent the situation from deteriorating further.

78. The independent expert believes that the time has come for the international community to take a fresh look at the situation in Somalia and consider what has been done to find a solution to the Somali crisis. The first step would be to take stock of the peace process initiated by the Djibouti Agreement of 2008, by asking the following questions: is it working as envisioned; if not, what factors are impeding the process; what would help to move it forward; and is there a need to amend the process?

79. A year ago, the independent had been more upbeat and optimistic about Somalia, but that had changed in the last six months. He had expected that the new Transitional Federal Government would act fast to consolidate the goodwill with which it began. He thought that the opposition forces would suffer from dwindling popular support. He felt that the withdrawal of Ethiopian troops from Somalia, war fatigue of the population and imposition of a harsh alien version of sharia law on the people would weaken the position of the hard-line Islamists. However, there is no clear indication to that effect, nor is there any indication that the Government is gaining the upper hand.

80. It can, of course, be said that more time is needed for the efforts of Government to bear fruit. While that is true, it is also true that Al-Shabaab also appears to be gaining ground in the mean time. Al-Shabaab should either be halted or weakened or won over; the independent expert believes that the latter two strategies have the best chance of success, as he sees little chance of the Government prevailing through military means alone.

81. From his talks with newly arriving refugees in Dadaab camps, IDPs in Bossaso and others, the independent expert is of the view that the people still see the Transitional Federal Government as the best option for governance, although they are not yet convinced of its ability. The Government will have to work hard and imaginatively to consolidate the Somali people's support. If it succeeds, the expert foresees defections from opposition ranks, particularly from the nationalist elements among the hard-liners. To facilitate the process, the Government must have a clear strategy to provide necessary concessions, offers and welcome to those who wish to defect.

82. For the Government's strategy to succeed, the independent expert believes there is a need for greater involvement of the people of Somalia. It has so far appeared that the people have not been significantly involved in the peace/reconciliation process. Refugees in Kenya and Yemen have time and again pleaded not only for their own involvement in the peace process, but also for the involvement of clans, their leaders, business people and the diaspora, inter alia. The Government's policy paper referred to earlier involved all those groups. Is it not possible to start a process in the near future where all these groups may be consulted, either together or separately? Whatever the outcome, the process itself will send a message to all concerned that without popular support, neither the Government nor the opposition can prevail.

83. Consultations should take place in Somalia itself, wherever feasible. An effort must be made to move away from what is referred to above as "Nairobi syndrome". The Government should be seen to be consulting with the people as much as with other Governments and the United Nations. Refugees in Dadaab told the independent expert that they wanted to see members of the Transitional Federal Government and Somali Parliament visit them in the refugee camps regularly and observe how they lived. There is a need for the Government to show compassion for the people.

84. The independent expert remains concerned that the hub of United Nations activities for Somalia is still in Nairobi not Somalia. While many local staff and some international staff are posted in Somalia, the expert asks why is it not possible to move some or most of the United Nations country offices for Somalia to Somalia itself, at least to areas where there is relative peace, say in Somaliland and Puntland. While a wholesale move may not yet be possible, a start could be made, as the expert has been informed that a site for common United Nations compound in Mogadishu has already been identified. It would reportedly not be impossible to make arrangements for additional secure premises for the United Nations and accommodation for its staff in Somaliland and Puntland, although it would require the political will of the United Nations and some investment.

85. There would, of course, be serious worries in the beginning, as the opposition forces would not like to see the United Nations move to Somalia fully. Nevertheless, the effects of the move on the minds of the people of Somali and the confidence it would generate would likely to pay early, rich dividends, neutralizing the scare tactics of the opposition. The independent expert

welcomes that the Special Representative of the Secretary-General for Somalia is personally inclined to set up the base of his operations in Somalia, in Mogadishu. His office could become an example for others.

86. It appears to the independent expert that it would be a tremendous psychological boost for the refugees and the people of Somalia if the Government could announce that it would welcome qualified refugees now living in camps abroad who return home to help the Government to run the various affairs of the State. The Somali diaspora is already helping the Government in many ways, so why not the refugees?

## VIII. RECOMMENDATIONS

### A. For the Transitional Federal Government

87. **The Government has the primary responsibility for providing protection to its population, despite its limited capacity. The Government must, therefore, ensure relevant training for all concerned on basic standards of international humanitarian and human rights laws.**

88. **The Government's recent decision to ratify the Convention on the Rights of the Child should be turned into law as soon as possible, thus clearly demonstrating the Government's political will to follow international standards in this and other fields.**

89. **The Government has the key role to play in the success of the Somalia peace process. It has been entrusted by the people of Somalia, through a unique representational process, to bring the long-standing conflict in Somalia to an end by all possible means, including thorough negotiations and reconciliation. It is for the Government, therefore, to take the initiative in making the peace and reconciliation process work. In this respect, the independent expert welcomes the recent initialling of an agreement ahead of the signing of the Framework for Cooperation, between the Government and Ahlu Sunnah. This is an important step in expanding and broadening the scope of dialogue and reconciliation in Somalia.**

90. **When it assumed office, the Government inherited a rich reservoir of knowledge and experience and a large number of lessons learned from all past experiences of peacemaking in Somalia. These lessons should be identified, made public and used as a guide for the Government.**

91. **While most, if not all Somalis, are fiercely attached to their clan identity and wish to ensure proper clan representation in any future Government set-up, they are also keen to maintain the territorial integrity of their country and live together in an arrangement that recognizes local/regional differences and provides for rule of law and good governance. The Government should therefore focus on securing peoples' confidence in its efforts in this regard through strengthening the institutions of rule of law and good governance.**

92. **To ensure rule of law and good governance, the Government should begin by removing corrupt, inefficient or uncommitted Government officials and replace them with dedicated, properly trained and people-friendly officials. The recent change of ill-reputed**

security and police chiefs was well received by the people. The Government should set clear-cut standards for good governance, with proper norms and principles. The setting up of a national human rights commission (through the constitution-drafting process) and human rights courts would also send positive signals to the people. A firm announcement by the Government that it is seeking to banish the culture of impunity altogether from Somalia is of paramount importance.

93. The Government should consider arranging consultation meetings with a broad range of people to seek their views on affairs of the State and, in particular, the future Constitution of Somalia, to let people know that their views matter, although this will not be easy given the country's circumstances. The consultations could take place on a geographical, group or gender basis, as appropriate. They should, however, take place within Somalia, wherever possible.

94. The Government should make arrangements for visits by Government ministers and senior officials to refugee camps in Kenya and Yemen and seek refugees' views on whether they would be interested in returning home under proper arrangements and working for the Government. In addition, Government ministers and senior officials simply visiting the camps regularly would boost the morale of the refugees. Similar arrangements should also be made for visits by members of the Parliament and other transitional federal institutions.

95. The Government should also focus on three other key issues which emerged from the independent expert's talks with the refugees in particular. These are: creation of livelihood opportunities; reopening of schools and support to education institutions; and strengthening medical services. Such work should be conducted in parallel with Government efforts to end insurgency. There is no alternative to the Government's efforts to help the youth, for example, to withstand financial inducement offered by the insurgents to join them.

#### **B. For the Somaliland authorities**

96. While the independent expert acknowledges the Somaliland authorities' efforts to improve rule of law and democracy, he urges them to put an end to the practice of the regional and district security committees ordering arrest and detention and imposing prison sentences or other penalties by bypassing the courts. Appropriate measures should be taken to release all persons currently imprisoned by the security committees or charge them for cognizable criminal offences before regular criminal courts.

#### **C. For the Puntland authorities**

97. While appreciating the efforts of the Puntland authorities to host IDPs despite legitimate security concerns, the independent expert urges them to refrain from threatening to expel IDPs to the south or any other area. Women and young girls should be protected from rape, domestic violence and sexual and gender-based violence and provided with health care, psychosocial and rehabilitation and redress support.

#### **D. For the opposition groups**

98. The independent expert urges all the opposition forces, in particular Al-Shabaab and Hizbul Islam, to seriously engage with the Government in negotiating a peaceful settlement to the conflict in Somalia. Some are reportedly already involved in the process and the expert urges others to engage soon for the sake of the people of Somalia, who have long suffered some of the worst violations of human rights and humanitarian law in the world. He also recalls that, as long as they are still fighting, their troops should respect the basic principles of human rights and humanitarian law. The independent expert would welcome communications from them in this or any other regard.

#### **E. For the United Nations**

99. Although the United Nations consolidated appeal for Somalia is underfunded, there are some key activities that the United Nations must nevertheless continue. These include humanitarian assistance by WFP, UNICEF activities in relation to women and children, the role of UNESCO in the field of education, the role of UNDP in constitution-building and implementation of the Rule of Law and Security Programme, the role of UNHCR for refugees and IDPs and the role of the UNPOS Human Rights Unit in standard-setting in the field of human rights and humanitarian laws. Many of these activities relate to capacity-building and standard-setting and are important for the Government's efforts in relation to rule of law and good governance.

100. The key United Nations agencies should consider moving their country offices to Somalia as soon as possible. This should be possible with the construction of more secure office spaces and staff accommodation in the safer areas of Somalia. What is needed is the political will. There are many difficult places in the world where security situation is perhaps more precarious but where full-fledged United Nations offices nevertheless exist.

101. The independent expert welcomes that the Special Representative of the Secretary-General for Somalia himself is in favour of moving his office to Somalia and has initiated measures in this regard, and suggests that the Human Rights Unit also moves with him. In any case, the Unit's staff should move to safer areas of Somalia as soon as possible and their numbers increased. In 2009, despite many promises, there has been no increase in its staff of two; this is too few a number to cover a country like Somalia. OHCHR itself should consider a full-fledged presence in Somalia, as it could do much to promote human rights in that country, including monitoring and reporting on human rights violations and training and building the capacity of institutions that are capable of providing human rights protection.

102. The independent expert welcomes the deployment of an international consultant by OHCHR/UNPOS in October–November 2009 in Nairobi to assess the feasibility of a preliminary documentation assessment on the past and current human rights and international humanitarian law abuses as a way of moving forward on impunity and accountability. He hopes the recommendations will be actively followed up and reiterates the need to establish an appropriate mechanism to combat impunity and hold the perpetrators of these potential war crimes and massive human rights and humanitarian law violations accountable.

103. **The independent expert is concerned about the suspension of the humanitarian assistance, in particular the discontinuation of the food distribution following the restrictions of humanitarian access imposed by extremist armed groups on WFP. The United Nations should continue its efforts to keep the long-standing humanitarian crisis in Somalia under international focus. He reiterates his call to the Human Rights Council to reconsider holding a special session on Somalia and calls upon thematic special procedures to consider focusing upon aspects of the situation in Somalia that pertain to their respective mandates.**

104. **Given the special circumstances of Somalia, he urges UNHCR to consider extending education facilities for Somali refugees beyond the high-school level. Somalia will need trained people to fill the Government jobs that will open up when circumstances change. UNHCR should also seek more scholarships for higher studies for Somali refugees.**

#### **F. For the international community**

105. **The international community should substantially increase its financial and technical support to the Transitional Federal Government to fulfil its many responsibilities beyond the security sector. The Government needs support in undertaking key reforms to establish rule of law and good governance. Its success in this regard is fundamental to its success in cementing peoples' support, while such support would in turn help fight insurgency.**

106. **He urges all donor Governments to respond generously to the consolidated appeal of the United Nations agencies for funds to implement its activities in Somalia. The independent expert was saddened to learn that in 2009 it remained largely underfunded. Despite its many shortcomings, the United Nations is doing a formidable job in Somalia against tremendous odds. It is the main lifeline for many and deserves to be assisted adequately. Furthermore, he calls on all Governments to provide scholarships for Somali refugee students. Somalia will need such students when peace returns.**

107. **Piracy, mixed migrations and related human trafficking and terrorism remain major concerns in Puntland and Somaliland. As warned by United Nations Office on Drugs and Crime, the continued instability in Somalia is transforming East Africa into "a free economic zone for all sorts of trafficking: drugs, migrants, guns".<sup>5</sup> The independent expert therefore urges the international community to deal with the realities on the ground of these phenomena with the seriousness they deserve. There are thousands of young men and girls in Somalia who are unemployed, uneducated and desperate. In this context, the combined efforts of the maritime powers to fight the menace militarily are unlikely to stop piracy. The time has come to explore and implement a comprehensive approach that incorporates a genuine political and economic solution for Somalia.**

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<sup>5</sup> Address by Antonio Maria Costa to the Security Council on 8 December 2009. Available from <http://www.unodc.org/unodc/en/about-unodc/speeches/2009-08-12-africa-under-attack.html>.

### **G. For the African Union/AMISOM**

**108. The independent expert recognizes the commendable efforts of AMISOM forces in protecting key installations in and around Mogadishu under most challenging security conditions. As long as the Transitional Federal Government continues to be supported by the international community as the best option for dealing with the situation in Somalia, there is no alternative to this. He therefore urges all African Union and OIC countries to strengthen AMISOM. In particular, he calls upon all African Union member States that have pledged troops to AMISOM to make good their pledges to enable AMISOM to reach its authorized strength.**

**109. In view of continuing allegations of human rights and humanitarian law violations by AMISOM troops, the expert recommends that efforts are undertaken to increase the troops' compliance with the basic standards in those fields. They should, in particular, make sure that under no circumstances are populated areas targeted by indiscriminate shelling.**

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