



**OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS**



Assistance to Somalia in the field of human rights

Commission on Human Rights Resolution: 2004/80

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights and other relevant human rights instruments,

Recalling its resolution 2003/78 of 25 April 2003,

Bearing in mind the statements by the President of the Security Council on the situation in Somalia of 31 October 2001 (S/PRST/2001/30), 28 March 2002 (S/PRST/2002/8), 12 December 2002 (S/PRST/2002/35), 12 March 2003 (S/PRST/2003/2), 11 November 2003 (S/PRST/2003/19) and 25 February 2004 (S/PRST/2004/3), the report of the Secretary-General on the situation in Somalia (S/2004/115 and Corr.1), Council resolutions 751 (1992) of 24 April 1992, 1407 (2002) of 3 May 2002, 1425 (2002) of 22 July 2002, 1474 (2003) of 8 April 2003 and 1519 (2003) of 16 December 2003, 1265 (1999) of 17 September 1999 on the protection of civilians in armed conflict, 1460 (2003) of 30 January 2003 on the use of children in armed conflicts and 1325 (2000) of 31 October 2000 on women, peace and security, the report of the Secretary-General on protection for humanitarian assistance to refugees and others in conflict situations (S/1998/883), General Assembly resolution 58/122 of 17 December 2003, entitled "Safety and security of humanitarian personnel and protection of United Nations personnel", and the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, annex),

Recalling the statement made by the President of the Security Council on the situation in Somalia of 25 February 2004 (S/PRST/2004/3), in which the Council reaffirmed its commitment to a comprehensive and lasting settlement of the situation in Somalia and its respect for the sovereignty, territorial integrity, political independence and unity of the country, consistent with the purposes and the principles of the Charter of the United Nations,

Noting the recent mission and subsequent report of the Panel of Experts, established pursuant to Security Council resolutions 1425 (2002) and 1474 (2003) and the establishment of the Monitoring Group mandated to investigate the ongoing arms embargo violations pursuant to Security Council resolution 1519 (2003),

Reaffirming its serious concern at the continued flow of weapons and ammunition to and through Somalia and bearing in mind that the Somali National Reconciliation Process and the implementation of the arms embargo serve as mutually reinforcing processes,

Emphasizing that the efforts to combat terrorism in Somalia are inseparable from the establishment of peace and governance in the country,

Recognizing that the people of Somalia have the principal responsibility for their national reconciliation process and that they are the ones to decide freely on their political,

economic and social systems,

Noting with grave concern that insecurity still prevails in several parts of Somalia, and noting with disquiet that conflicts continue in areas of the country such as Mogadishu, Gedo, Sool, Sanaag and Baidoa,

Noting also with grave concern that the humanitarian situation remains fragile throughout Somalia and recognizing the massive challenges facing Somalia with respect to immediate assistance as well as reconstruction and development,

Noting further with grave concern that attacks have been committed against humanitarian workers in Somalia and the impact this has on the ability of aid agencies to carry out their assistance and protection activities,

Underlining that the peace process in Somalia must continue and be completed through dialogue and not by resorting to the use of force,

Reiterating that the Somali parties should abide by and implement expeditiously the Declaration on Cessation of Hostilities and the Structures and Principles of the Somali National Reconciliation Process (Eldoret Declaration) of 27 October 2002, and calling on the Somali parties to continue working towards a comprehensive security arrangement for Somalia,

Encouraging the Somali parties to build on the progress achieved and swiftly conclude the Somali National Reconciliation Conference with a durable and inclusive solution to the conflict in Somalia, by establishing a viable transitional government,

Reaffirming its full and firm support to the peace process sponsored by the Intergovernmental Authority on Development,

Commending the Governments of Kenya, host of the National Reconciliation Conference, of Uganda and of all other States members of the Intergovernmental Authority on Development, for their outstanding efforts in favour of the Somali National Reconciliation Process,

Expressing its appreciation for the efforts made in support of peace by the United Nations, the African Union, in particular its commitment to deploy a military observer mission to Somalia, the League of Arab States, the European Union, the Organization of the Islamic Conference, the Movement of Non-Aligned Countries and the Intergovernmental Authority on Development Partners' Forum,

Considering that the people of Somalia should not be abandoned by the international community, that the deterioration in the security situation produces significant negative consequences for the protection and promotion of human rights, and that human rights should be placed on the agenda of talks regarding the future of Somalia,

Highlighting the progress and the increasing efforts of the United Nations specialized agencies and programmes in improving the living conditions of the Somali people, as well as in supporting authorities to improve the administration of justice by developing the rule of law, building their capacity to enforce the law and improving the application of human rights standards,

Highlighting also the meaningful work done by Somali civil society groups and non-governmental organizations, including humanitarian organizations, in the humanitarian field in their efforts to protect and promote human rights,

Reiterating that a comprehensive peace-building programme with special emphasis on disarmament, demobilization, rehabilitation and reintegration will be important to post-conflict Somalia,

Considering that humanitarian, human rights and development assistance is of paramount importance in contributing to the alleviation of poverty, promoting a more peaceful, equitable and democratic society in Somalia and supporting sustainable improvement of the livelihood of the Somali people and their improved access to basic public and social services, as well as the establishment of good governance,

Taking into account the establishment of the Trust Fund for Peace-Building in Somalia,

1. *Welcomes:*

(a) The relevant decisions taken by the Intergovernmental Authority on Development at its tenth summit and the establishment of the Intergovernmental Authority's Facilitation Committee, including all States members of the Intergovernmental Authority;

(b) The signing, on 29 January 2004, of the Declaration on the Harmonization of the Various Issues by the Somali Delegates at the Consultative Meetings held from 9 to 29 January 2004 in Nairobi, as an important step towards lasting peace and reconciliation in Somalia;

(c) The integration by a number of United Nations agencies of human rights issues into their programmes;

2. *Emphasizes* the necessity of lasting efforts against international terrorism in accordance with Security Council resolution 1373 (2001) of 28 September 2001 and urges all States and relevant international agencies to provide assistance to Somalia for the implementation of that resolution;

3. *Encourages:*

(a) All parties throughout Somalia to participate in the reconciliation process, which offers a unique opportunity for all Somalis to end the suffering of their people and to restore peace and stability to their country;

(b) The Intergovernmental Authority on Development, its Facilitation Committee and all neighbouring States to move the peace process forward and to continue their active and positive role in support of the reconciliation process and the attainment of peace in the region;

(c) All States through the Intergovernmental Authority on Development Partners' Forum to play an active and positive role in support of the reconciliation process;

4. *Expresses concern* that, as a result of the combination of food insecurity and poor health conditions, Somalis continue to suffer from high rates of malnutrition and, more

generally, from an ongoing humanitarian crisis;

5. *Expresses deep concern* at reported cases of rape, arbitrary and summary executions, torture and other cruel, inhuman or degrading treatment or punishment and violence, in particular against women and children, and at the absence of an effective judicial system, essential to ensure the right to a fair trial in accordance with international standards;

6. *Calls upon* all States, regional and international organizations and other actors to support appropriate investigations throughout Somalia in order to combat impunity and bring perpetrators to justice;

7. *Expresses deep concern* at the prevalence of sexual violence, in particular among displaced children, imprisoned children and children engaged in exploitative and hazardous labour, including those working and living on the streets, and at discrimination against children belonging to minority clans, who are vulnerable to violence, including murder, poverty and lack of access to education;

8. *Also expresses deep concern* at the practice of *asiwalid*, whereby parents send their disobedient children to be kept in prison until they order them to be released, which continues to prevail, with all the negative human rights implications this entails;

9. *Condemns:*

(a) The serious violations of the commitment undertaken by the parties on 27 October 2002, which are still occurring;

(b) Those who obstruct the peace process and persist on the path of confrontation and conflict;

(c) The ongoing widespread violations and abuses of human rights and humanitarian law, in particular against internally displaced persons, minorities, vulnerable groups, women and children, including domestic violence, the continuing practice of female genital mutilation, which remains a matter of serious concern, as well as the forced displacement of civilians;

(d) The forced or compulsory recruitment of children for use in armed conflict, the use of these children in armed conflict by the militias, the practice of child labour, particularly domestic labour and the involvement of children in exploitative and hazardous labour, and a juvenile justice system not in accordance with international standards;

(e) All acts of violence such as hostage-taking, abduction and murder, including of humanitarian relief workers and of United Nations agency personnel;

10. *Underlines:*

(a) The need for human rights to be an integral part of a future United Nations peace-building mission;

(b) The need to support the relevant authorities in integrating human rights standards into the institutions and frameworks that will be forged in Somalia;

(c) The need to integrate a gender perspective into all peace-building,

reconstruction and reconciliation processes;

11. *Calls upon:*

(a) All parties throughout Somalia to strengthen their commitment to dialogue with the objective of widening and deepening the process of national reconciliation and to abide by and implement expeditiously the decisions adopted throughout the process, including the Eldoret Declaration;

(b) All parties to ensure the effective participation of women in the Somali National Reconciliation Process;

(c) All States to commit themselves to the long-term objective of regional stability, inter alia by playing a positive role in the process of rebuilding national institutions in Somalia and in particular in supporting the Intergovernmental Authority on Development in its facilitation role in the Somali National Reconciliation Process;

(d) All stakeholders to continue to intensify the coordinated efforts aimed at facilitating the national reconciliation process in Somalia, aware of the fact that the peaceful coexistence of all parties and groups is an important foundation for the respect of human rights;

(e) All States, regional and international organizations and other actors to support a stronger field presence of the Office of the United Nations High Commissioner for Human Rights in Somalia, greater independence while maintaining close collaboration with other agencies working in the area of human rights, as well as effective participation in the United Nations country team;

(f) All Member States to continue to provide increased assistance in response to the United Nations appeals for relief, rehabilitation and reconstruction efforts in all regions, including those aimed at the strengthening of civil society, encouraging good governance and the re-establishment of the rule of law, in particular the improvement of the juvenile justice system, and to support the development of a culture of human rights and other activities of the Office of the High Commissioner concerning Somalia, including human rights advocacy and documenting human rights violations;

(g) The United Nations, its Member States and specialized agencies, non-governmental organizations and the Bretton Woods institutions to intensify their assistance and to enhance their projects, in particular in the fields of human rights, including rights of the child, women's rights and gender equality, health, with special attention to combating HIV/AIDS and other sexually transmitted diseases, demobilization of militia, disarmament, the struggle against the proliferation of small arms, mine clearing and rehabilitation of basic infrastructures;

(h) All relevant authorities and Member States to provide support for the voluntary return and reintegration of Somali refugees and the provision of urgent and extensive humanitarian assistance to, and protection for, those who have been internally displaced;

(i) All relevant international stakeholders to support the United Nations Joint Action and Recovery Plan for Somalia, which seeks to find sustainable solutions for the reintegration and resettlement of internally displaced persons;

(j) The United Nations, its Member States and specialized agencies fully to support and assist the Intergovernmental Authority on Development in the implementation of its decisions on Somalia and to take concrete measures, inter alia “smart sanctions” targeting individuals blocking the reconciliation process and positive incentives, including targeted financial support;

(k) The United Nations and its Member States to support the efforts of the African Union to improve the security situation in Somalia, inter alia by the establishment of a mechanism for monitoring;

(l) Donor countries to contribute to the Somali National Reconciliation Process, to the Trust Fund for Peace-Building in Somalia and the United Nations Consolidated Inter-Agency Appeal for Somalia;

(m) Individual donor countries, international organizations and non-governmental organizations further to incorporate human rights principles and objectives in the humanitarian and development work they carry out in Somalia and to cooperate with the independent expert appointed by the Secretary-General on the situation of human rights in Somalia;

12. *Urges:*

(a) All parties to stop all acts of violence, to abstain from engaging in hostilities and to prevent any act likely to increase tension during the peace negotiation;

(b) All parties throughout Somalia to respect human rights and international humanitarian standards as set out in international instruments, in particular those pertaining to internal armed conflicts;

(c) All parties to halt the forced or compulsory recruitment of children for use in armed conflict and to pay serious attention to their protection;

(d) All parties throughout Somalia to facilitate the delivery of much-needed humanitarian assistance and to protect and facilitate the work of United Nations personnel, humanitarian relief workers, human rights defenders and representatives of non-governmental organizations and of the international media, and to guarantee all persons involved in humanitarian action freedom of movement throughout the country and safe and unhindered access to civilians in need of protection and humanitarian assistance;

(e) All States and other actors to comply scrupulously with the arms embargo established by Security Council resolution 733 (1992) of 23 January 1992 and to continue to work closely with the mechanisms established to enforce the embargo pursuant to Council resolution 733 (1992);

(f) All States and other actors contacted outside the region to continue to cooperate fully with the Panel of Experts, in accordance with Security Council resolutions 1425 (2002) and 1519 (2003);

(g) All States, in particular those of the region, not to interfere in the internal affairs of Somalia; such interference only further destabilizes Somalia, contributes to a climate of fear, impacts adversely on human rights, and could jeopardize the sovereignty, territorial integrity, political independence and unity of Somalia; the territory of Somalia

should not be used to undermine stability in the subregion, as reiterated in Security Council resolution 1519 (2003);

(h) All States to prevent persons and entities from taking advantage of the situation in Somalia to finance, plan, facilitate, support or commit terrorist acts from the country, emphasizing that efforts to combat terrorism in Somalia are inseparable from the establishment of peace and governance in the country;

(i) All States to provide assistance to Somalia for the further and comprehensive implementation of Security Council resolution 1373 (2001);

13. *Invites* Governments and organizations in a position to do so to respond positively to requests by the Secretary-General for assistance in the implementation of the present resolution;

14. *Requests* the United Nations High Commissioner for Human Rights to provide for the translation of the present resolution, accompanied by an appropriate background explanatory note, into the Somali language and for its wide dissemination within the country;

15. *Commends* the work carried out by the independent expert appointed by the Secretary-General on the situation of human rights in Somalia and welcomes his report (E/CN.4/2004/103);

16. *Decides*:

(a) To extend the mandate of the independent expert for a further year and requests him to report to the Commission at its sixty-first session;

(b) To request the Secretary-General to continue to provide the independent expert with all necessary assistance in carrying out his mandate and to provide adequate resources, from within existing overall United Nations resources, to fund the activities of the independent expert and the High Commissioner in providing advisory services and technical assistance;

(c) To continue its consideration of this question at its sixty-first session under the same agenda item;

17. *Recommends* the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, draft decision 27.]

58th meeting

21 April 2004

[Adopted without a vote. See chap. XIX .- E/2004/23 – E/CN.4/2004/127]