

# Female Circumcision

Strategies  
for Talking About  
the Issue

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Seminar on Female  
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Mogadisho, Somalia



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An Association for  
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Development



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# **SOMALIA**

**REPORT ON**

**AN AMNESTY INTERNATIONAL VISIT**

**AND CURRENT HUMAN RIGHTS CONCERNS**



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## S O M A L I A

### REPORT ON AN AMNESTY INTERNATIONAL VISIT AND CURRENT HUMAN RIGHTS CONCERNS

This report concerns an Amnesty International visit to Somalia in June 1989 - its first for 20 years. The visit took place in response to an invitation from President Mohamed Siad Barre, made in the wake of the publication by Amnesty International of a major report on human rights violations in Somalia. Between the time that the invitation was first made and the visit, the government had declared a General Amnesty for political prisoners and had made other human rights improvements.

Amnesty International's delegates had extensive talks with senior government officials, including the President, and received assurances of the government's interest in human rights and of its intention to maintain communication with Amnesty International. This report includes an account of these talks and Amnesty International's conclusions, together with its recommendations to the Somali Government about ways of improving protection for human rights further, including legal and institutional reforms. The main recommendations were previously submitted to the government on 2 October 1989.

Eleven days after the delegation left Somalia, there were new arrests of government critics, followed by anti-government demonstrations at mosques in Mogadishu, and mass arrests by the security forces. Forty-six of those detained were reportedly extrajudicially executed on the night of 16 July, and about 50 more of those arrested are unaccounted for.

Among those arrested was Ismail Jumaale Ossobleh, the country's most prominent lawyer, himself a former prisoner of conscience (from 1969 to 1973) who later acted as defence counsel for many other prisoners of conscience. Adopted by Amnesty International once again as a prisoner of conscience, he was released on 21 October 1989, after over three months' detention without being charged with any offence.

This report also covers these and other new violations of human rights and describes Amnesty International's current concerns about them.

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## 1. BACKGROUND TO THE AMNESTY INTERNATIONAL VISIT

In September 1988 Amnesty International published a major report on its concerns in Somalia, Somalia: A Long-Term Human Rights Crisis (AI Index: AFR 52/26/88). This documented a persistent and long-established pattern of gross violations of fundamental human rights in Somalia, which included:

- imprisonment of prisoners of conscience on account of the non-violent expression of their opinions or beliefs, or because of their clan origin;
- lengthy and often arbitrary detention without trial of large numbers of other suspected government opponents;
- unfair trials of political prisoners by the National Security Court;
- torture of detainees;
- harsh conditions of political imprisonment;
- numerous extrajudicial executions of unarmed civilians by the security forces, particularly in areas affected by conflict with armed opposition organizations;
- the use of the death penalty.

Publishing the report, Amnesty International called on the government to take urgent steps to halt human rights violations and it put forward specific and detailed recommendations to this end. These recommendations had been submitted to the government some months before publication, but no reply had been received. Following publication of the report, while denying that violations had occurred, President Mohamed Siad Barre publicly invited Amnesty International to visit Somalia to see the situation for itself.

Later in 1988 the government released a number of prisoners of conscience and other political prisoners. In a further important move in January 1989, the government declared a General Amnesty for political prisoners. The government also proposed a date in April 1989 for Amnesty International's visit to Somalia, but subsequently requested a postponement.

Amnesty International's visit to Somalia took place in June 1989. By then, most prisoners of conscience and political prisoners known to Amnesty International had already been released under the General Amnesty. During the months leading up to the visit there appeared to be a significant change in the human rights situation, with the authorities allowing greater freedom of association and expression of opinion, including views critical of the government.

## 2. THE AMNESTY INTERNATIONAL VISIT

Amnesty International's delegation visited Somalia from 24 June to 2 July 1989. This was the organization's first visit to the country for 20 years. The then secretary general of Amnesty International, Mr Martin Ennals, had visited Somalia for talks with the government in May 1969, a few months before the Supreme Revolutionary Council assumed power. In 1979 Amnesty International twice requested the government to receive a delegation to discuss human rights concerns but, as only one of the delegates was granted a visa, the mission could not proceed. More recently, in February 1988 the government had not allowed an Amnesty International delegate to go to Somalia to observe the trial of six former members of parliament and others.

The main aims of the June 1989 visit were to develop better communication between Amnesty International and the Somali Government and to discuss the organization's work and concerns directly with the authorities. With the release before the visit of most prisoners of concern to Amnesty International, meetings were expected to focus on future protection of human rights in Somalia through legal and institutional reforms, in addition to following up on Amnesty International's past concerns and learning more about the constitutional and legal background to human rights issues. Amnesty International attaches the utmost importance to the introduction of statutory and other changes to provide guarantees for the future protection of human rights.

Amnesty International's delegates were Professor Kevin Boyle, Professor of Law at the University of Essex in the United Kingdom and a citizen of Ireland, and a staff member from Amnesty International's International Secretariat.

An extensive program of meetings for the delegation was arranged with the assistance of the Ministry of Foreign Affairs. The delegates met President Mohamed Siad Barre, Prime Minister Mohamed Ali Samater, Dr Abdirahman Jama Barre, Minister of Foreign Affairs, Mr Ahmed Suleiman Abdallah, Minister of the Interior, Mr Mohamoud Saeed Mohamed, Minister of Justice and Religious Affairs, and Dr Abdirahman Hassan Matan, Minister of Defence.

They also met the following officials whose areas of responsibility involve matters about which Amnesty International has been concerned:

- officials responsible for the administration of law: Dr Mohamed Omar Farah, the State Attorney General, Dr Nur Hassan Hussein, the National Security Court Attorney General, Colonel Dr Ali Abdelrahman, the Attorney General of the Supreme Military Court, and Dr Abdirahman Mohamed Omar, Chief State Counsel (legal adviser to the President);
- officials responsible for the administration of justice: Dr Hassan Yusuf Nur, the Vice-President of the National Security Court, and Dr Ahmed Hassan Sheikh, the President of the Supreme Court;
- the heads of the security service, prison service and police force: Brigadier General Mohamed Jibril Mussa, Commander of the National Security Service, Major General Ahmed Elmi Sahal, Commander of the

Somali Custodial Corps, and Brigadier General Ahmed Jama Mussa, Commander of the Somali Police Force;

- Mr Mohamoud Ghelle Yusuf, chairman of the government's "Commission for Investigating Complaints into Human Rights Abuses", which the government set up in December 1988 to respond to complaints about human rights violations by non-governmental organizations such as Amnesty International - he is also President of the National Security Court and Minister of Marine Transport and Ports.

Talks with government officials centred on clarification of the extent to which the Constitution and the laws protected or failed to protect internationally recognized human rights, particular cases of human rights violations, and the future protection of human rights. Amnesty International's delegates welcomed the improvements in human rights which had occurred since the publication of Amnesty International's report in September 1988, particularly the General Amnesty. They noted that the insurgency which the government faced in the north of the country made more difficult the task of protecting human rights, but emphasized the view that the existence of internal armed conflict should not be used as a justification for permitting or condoning abuses committed by the security forces which were directly or indirectly related to the armed conflict.

The government has faced armed opposition from the Somali National Movement (SNM) since 1980, which intensified when the SNM attacked two northern towns, Burao and Hargeisa, in late May 1988. Armed conflict is continuing in the northwest of the country, and there has been new armed opposition activity in some parts of the south during 1989. Many human rights abuses for which the government is responsible have been indirectly linked to the armed conflict, with members of the Issaq clan constituting a particular target as the SNM draws much of its support from this clan. Human rights abuses have also been committed by the SNM. Amnesty International has condemned the killing by the SNM of government and security officials in Burao on 27 May 1988.

In their meetings with Amnesty International, government ministers and officials recognized their responsibility to protect human rights and uphold the rule of law, and the need also for safeguards to protect individuals against abuse of power even when armed opponents were placing the security of the state at risk. They undertook also to "cooperate with" Amnesty International - specifically, to respond in future to inquiries and appeals from Amnesty International, to which they had rarely responded in the past. The authorities made available copies of various legal texts requested by Amnesty International's delegates and stated that they would be permitted to observe the National Security Court in session if they wished.

Several officials accused Amnesty International of relying on politically-motivated sources for its information about human rights violations in Somalia. However, Amnesty International rejects this assertion: it is an impartial organization which takes particular care to ensure that its information is both accurate and objective and not based on sources which are biased against the government or in favour of its opponents. Amnesty International's delegates urged the government to adopt a more open attitude itself to providing information about human rights and to respond to inquiries from Amnesty International and others. Amnesty International's delegates explained also that Amnesty International's mandate and activities were based on international human rights instruments

which the Government of Somalia has itself ratified or said it intends to ratify.

During the visit, Amnesty International's delegates met a number of individuals concerned with human rights, including Ismail Jumaale Ossobleh, a prominent lawyer who has defended political prisoners, and Yusuf Osman Samantar, a lawyer and former member of parliament who was adopted as a prisoner of conscience by Amnesty International during almost 20 years' detention without trial. He had been released in February 1989.

Because of fears expressed by or on behalf of certain individuals that they might be arrested or suffer other reprisals if they met Amnesty International's delegates, Amnesty International requested and was given assurances by the authorities, both before and during the visit, that its delegates could meet anyone they wished and that no-one would suffer reprisals for meeting them. Amnesty International was deeply concerned that Ismail Jumaale Ossobleh was arrested 11 days after its delegates left Somalia. The government denied that Ismail Jumaale Ossobleh was arrested for meeting Amnesty International's delegates in Mogadishu or being suspected of passing information to Amnesty International about human rights. He was released on 21 October 1989.

### 3. RECENT ARRESTS AND EXTRAJUDICIAL EXECUTIONS

Within two weeks of Amnesty International's visit to Somalia, the government arrested several of its most prominent critics on 13 July, in Mogadishu and elsewhere. Those detained were the lawyer mentioned above, Ismail Jumaale Ossobleh; Sheikh Abdirashid Sheikh Ali Sufi, the Imam of Casa Populare mosque; Abdulkadir Aden Abdullah Osman, a former government minister and son of Somalia's first President; Abdisalam Samantar Abdi, an economics lecturer who was arrested in Garowe; and several other religious leaders. Ismail Jumaale Ossobleh had been among several lawyers, businessmen and other members of the professions who had met the President on 8 July 1989 and called for improvements in human rights and political freedom. The religious leaders had been critical of the government for its restrictions on religious activities and for the way it was dealing with investigations into the murder on 9 July 1989 of the Roman Catholic Bishop of Mogadishu, Monsignor Salvatore Colombo.

On 14 July, the day after the arrests, there were protest demonstrations at many mosques in Mogadishu and violent clashes between demonstrators and security forces. Several soldiers were killed and many demonstrators were shot by the security forces. The government stated that 23 people had been killed and 59 wounded but according to unofficial sources the real totals were much higher. A curfew was imposed in Mogadishu and during the next three days there were large-scale arrests of demonstrators and suspected government opponents, who were arrested by soldiers in the streets or at their homes. Some were held by the National Security Service but most were taken into military police custody at Danane military camp, 50 kilometres southwest of Mogadishu, or in military premises in Mogadishu.

Those detained included 46 people from the Medina district of Mogadishu, mostly members of the Issaq clan picked out because of their clan origin, who were arrested on 16 July and executed extrajudicially that night by soldiers on a beach at Jezira, 30 kilometres southwest of



Mogadishu. There are also reports of killings of prisoners in villages east of Mogadishu.

Ismail Jumaale Ossobleh, Abdulkadir Aden Abdullah Osman and Abdisalam Samantar Abdi, were detained in the National Security Service headquarters in Mogadishu without being charged with any offence. The first was said to have gone on hunger strike for some days in protest at his detention. The first two were later allowed family visits in the presence of prison guards. Abdulkadir Aden Abdullah Osman was reported to be ill with hepatitis but to have been refused admission to hospital. The religious leaders arrested with them were detained in different places.

Most of the demonstrators and others arrested after the 14 July disturbances, apparently numbering well over a thousand, are reported to have been released. Some, however, are believed still to be detained while others apparently remain unaccounted for.

Amnesty International expressed its deep concern to the government about the arrests of Ismail Jumaale Ossobleh and others on 13 July and sought clarification both of the grounds for their arrests and their detention without being referred to a court beyond the 48-hour limit permitted by the law. In Mogadishu, Amnesty International's delegates had been repeatedly told by government officials that was no provision in law for suspects to be kept in custody for longer than 48 hours without being referred to a court, and that in future the 48-hour rule would be fully respected. Amnesty International urged the authorities also to permit all political detainees access to legal counsel of their choice, their families and independent medical doctors.

The official reasons for the detention of Ismail Jumaale Ossobleh, Amnesty International was informed in August, were that he was "mobilising an illegal assembly, holding secret meetings to overthrow the government, inciting trouble, and in possession of seditious and anti-government publications". He was not, however, charged with these or any other offences. Unofficial sources have suggested that the government was seeking to link him with the opposition United Somali Congress (USC), an opposition group formed in Italy in early 1989 by members of the Hawiye clan from Mogadishu and the surrounding areas, which declared its support for the SNM and armed opposition to the government. Although he belongs to this large southern clan, Amnesty International believes that he had not been involved in using or advocating violence against the government and was not a member of the USC.

Ismail Jumaale Ossobleh, a former political journalist and Minister of Information in the last civilian government in 1969, is a former prisoner of conscience who was detained without charge or trial for four years after the present government assumed power in October 1969. As a prominent lawyer (for a long time President of the official Somali Lawyers Corporation) he has defended prisoners of conscience in major political trials over the last 15 years, including most recently in February 1988. The authorities did not inform Amnesty International of the reasons for the detention of Abdulkadir Aden Abdullah Osman, who was previously detained without trial in 1971-1972, and Abdisalam Samantar Abdi, but believes that they too were both prisoners of conscience imprisoned for their non-violent opinions and criticisms of the government.

The release of Ismail Jumaale Ossobleh, Abdulkadir Aden Abdullah Osman and Abdisalam Samantar Abdi on 21 October, along with 1,168 other prisoners

(whose identities or grounds for imprisonment were not disclosed), on the 20th anniversary of President Mohamed Siad Barre's government, has been welcomed by Amnesty International. The government informed Amnesty International that Sheikh Ibrahim Mohamoud Ali "Sooley" and three others were released on 1 November, but other people arrested in mid-July are believed to be still detained at the time of writing.

Amnesty International has also urged the government to investigate reports of the extrajudicial execution by soldiers of 46 prisoners at Jezira beach on 16 July, and reports that other prisoners arrested in connection with the 14 July disturbances are still detained without charge or are unaccounted for. In response to reports of killings at Jezira beach, and after initially denying that they had occurred, the government established a committee of inquiry, headed by the chairperson of the Defence Committee of the People's Assembly, and reportedly including members of the armed forces and security services. However, its precise terms of reference, composition and the progress of investigations are not known to Amnesty International.

The events in July 1989, although they occurred after the Amnesty International visit to Somalia, have been taken into account by Amnesty International in drawing up this report on human rights in Somalia and in formulating the specific recommendations to the government for improved human rights protection which it contains.

#### **4. AMNESTY INTERNATIONAL'S CURRENT CONCERNS AND RECOMMENDATIONS**

This section contains a summarised account of the Amnesty International delegation's talks with government officials in Mogadishu and Amnesty International's conclusions about these issues. Recommendations are made to the government.

##### **4.1 THE RULE OF LAW**

The protection of human rights depends on the observance of the rule of law as defined by international standards of law and human rights. These are contained in a wide range of international instruments adopted by the United Nations, including the International Covenant on Civil and Political Rights and its Optional Protocol, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The ratification of these important human rights instruments would signal the government's determination to uphold the rule of law.

The following comments on the question of the rule of law in Somalia are based on information available to Amnesty International prior to its delegates' visit to Somalia (most of which was published in its 1988 report), complemented by new information they received in Mogadishu.

Somalia has two separate systems of laws and courts and associated institutions:

##### **i) The Ordinary Laws and Courts**

These were established by the Penal Code (1962) and the Criminal Procedure Code (1963), which incorporate safeguards relevant to fair trial. Offences against the Penal Code are investigated by the police. The laws and the

ordinary courts, which include courts of appeal, are administered by the Minister of Justice and Religious Affairs and by the State Attorney General. The President of the Supreme Court regulates the functioning of the courts. Somalia's 1979 Constitution states (in articles 105-106) that the Higher Judiciary Council, chaired by the President of the Republic, "shall be the organ which shall direct the general policy and administration of the judiciary". In June 1989, however, 10 years after the Constitution came into force, the President of the Supreme Court informed Amnesty International's delegates that the Higher Judiciary Council had never been constituted.

Complaints of human rights violations have not, in general, concerned the ordinary courts or the police.

### ii) The National Security Laws and the National Security Court

A quite distinct set of laws and courts govern political offences. These laws, particularly the National Security Law (Law No 54 of 1970), and the National Security Court (established by Law No 3 of 1970), which deals with all security and political offences, were introduced by a decree of the Supreme Revolutionary Council in 1970 soon after it assumed power in a military coup in 1969. The National Security Service, which is accountable to the President, was also established in 1970 to investigate suspected security offences. The National Security Court is administered by a special National Security Court Attorney General who is appointed by and answerable only to the President, as are the judges of the National Security Court. The National Security Court is a special court which was described to Amnesty International's delegates by government officials as a "temporary" institution although it has existed for 20 years. There seems to be no move by the government to dispense with it and bring the offences it deals with under the jurisdiction of the ordinary courts.

Complaints of human rights violations concern these national security laws and institutions, which are seriously at variance with international legal rights, including standards for fair trial.

In 1979 a new Constitution was introduced to replace the the 1961 Constitution which was suspended by the Supreme Revolutionary Council when it assumed power in October 1969 and its chairman became President of the Somali Democratic Republic. The 1979 Constitution gave supreme authority to the Somali Revolutionary Socialist Party, the only permitted political party, and its politbureau, headed by the President, and abolished the Supreme Revolutionary Council.

With regard to the constitutional protection of human rights, the 1979 Constitution states that it "shall recognize the Universal Declaration of Human Rights and generally accepted rules of international law" (article 19). Article 113 of the Constitution states that laws incompatible with the Constitution should be amended within one year of its introduction. The Constitution specifies that a Constitutional Court comprising the Supreme Court and members of the People's Assembly (parliament) nominated by the President should decide on the constitutionality of any law.

In 1979 a special parliamentary committee strongly criticized various security laws which had been enacted by the Supreme Revolutionary Council in or since 1970 and were seen to be incompatible with articles of the new Constitution which set out to protect basic human rights and freedoms. The committee's report, which was never published, is said to have recommended

major changes in national security legislation, particularly to the National Security Law and the National Security Court.

The President of the Supreme Court informed Amnesty International's delegates that the Constitutional Court had never been convened. Since 1979, all national security institutions have continued to operate under the new Constitution just as before, without this ever being challenged in court. None of the national security laws, which were enacted with the deliberate intention of departing from the due process of law, have been changed since 1979 on the grounds that they are incompatible with the Constitution.

On 2 July 1989 the Somali Revolutionary Socialist Party central committee decided that the Constitutional Court should be convened within 60 days. No further information on whether it has been convened or, if so, what issues it has addressed, is presently available to Amnesty International. Whether or not the convening of the Constitutional Court would lead to a thorough review of and changes to national security laws and the National Security Court remains to be seen.

The Constitution states that the State Attorney General shall ensure the strict observance of the laws of the country and "shall ensure that the decisions, orders and direction of State institutions are in accordance with the Constitution and the laws of the country" (articles 104.1 and 104.2). However, the President of the Supreme Court and the State Attorney General have no jurisdiction over national security matters. The National Security Service, the National Security Court and the Attorney General of the Republic. The State Attorney General is thus unable to carry out the role allocated to him by the Constitution. The police and prisons are defined by statute as institutions of the armed forces and therefore answerable to the President as Commander-in-Chief of the armed forces. In respect of internal security matters, the Minister of the Interior coordinates the operations of the armed forces - the army, National Security Service, police and prisons - as, for example, during the disturbances in Mogadishu in mid-July 1989.

Enormous powers are thus vested in the President, who is also Secretary General of the Somali Revolutionary Socialist Party and chairman of its politbureau. The President is in direct control of all facets of state power, including the security institutions and all branches of the judiciary, and the Constitution is so drafted that no provision obstructs his exercise of all decision-making should he wish it.

A major problem which has obstructed progress in implementing the rule of law is the existence of a range of security agencies which have carried out arrests, detained and interrogated alleged government opponents. In cases falling under the National Security Law, the ordinary police must hand over arrested persons to the National Security Service, which has its own detention centres for interrogation of suspects, such as "Godka", its Benadir Region headquarters in Mogadishu, as well as other unacknowledged "safe houses". These other security agencies, whose powers are not properly defined or coordinated, and which operate in virtual secrecy, include the following:

- the military police, identifiable by their red berets, who also form the Presidential Guard: they are responsible to the armed forces command and to the President, and have the main duty of

policing the armed forces, although they also administer Labatan Jiraw prison;

- the military intelligence organization, informally known as Hangash, which is responsible directly to the President: it reportedly arrests and detains civilians in its own detention centres, although it has no statutory power to do so;
- the Victory Pioneers (Gulwaadayal), a militia organization directly responsible to the President, whose members have powers of arrest but are supposed then to hand over those who they arrest to the police or National Security Service;
- an investigative body of the Somali Revolutionary Socialist Party, which is reported to have its own secret detention centre.

Unlawful arrest is a criminal offence under article 461 of the Penal Code. However, no security agency provides any written notification of arrest or written authorization or acknowledgement of detention when it carries out arrests or keeps suspects in custody. No detainees' names are published by the authorities. It is extremely difficult for the family of an arrested person to discover which agency is holding them and where. It is even more difficult to take steps to discover the grounds for their detention, especially as those arrested are rarely brought before a judicial authority or a court - and, if they were, the law determines that they would be referred to a judge of the National Security Court, whose functions are themselves surrounded by secrecy. In practice, the system by which people learn of arrests is pervaded by unfair and arbitrary processes, to the extent that personal, family or clan influence, or the payment of bribes, are the means to which most people resort, in the absence of any formal legal or administrative mechanism, to find out about relatives or friends who have been detained.

For these reasons, the protection provided by the Constitution against the use of laws which are themselves abusive of human rights is ineffective. Laws relating to national security conflict with the Constitution and also with recognized international standards as set out, in particular, by the International Covenant on Civil and Political Rights. This leads to the conclusion that the rule of law in the country is fundamentally vitiated, both by the laws of the country and the practices of the security agencies.

### AMNESTY INTERNATIONAL'S RECOMMENDATIONS

- The national security laws should, as a matter of priority, be reviewed and amended in order to bring them fully into accordance with international human rights instruments, such as the International Covenant on Civil and Political Rights and the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.
- The powers of official agencies responsible for investigating suspected security offences should be laid down in law and should be in conformity with the Constitution and international standards.

#### 4.2 PRISONERS OF CONSCIENCE AND OTHER POLITICAL PRISONERS

Amnesty International believes that large numbers of people have been imprisoned in recent years for their opinions or because of their clan origin, and were prisoners of conscience. All such people who were known to Amnesty International and adopted by it in previous years as prisoners of conscience were released in late 1988, or in the first few months of 1989 under the General Amnesty.

Amnesty International has welcomed the General Amnesty announced in January 1989, under which hundreds of prisoners of conscience and other political prisoners, both people detained for indefinite periods without charge or trial and others serving long prison sentences, were released between January and May 1989. The government gave no indication at the time of Amnesty International's visit that the General Amnesty was not still in force and applicable, at the least, to all political prisoners imprisoned at the time it was promulgated. No time limit or conditions had been attached to it.

Prisoners of conscience released since 1988 whose cases had been publicised by Amnesty International included:

- Yusuf Osman Samantar ("Berde'ad"), a lawyer and former member of parliament, detained without trial since 1975 and for several other periods since 1969;
- some 2,000 Ethiopian civilian detainees who had been abducted from Ethiopia during the 1977-1978 war and were freed in August 1988 in an exchange of prisoners of war and civilian internees between the governments of Ethiopia and Somalia;
- Dr Aden Yusuf Abokor, medical director of Hargeisa hospital, imprisoned since 1982 with 12 other doctors, teachers and businessmen belonging to a community self-help group, who were convicted by the National Security Court in Hargeisa of forming a subversive organization;
- Ismail Ali Abokor, former Vice-President, and Omar Arteh Ghalib, former Foreign Minister, and four other former members of parliament, with Abdi Ismail Yunis, a former university dean, Suleiman Nuh Ali, an architect, and over 20 others detained since 1982. Eight were condemned to death (although their death sentences were later commuted), five were sentenced to long prison terms, and others were acquitted;
- Safia Hashi Madar, a biochemistry graduate and employee of a United States-based relief agency, who was arrested in 1985 when she was nine months pregnant and was jailed for life by the National Security Court in Hargeisa in 1986 for alleged membership of a subversive organisation;
- Sheikh Nur Barud Gurhan and eight other religious leaders who were sentenced to death in 1987 by the National Security Court in Mogadishu for allegedly "exploiting religion for creating national disunity and weakening state authority" (their sentences were later commuted);
- hundreds of members of the Issaq clan who were arrested in

Mogadishu, Berbera, Hargeisa and other places after attacks in the north by SNM forces in May 1988, and were mostly detained without trial;

- five army and navy cadets who had been deported from Egypt in August 1988 despite having applied for asylum there, and were arrested on their return to Somalia and detained without trial.

Some of the released prisoners are still under some restrictions, such as official refusals to re-employ them in government service or permit them to practise their professions, and denial of permission to leave the country for medical treatment not available in Somalia.

Not all political prisoners had, however, been released, nor had political arrests ceased with the General Amnesty announced in January 1989. Amnesty International's delegates learned that several people arrested in the first six months of 1989 for political reasons had been released after being held for periods ranging from a few days to some weeks. During the months between the promulgation of the General Amnesty and the Amnesty International visit, the rate and duration of political arrests had diminished dramatically. It was reported also that there was some official tolerance of the open expression of opinions critical of the government.

Shortly before its visit, Amnesty International submitted to the government a list of over 160 political prisoners, most of whom had been arrested in 1988, who were not yet known to have been released. Information was requested on whether or not they were still held. Most belonged to the Issaq clan, from which the SNM draws much of its support, but they had been detained without charge or trial, and without any evidence publicly adduced of their involvement with the SNM. Among those detained in 1989 were also three people who had returned from abroad after being refused asylum or after returning voluntarily from exile. Their arrests contravened one element of the General Amnesty which specifically promised safe return to Somalis living abroad.

In a written reply to Amnesty International delivered at the end of its visit, the Government stated that on the basis of inquiries by the relevant authorities half of the prisoners were no longer detained, others were not detained in the prisons where Amnesty International said they had been held, and in other cases where the information was more difficult to obtain (referring principally to prisoners held in the north) investigations would continue and a reply would be provided to Amnesty International in due course. (No further information on these cases has, in fact, been received). Officials pointed out the difficulties of investigating in cases where names or other details provided by Amnesty International were incomplete. Prison and National Security Service officials told Amnesty International's delegates that all political prisoners held in Mogadishu Central Prison, Lanta Bur maximum security prison and National Security Service prisons in Mogadishu had been released.

It appeared that the majority of political prisoners known to Amnesty International had indeed been released as a result of the General Amnesty. However, it was not clear that the General Amnesty had been implemented completely. On the basis of information from unofficial sources, Amnesty International believes that at the time of its visit some hundreds of people were still detained in the north of Somalia in prisons, National

Security Service or military detention centres, for suspected opposition to the government, and some could be still held at the time of writing.

The Amnesty International delegation appealed to the President for the release of Fahima Dahir Jama and four other women political prisoners who were still being held in Hargeisa central prison, after being imprisoned by the National Security Court between 1984 and 1987. The government later informed Amnesty International that all five were released in August 1989.

The cases of two long-term detainees still held in Labatan Jirow prison in southern Somalia were also brought to the attention of the government, although no reply has yet been received to indicate whether they have been freed or their cases reviewed:

- Ahmed Dhore Farah, a district judge detained without charge or trial since 1979;
- Hussein Mohamed Nur, an Ethiopian pilot detained since 1976 or 1977: he had inexplicably not been released under the terms of the August 1988 exchange of prisoners of war and other internees.

Another political prisoner believed to be still held in Mogadishu central prison is Mohamoud Ismail Mohamed, an army colonel, formerly head of the army's foreign relations department, who was convicted of espionage in 1981 and sentenced to 28 years' imprisonment. Amnesty International believes he could be a prisoner of conscience, imprisoned on account of his opinions or his Issaq clan origin.

The situation of people arrested for political reasons in mid-July 1989 after Amnesty International's visit is described above in section 3. Amnesty International welcomes the release in October of Ismail Jumaale Ossobleh, Abdulkadir Aden Abdullah Osman and Abdisalam Samantar Abdi, whom it adopted as prisoners of conscience, and the release of others on 1 November. It has asked the government for details of other people released by presidential amnesty on 21 October and whether others who were arrested in mid-July on account of their opposition to the government are still detained.

Amnesty International is concerned that laws remain in force under which people may be condemned to death or imprisoned for long periods for vaguely defined political offences which do not necessarily involve the use or advocacy of violence. The definition of a crime in terms of national security is extremely vague and such offences attract extremely severe penalties. For example, the National Security Law makes the death penalty mandatory for "organizing a subversive organization", "exploiting religion for creating national disunity", and "organizing a strike". The same law provides for long prison terms for "participating in a subversive organization", "possession of seditious material", and "rumour-mongering" (afminshar-ism). People have been convicted of these offences in recent years and condemned to death or sentenced to long prison terms. It appears to Amnesty International that many such people were prisoners of conscience. Yet no official with whom Amnesty International's delegates met gave any indication that the government intended to abolish the National Security Law or amend any article of it.



### AMNESTY INTERNATIONAL'S RECOMMENDATIONS

- The organization appeals for the immediate and unconditional release of any others who are prisoners of conscience, imprisoned on account of their opinions, beliefs or origin, but without having used or advocated violence.
- The government should confirm that the cases of all other people imprisoned for political reasons or in connection with alleged security offences are being reviewed and that the General Amnesty is to be fully implemented.
- The National Security Law should be amended so that the internationally recognized rights to freedom of expression and association are upheld and that the peaceful expression of opinion or belief is not a crime.

### 4.3 DETENTION WITHOUT TRIAL

In recent years large numbers of people have been detained on political grounds for prolonged and indefinite periods without being charged or tried. They have been held under different laws, such as:

- the Power to Detain Law (Law no. 1 of 1970), which allows the indefinite administrative detention without charge or trial of anyone considered to be "dangerous to peace, order or good government" or to be acting against "the aims and spirit of the Revolution";
- powers given to Regional Security Committees in 1980 to detain people without trial for up to 90 days, on the grounds of security;
- the National Security Law, which allows indefinite detention without charge or trial of anyone detained for investigation by the National Security Service for a security offence as defined by this law: six former members of parliament, for example, were detained from 1982 to early 1988 before being tried for an offence under this law, and some others detained at the same time were held until 1988 before being released without even being charged.

Article 26 of the Constitution states that no one may be detained except when apprehended in flagrante delicto or pursuant to a court order, and that anyone arrested "on grounds of security" must be brought before the competent judicial authority within the time limit prescribed by law. The Criminal Procedure Code states that a person must be brought before a court within 48 hours of arrest (article 39) and must be tried within a maximum period of 180 days after arrest (article 47). The State Attorney General and other officials confirmed to Amnesty International's delegates that this was the legal situation, and maintained that this was also the practice. However, in cases falling under the National Security Law, which includes all political cases, the time limits of detention without charge were removed by Supreme Revolutionary Council decrees. Furthermore, the provision for habeas corpus, which in the ordinary courts is a remedy for unlawful detention, is not applicable to those held under the National Security Law. There is thus no effective legal remedy against arbitrary or unlawful detention.

A recent amendment to article 26 of the Constitution (Law no 13 of 4 March 1989) altered the phrase "arrested on the grounds of security" to "arrested on suspicion of having committed an offence". The State Attorney General and other officials told Amnesty International's delegates that the effect of this amendment was that the Power to Detain Law and the detention powers of Regional Security Committees were therefore "null and void". Amnesty International's delegates proposed that these laws should be formally repealed.

It is not clear to Amnesty International, however, that this amendment affects the indefinite pre-trial detention of someone held for investigation into a suspected offence under the National Security Law or referred to the National Security Court and ordered by a judge to be detained for investigation. Amnesty International believes that this constitutional amendment cannot be a complete safeguard against indefinite or prolonged arbitrary detention unless and until the National Security Law is brought into conformity with article 26 of the Constitution, and there is an opportunity to appeal against alleged arbitrary detention on constitutional grounds. The Commander of the National Security Service denied that anyone was arrested for the expression of their opinions, only for committing what he called a "crime". Amnesty International believes, however, that many people have been detained arbitrarily and for political reasons, without firm evidence that they have committed a recognizable criminal offence.

After the arrests of mid-July 1989 Amnesty International asked the government why those arrested, such as Ismail Jumaale Ossobleh, had not been taken to court within the time limit of 48 hours or otherwise charged with specific offences, but received no reply. The experience of these prisoners indicates that the 48-hour limit on detention without charge, which was not respected in the past by the various arresting and detaining agencies, is still being ignored.

#### AMNESTY INTERNATIONAL'S RECOMMENDATIONS

- All security organs should be informed of the provisions of the Constitution and the precise limits of their powers to arrest and detain under the law, and steps should be taken to ensure that no people are detained unlawfully by the security or military authorities.
- The important remedy of the right to challenge the legality of a detention (habeas corpus) should be made available to everyone who is arrested, including those detained under the National Security Law or for other political reasons.

#### 4.4 POLITICAL TRIALS

At their meetings with officials, Amnesty International's delegates obtained confirmation that the ordinary courts have no jurisdiction over political offences, which fall exclusively within the jurisdiction of the National Security Court and its branches in all regions of the country. In an extraordinary extension of the concept of national security, the National Security Court also has exclusive jurisdiction over several non-

political offences including homicide, drug offences (such as the sale of khat, a mild stimulant drug widely used in Somalia - an offence which comprises the majority of National Security Court cases) and embezzlement of public funds of over 100,000 Somali shillings (currently equivalent to about US\$120).

According to the National Security Court's own Attorney General, some 500 or 600 people are tried by the National Security Court and its regional branches each year. Of these cases only a small proportion involve political prisoners or relate directly to matters of national security. He stated that there had been very few political trials in 1988 and the first part of 1989.

The structure and functioning of the National Security Court fall short of internationally recognized standards in the following respects:

- there is no limit to the period of time an accused person may be held for investigation before being charged. Habeas corpus and provisional release on bail are not allowed.
- prisoners have no right of access to lawyers until they are formally charged, which may be months or years after arrest, and only days before trial;
- the court cannot be regarded as independent when its president (since its establishment in 1970), Mr Mohamoud Yusuf Ghelle, a senior military member of the former Supreme Revolutionary Council which took power in 1969, has also been a serving government minister since 1969. Furthermore, its judges are appointed and removed solely by the President of the Republic and are answerable to him;
- the president of the court and some other National Security Court judges have no legal or judicial qualifications and lack suitable training to make independent judicial decisions. In addition, most judges are military officers but most defendants are civilians - a situation likely to create bias against defendants suspected of links with armed opponents;
- the rights of defence are severely restricted in comparison to cases before the ordinary courts. In particular, private access to defence counsel is not allowed and in practice only brief access to counsel is given shortly before trial;
- political trials have been manifestly unfair, with defence evidence ignored, complaints of torture made by defendants not investigated, and judgments given on the basis of inadequate prosecution evidence;
- there is no right of appeal to a higher court against the court's verdict or sentence.

The National Security Court Attorney General and National Security Court judges who met Amnesty International's delegates told them that they tried to make sure that trials before the court were conducted fairly. They suggested that, even though there was no right of appeal to a higher court, an important safeguard against judicial error was that those convicted, or their legal representative or family, were allowed to

petition the President of the Republic for clemency or re-trial. They said too that most death sentences imposed by the court were commuted by the President and that most convicted prisoners were pardoned before completing their full prison terms.

In Amnesty International's view, the numerous and serious defects of the National Security Court render it incapable of guaranteeing fair trial. In the face of these structural and procedural deficiencies, statements of good intentions that some of the National Security Court judges made to Amnesty International's delegates in Mogadishu are not sufficient and do not address the main issues. Their statements that they were concerned to ensure fair trial cannot compensate for a mechanism of adjudication that is flawed in its basic role.

As well as these procedural deficiencies, Amnesty International is gravely concerned that many defendants in National Security Court trials in recent years were wrongfully convicted, precisely because of the lack of independence of the court. This applies to the trials of doctors and others convicted of membership of a subversive organization in Hargeisa in 1982, of nine religious leaders condemned to death in 1986 for allegedly "exploiting religion for creating national disunity", and of the former Vice-President and three other former members of parliament and others who were condemned to death or sentenced to long prison terms in February 1988 for treason. However, all these prisoners were freed in late 1988 or under the General Amnesty of 1989.

There was insufficient opportunity for the delegates to discuss trials of members of the armed forces by courts martial under the Armed Forces Penal Code, a copy of which, though requested, was not provided to the delegates. Amnesty International had received reports that several members of the army who had been wounded in the fighting in the north were sentenced to long prison terms in early 1989 after they made a demonstration in Mogadishu alleging that they were not receiving adequate medical attention and other care. Courts martial, against whose decisions there is believed to be no right of appeal, are reported to have condemned prisoners to death in 1988 and 1989, although no statistics are available.

Two other forms of trial of political prisoners violate fundamental legal rights and standards of fair trial in even more extreme ways. These are summary trials by military courts of civilians arrested in "emergency" areas, and administrative sentencing by Regional Security Committees.

#### i) Summary Military Trials of Civilians under Emergency Regulations

Amnesty International had received information that in areas affected by armed conflict along the borders with Ethiopia, "emergency courts" (or "mobile military courts" as they are sometimes called in Somalia) have judged civilian detainees accused of opposition to the government, and in many cases have ordered executions which were carried out almost immediately. It seemed that such summary trials had no legal basis.

The State Attorney General denied the existence of such summary military courts and both he and the Military Court Attorney General confirmed that military courts had no legal powers to try civilians. In response to inquiries about a summary trial in Burao in December 1984 in which 45 people were condemned to death for alleged involvement with the SNM and were immediately executed, the Attorney General indicated that the trial was conducted by a Regional Security Committee, not a military court.

He denied claims that the defendants at this trial were refused legal representation and the right to petition for clemency. He explained that emergency regulations gave the Regional Security Committees special powers to impose the death penalty, and that these death sentences were reviewed by the regional military commander, although not by the Head of State. He said that this was permissible under the terms of a state of emergency which was in force in border areas with Ethiopia from 1980 until it "lapsed" in April 1988 as a result of a peace treaty with Ethiopia. He said that under emergency regulations trial procedures were summary but that defendants had the right to legal defence representation and to petition for clemency. To Amnesty International's knowledge, however, there has been no formal announcement of such an emergency, and no emergency regulations related to it have been published by the authorities. People in these areas thus appear to have been unaware of the legal situation and also of procedures being followed which seriously affected their basic rights.

Amnesty International has received reports of other instances of "emergency courts", for example in early 1988 in Gebileh near Hargeisa.

### ii) Administrative Sentencing by Regional Security Committees

Regional Security Committees, which comprise administrative, security and police officials and are responsible for maintaining security in Somalia's 18 regions, including Benadir Region (in which is located the capital of Mogadishu), are empowered since 1980 not only to order periods of administrative detention without charge on security grounds for up to 90 days but also to impose prison sentences for alleged security offences without any form of hearing or appeal. Cases of this sort appear to have been rare in Mogadishu, but in the other regions of the country there are said to be more cases.

One recent case of a prisoner of conscience receiving an administrative sentence is that of Hussein Mohamed Egeh, a British embassy accountant. Arrested in Mogadishu on 12 June 1988, he was given a two-year prison term on 23 September 1988 for allegedly "opposing the unity of the country and giving false information to foreigners about the country." This was administratively imposed by the Benadir Regional Security Committee in the capital, which consisted of the committee's chairman (who is the Mayor of Mogadishu), the Regional National Security Service Commander, and the Regional Police Commander. Hussein Mohamed Egeh was freed in March 1989 under the General Amnesty before serving the full prison term. Amnesty International adopted him as a prisoner of conscience, and believes that he was in fact imprisoned because of his Issaq clan origin and his employment at the British embassy, which the government appears to have associated with criticisms of human rights violations in Somalia which were made in Britain or broadcast by the British Broadcasting Corporation (BBC).

Such an administrative procedure of sentencing prisoners, although apparently legal in Somalia, has no recognizable legitimacy according to international standards, as it denies the right to a fair trial.

- International standards of fair trial, which are set out in the International Covenant of Civil and Political Rights, and which include the right of appeal to a higher court and full legal defence rights, should be incorporated into the procedures of all courts in Somalia.
- The procedures and work of the National Security Court should be thoroughly reviewed and made compatible with these international standards.
- The procedure allowing Regional Security Committees to impose sentences of imprisonment without trial should be immediately abolished.
- The government should publicly confirm that military courts have no power to try civilians, and ensure that they do not do so.
- The government should formally clarify that no state of emergency exists in the country and that no emergency regulations exist under which special military or security courts can be set up. If any emergency regulations are introduced to allow any different sort of courts, this should be announced publicly along with an explanation of the procedure to be followed in such cases, and these too should comply with the requirements of the relevant international human rights standards.

#### 4.5 TORTURE

Amnesty International's 1988 report on Somalia asserted that torture was routinely used by the National Security Service and the Military Police in particular. It included testimonies of torture and reports on the medical examination by doctors of a number of former torture victims. During their visit, Amnesty International's delegates were told that torture was prohibited by Article 27 of the Constitution. However, they could not establish that it was a criminal offence punishable by law. Officials claimed that torture hardly ever occurred. No instances of investigation or prosecution of any security official for torture could be cited by officials, with the exception of a single police inquiry currently pending into allegations of ill-treatment by a police officer who had been suspended from duty.

The Commander of the National Security Service and other officials stated that alleged torture injuries which, in published reports, had been attributed by Canadian medical doctors to the infliction of cigarette burns, were actually scars caused by traditional Somali medical practices, which include burning with fire. However, these traditional practices result in scars on certain parts of the body in patterns and places completely different to scars which were identified as having been caused by deliberate cigarette burns in evidence cited in Amnesty International's 1988 report.

Other torture methods reported by Amnesty International included the "Mig" or "Vig" - which some officials claimed not to be torture but a normal punishment in schools and the armed forces - where a person was tied

up in a contorted position; water torture, where the victim was submerged in water, sometimes in a sack, or had water forcibly poured down his throat; and electric shocks, which the former Commander of the National Security Service, Mr Ahmed Suleiman Abdallah, who is now Minister of the Interior, denied were ever used by the National Security Service.

One intended safeguard against torture contained in Somalia's law is that a confession by a person in pre-trial custody that is not made before a judge is not admissible in court as prosecution evidence (Article 51 of the Code of Criminal Procedure). Yet Amnesty International has learned from a number of former prisoners of conscience that when they were brought before a National Security Court judge to make a statement after being tortured, they were threatened by the judge that if they did not sign the statement before them they would be tortured again. Many said that they signed false admissions of guilt to avoid further torture, and because they believed the judge before whom they were appearing would not pay attention to any complaint about torture. Although such statements were not produced in court by the prosecution, they formed the basis of evidence given by security officers, including those who had allegedly tortured the defendants, which was accepted by the National Security Court judges. It appears, therefore, that the judicial supervision of confessions by National Security Court judges has not been a guarantee that confessions were made voluntarily and without duress.

It appeared to Amnesty International's delegates that none of the measures which the organization had previously recommended be introduced to prevent torture had been implemented or even given close consideration by the authorities responsible for detaining and interrogating prisoners.

#### AMNESTY INTERNATIONAL'S RECOMMENDATIONS

- The government should consider ways of ensuring the early implementation of the specific safeguards against torture recommended by Amnesty International in 1988 (reproduced here in the Appendix), including both the implementation of procedures provided for by existing laws and new measures,
- Thorough and impartial investigations should be made into allegations of torture and those found to be responsible for torture should be brought to justice.
- The government should ratify the UN Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment.

#### 4.6 PRISON CONDITIONS

Amnesty International had received numerous detailed reports about the harsh treatment of political prisoners, particularly those held at Labatan Jiraw maximum security prison, which was specially built to hold political prisoners in the mid-1970s and is administered by the Military Police rather than the prison service. Prominent political prisoners have been held there incommunicado in permanent solitary confinement, underground and in permanent electric light, with little or no medical treatment. Conditions in Lanta Bur prison, a maximum security prison administered by the Somali Custodial Corps (the prison service), have also been harsh.

political prisoners have also been held for years, without being charged, in National Security Service investigation centres, such as Godka in Mogadishu. According to Amnesty International's information, newly arrived prisoners were routinely tortured and long-stay prisoners might also be reinterrogated and tortured at later stages of their detention. They were held incommunicado, in extremely overcrowded and unhygienic conditions, with very little food and no medical treatment.

In all official prisons, that is, prisons administered by the Somali Custodial Corps, family visits are allowed, some correspondence is permitted, relatives can send food, and medical treatment is in theory available. However, some political prisoners were deprived of these rights, apparently on the orders of the security authorities. In the north, treatment of prisoners is reported to have been particularly brutal, in punishment for support given to the SNM by northerners. In Hargeisa Prison and in Manderla Prison (where all prisoners condemned to death in the north were held and where executions took place), conditions have been extremely harsh and ill-treatment of prisoners has been common over the last decade.

Throughout the country, it has been reported that prisoners have often had to bribe prison or detention centre guards to be able to communicate with their relatives and to give them a portion of the food which their relatives sent to them. At Manderla prison, prisoners' relatives even had to pay guards for electric light and water. It was also well-known that large bribes to the prison authorities could secure more favourable treatment for a prisoner, or even release.

The prison authorities whom Amnesty International's delegates met denied that prisoners were ill-treated. Despite requesting it, the delegates were not provided with the text of the country's prison regulations. Having regard to consistent reports of harsh prison conditions from released prisoners, the suspicion must be that either the regulations are not compatible with the UN's Standard Minimum Rules for the Treatment of Prisoners, copies of which were provided by Amnesty International's delegates for prison officials, or that the regulations are not in practice applied.

### AMNESTY INTERNATIONAL'S RECOMMENDATIONS

- The regulations governing conditions in all prisons should be reviewed and measures taken to ensure that they conform with the UN's Standard Minimum Rules for the Treatment of Prisoners, if necessary by introducing and implementing a new set of regulations governing conditions of imprisonment.
- Prisoners should not be detained in places other than officially designated prisons which are subject to prison regulations.
- A special inquiry should be held into conditions in all prisons and detention centres so as to ensure that there is no ill-treatment of prisoners and that no prisoner is held incommunicado or in secret or is denied medical treatment.
- An impartial international humanitarian organization should be granted access to all prisons and prisoners so that it can advise the government on necessary reforms.



#### 4.7 EXTRAJUDICIAL EXECUTIONS

The majority of extrajudicial executions in Somalia in recent years have occurred in areas in the country affected by armed conflict, particularly in the north. There were reports of numerous extrajudicial executions of unarmed civilians in the north after the SNM attacks on Burao and Hargeisa in late May 1988. Detailed information on human rights abuses during the fighting has been difficult to obtain, due to the northwest region being effectively isolated from the rest of the country.

Independent sources, and survivors and refugees from among the 400,000 people or more who fled from northwest Somalia to Ethiopia between June and August 1988, have reported that there was a pattern of arbitrary execution of alleged SNM supporters in the towns and surrounding areas - including the port of Berbera, which was not attacked directly by the SNM - and indiscriminate attacks on fleeing civilians by government artillery and airplanes. Unarmed civilians shot by troops in Hargeisa and Burao were estimated to number some hundreds, while estimates of the total number of those killed through shelling and aerial attacks range up to 50,000. In addition there were many reports of killings, rape and looting by Somali army units far removed from the scene of actual fighting. New evidence about these abuses which was compiled by Robert Gersony, a consultant of the Bureau for Refugee Programs of the United States Department of State, corroborates the information received by Amnesty International. ("Why Somalis Flee: Synthesis of Accounts of Conflict Experience in Northern Somalia by Somali Refugees, Displaced Persons and Others", published by the US Department of State, August 1989.)

Killings by the SNM of government officials or supporters were also reported. For example, some 50 officials and civilians were reportedly executed by SNM forces when they captured Burao on 27 May 1988. Later in the year, SNM guerrillas were alleged to have killed some members of the Ogadeni clan in refugee camps and elsewhere whom they regarded as government supporters. It has been alleged that captured combatants have been killed by both sides, and indeed neither side in the armed conflict has so far publicly admitted holding any captured combatants. Both sides deny having committed human rights abuses and each blames the other for killings which have occurred.

In the course of meetings with government officials in Mogadishu, Amnesty International presented information about incidents in 1988 and 1989 when people detained on political grounds were reported to have been deliberately killed by military personnel and unarmed civilians had been unlawfully killed by soldiers or militias in apparent reprisal for the deaths of armed forces' personnel at the hands of the SNM.

These included the following:

- The extrajudicial execution of hundreds of arrested Issaq clan members in Berbera in June 1988. Amnesty International received reports of mass round-ups and killings of Issaq men and their burial in ditches dug by a cement factory vehicle close to Berbera airport's runway. Over 150 were allegedly killed on 7 and 8 June and some hundreds more in the rest of June, including people taken from prison and killed, many by beheading with knives.
- The extrajudicial execution of at least 20 Issaq clan members who had been deported from Saudi Arabia, where they had been living

illegally, following their arrest on arrival at the port of Berbera in late June 1988.

- The machine-gunning by soldiers of over 100 people from Kal Sheikh and nearby villages in El Afwein district, some 300 kilometres east of Hargeisa. The victims included traders, elders and nomads, who were reportedly called together by government officials and shot at in Soof Dheer village on 2 October 1988, apparently in reprisal for the deaths of two government soldiers caused by an SNM landmine. Some 120 other people in nearby villages were killed by soldiers in the following two months.
- The killing by government soldiers of over 200 civilians in Erigavo, the capital of Sanag Region in the north, when SNM forces withdrew after capturing the town for some hours on 16 March 1989. Many of the victims were taken from their homes and shot at the local Somali Revolutionary Socialist Party headquarters. The killings were evidently in reprisal for the SNM action and the SNM's killing of members of the security forces in the town.

More recently, in Lower Juba region in the south, there have been reports of killings of unarmed civilians as government forces fought the newly-formed opposition Somali Patriotic Movement, between March and September 1989. In particular, dozens of people were reported killed in Dobleh, on the Kenyan border, on 20 September. Eighteen people forcibly returned to Dobleh by the Kenyan authorities a few days later, despite having fled from opposition fighting to seek asylum in Kenya, were also allegedly killed.

Quite separate from the reports of extrajudicial executions in areas where the armed forces are engaged in counter-insurgency operations, dozens of prisoners arrested in Mogadishu after the 14 July demonstrations are alleged to have been subsequently killed. As mentioned above, there have been persistent and credible reports of the extrajudicial execution by soldiers of 46 people, nearly all members of the Issaq clan, on a beach near Jezira, some 30 kilometres southwest of Mogadishu, on the night of 16 July. They were arrested in the Medina part of Mogadishu and taken in military vehicle towards Danane military camp, where hundreds of other prisoners were also being taken. A survivor of the massacre is said to have reported the incident to the Minister of the Interior, and the President subsequently ordered a committee of inquiry to be constituted. There has been no announcement by the authorities of the progress of this inquiry. Amnesty International has received no reply to its repeated inquiries to the authorities about the Jezira massacre.

Those who are reported to have been killed in this incident include the following: Mohamed Bashe Abdillahi, a university student; Mohamed Ismail Ahmed, an accountant; Abdirahman Ahmed Dhimbil, a physics lecturer at the Somali National University; Ali Mohamed Diriye, a civil engineer; Hussein Mohamed Farah, a senior police officer; Fuad Abdillahi Ibrahim, a customs officer; Khadar Nur Jama, a mechanic from Djibouti; Abdirizaq Aideed Mohamed, a Ministry of Information employee, and his cousin, Abdirashid Ahmed Mohamed, a businessman; Jama Aden Mohamed ("Barosin"), a relief agency employee; Mohamed Mussa Mohamed, said to be an employee of the Islamic Relief Agency; Saeed Mohamed Mumin ("Gurre"), Dean of Chemistry at the Somali National University; and Yusuf Abdillahi Robleh, a medical doctor and assistant lecturer at the university.

In addition, there have been reports that other prisoners were killed in villages east of Mogadishu at about the same time. Whereas the majority of those arrested were soon traced by their relatives and were released after some days or weeks in custody, there are fears for the safety of about 50 people whose families have apparently not been able to establish their whereabouts since their arrest.

Officials to whom Amnesty International expressed concern about extrajudicial executions, generally denied that such incidents could have occurred. However, the Minister of the Interior acknowledged the killings at Erigavo in March 1989: he said that there had been an investigation and that soldiers had been court-martialled and executed as a result of the killings, but he gave no further details. He said that no soldier was allowed to kill civilians with impunity and that reprisal killings had to be dealt with through legal means.

If in this one case in Erigavo there has been an investigation into a report of unlawful killings and punishment of those allegedly responsible, there is little to indicate that the authorities have investigated reports of similar incidents elsewhere or introduced adequate safeguards to prevent such incidents from occurring. In particular, soldiers deployed in counter-insurgency operations do not appear to have a clear idea of the circumstances in which they may make use of their weapons or in what circumstances the use of lethal force is lawful.

#### AMNESTY INTERNATIONAL'S RECOMMENDATIONS

- The Head of State should issue instructions to all members of the armed forces, including the security forces and police, that unlawful killings of prisoners and unarmed civilians are unacceptable in all circumstances, and that these are criminal offences which will be thoroughly investigated and punished.
- Where unarmed civilians or prisoners are reported to have been killed by members of the armed forces, these incidents should be impartially and thoroughly investigated, with the results of such investigations being made public. Those responsible for such crimes should be brought to justice.
- A commission of inquiry should investigate the circumstances in which extrajudicial executions have occurred in the past and make recommendations for appropriate measures to prevent any such unlawful killings being committed in the future.

#### 4.8 THE DEATH PENALTY

All capital cases are tried by the National Security Court or its regional sections. Amnesty International is concerned that trials before the National Security Court are marred by so many shortcomings (set out above in section 4.4) that the possibility of fair trial for all those facing capital charges seems remote. There is an unacceptably high risk that people sentenced to death in Somalia could have been convicted unfairly and could be innocent of the crime for which they were sentenced and, in some cases, executed. Amnesty International's delegates were told that most

death sentences in recent years had been commuted by the President, although details were not provided and no statistics were available on the number of death sentences imposed or executions carried out. However, even if it were the practice of the President to commute all death sentences imposed by the National Security Court - which is evidently not the case - this would not compensate for the fact that those condemned to death did not have a fair trial in the first place.

Questions were also raised by Amnesty International's delegates about different aspects of the use of the death penalty. These include the following.

- The short period of time between imposition of the death sentence and execution. For example, an army colonel was publicly executed in Mogadishu in early 1989 just 30 hours after his arrest and only hours after he was condemned by a military court. In this and some other cases, those condemned would appear to have had no opportunity to petition for presidential clemency.
- The imposition of the death penalty on juveniles. For example, Hibo Nur Madar was reportedly condemned to death for murder by the National Security Court in Hargeisa in mid-1985, although she was only 16 years old at the time of the incident. The sentence was commuted in October 1987, but not on the grounds of her being a juvenile at the time of the offence: she is currently imprisoned in Mogadishu central prison, said to be seriously ill, without adequate medical treatment, and still maintaining her innocence.
- The reason for cases of homicide being removed from the jurisdiction of the ordinary courts and tried by the National Security Court. Amnesty International's delegates were given no convincing explanation of this situation.
- The mandatory death penalty for embezzlement of public funds worth over 100,000 Somali shillings: the arbitrariness of such a limit is particularly striking when it is considered that at the time this law was introduced in 1975, this amount was the equivalent of 600 US dollars but is equivalent to only 120 US dollars at present rates of exchange. At least three people (two women and one man) are believed currently to be held in Mogadishu central prison under sentence of death under this law - Shamsu Mohamed Ali, an accounts clerk in Baidowa, convicted in December 1987; Asha Mohamed, an accounts clerk in Kismayu; and Hassan Abdikarim Haji Ibrahim, a former government accountant in Mogadishu, convicted in February 1989.

Amnesty International's delegates were told by officials that an estimated 20 to 30 death sentences had been imposed in the first half of 1989 but that most had already been commuted. Statistics relating to the imposition of the death penalty and executions were requested but not made available to Amnesty International's delegates. Such statistics are not published in Somalia. The number of executions in the past year is not known to Amnesty International.

In discussions with government officials about the death penalty, Amnesty International's delegates argued that the death penalty violates the right to life and constitutes a cruel, inhuman and degrading punishment. It is clearly the overwhelming view of government officials,

however, that the death penalty should be retained in use and practice, ostensibly for the purposes of protecting national security and preventing crime. The delegates received no indication that the government had given serious consideration to abolishing it or that it was planning any changes in the use of the death penalty, such as had previously been proposed by Amnesty International.

#### AMNESTY INTERNATIONAL'S RECOMMENDATIONS

Amnesty International believes that the government should take the following steps in relation to the death penalty.

- All existing death penalties should be commuted.
- All defendants accused of offences which may incur the death penalty should be guaranteed fair trial according to recognized international standards, including the right of appeal to a higher court, which is not currently available to anyone sentenced to death.
- As a first step towards total abolition, the number of offences carrying the death penalty should be reduced and the death penalty should never be imposed for offences involving the expression of opinions or beliefs unacceptable to the government.
- No juvenile aged under 18 years at the time of the offence should be sentenced to death.
- No execution should take place until sufficient time has elapsed for a full and automatic presidential review of the death sentence.
- Public execution should be abolished.
- The government should take these and other steps towards the eventual abolition of the death penalty.

#### 4.9 RATIFICATION OF INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

Amnesty International's delegates noted that Somalia was party to the African Charter on Human and Peoples' Rights but that it had not ratified other key human rights instruments. The Minister of Foreign Affairs assured Amnesty International's delegates that the government was on the point of ratifying the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. He said that this should be "considered as done". The Chief State Counsel informed the delegates that the instruments for the ratification of these treaties were being drafted.

The delegates welcomed this assurance and requested that the government also ratify the Optional Protocol to the International Covenant on Civil and Political Rights. They also recommended ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment, and the 1977 Additional Protocols I and II to the Geneva Conventions of 1949, which include provisions prohibiting executions of civilians in non-international armed conflict.

Ratification of these instruments, which has not at the time of writing been completed, would be seen at the international level as a clear commitment by the government to improving respect for human rights in Somalia.

#### AMNESTY INTERNATIONAL'S RECOMMENDATION

- The government should ratify all these important international human rights instruments as soon as possible, and ensure that the ratification process is completed before the end of 1989, if possible.

### 5. GENERAL CONCLUSIONS

#### 5.1 THE GENERAL AMNESTY

The area where the most positive step has been taken by the government for the protection of human rights within Amnesty International's mandate has been the General Amnesty and the consequent release during the first half of 1989 of many prisoners of conscience, some of whom had been held for many years. Those released also included political prisoners sentenced in 1988 to death or long periods of imprisonment. Amnesty International urges that the General Amnesty be fully implemented and that people arrested in July 1989, after Amnesty International's visit, should have their cases reviewed in the same light, in particular to ensure the immediate and unconditional release of all prisoners of conscience.

#### 5.2 INVESTIGATIONS INTO HUMAN RIGHTS VIOLATIONS

Amnesty International's delegates learned that a "Commission for the Investigation of Human Rights Complaints" had been established by the government. The Commission, established by Law no 6 of 31 December 1988, was announced in the official Somali Bulletin but was apparently not widely known locally or abroad. Its chairman is Mr Mohamoud Yusuf Ghelle, President of the National Security Court, and its other members are the Minister of Foreign Affairs, the Minister of the Interior, the Commander of the Police and the Commander of the National Security Service.

Its function, according to the law establishing it, is "to investigate and give appropriate replies to complaints and allegations from human rights organizations and personalities." It has a subcommittee composed of representatives of each of the government departments whose chief officer is a member. The subcommittee's task is to examine the results of relevant investigations into the complaints and to prepare replies to the complaints for the Commission. The complaints are specified as "allegations relating to people arrested for offences, particularly political offences" and one particular "complainant" is cited - the UN Commission on Human Rights.

Amnesty International's delegates were told that the Commission was formed particularly to deal with Amnesty International's complaints about human rights abuses. Amnesty International had been informed by government officials earlier in the year that this Commission was responsible for implementing the General Amnesty but this was not confirmed to its

delegates when they met the Commission's chairman during their visit. Amnesty International had received no communication from the Commission prior to the visit, nor has it since the visit.

Commissions of inquiry into human rights violations have been established in a number of countries around the world. The international standards for any such commission of inquiry into human rights abuses are generally regarded as comprising the following key elements:

- that it should be independent and impartial;
- that it should conduct its own investigations and take evidence from victims of human rights abuses, members of the public and public officials, and any organisations in the country which could provide information about human rights abuses, and that those giving evidence should be protected from reprisals;
- that its methods and findings should be made public;
- that it should be able to make recommendations regarding steps to be taken to bring to justice any official found to be responsible for committing human rights violations, and recommendations to prevent violations in the future.

The Commission for Investigating Complaints into Human Rights Abuses does not appear to meet these criteria. As a coordinating body to ensure that different government agencies and departments properly investigate complaints of human rights abuses and remedy them, it could nevertheless play a role in the protection of human rights. In Amnesty International's view, it is important that the Commission should inform the public about its mandate and its work; that it should indicate how its investigations are conducted and with what results; and that it should ensure that appropriate expertise is at its disposal by consulting relevant professional organizations in Somalia, such as those composed of lawyers. The credibility of the Commission would appear to depend on the effectiveness of the investigations it initiates, on the quality of its reports to those making complaints and to the general public, and on the extent to which its work leads to proven violations being remedied.

### 5.3 LEGAL AND INSTITUTIONAL REFORMS

An important purpose of Amnesty International's visit in June 1989 was to learn more about the legal and institutional background to the human rights issues on which Amnesty International had reported in the past. A considerable amount of discussion was devoted to trying to establish the facts in this area. Recommendations on reforms to the laws and the security institutions had already been put to the government before but few changes had been effected.

Several of the new recommendations made above relate to institutional changes. There is a danger that actions which remedy particular abuses would leave intact the structure of human rights violations which permitted them to occur. Amnesty International believes that the importance of the General Amnesty would be diminished if it provided merely a temporary respite, and was not followed by a thorough review of the laws which are at variance with the Constitution and international human rights standards and

of the institutions which have been responsible for human rights abuses.

Amnesty International urges the government to take steps to avoid the recurrence of torture, arbitrary imprisonment, extrajudicial executions and other serious human rights abuses by making permanent institutional changes which would be designed to prevent such abuses. These concerns must be addressed if the rule of law and the liberty of the individual are to be upheld.

#### 5.4 COOPERATION BETWEEN THE GOVERNMENT AND AMNESTY INTERNATIONAL

Amnesty International welcomes the government's statement of its willingness to cooperate with Amnesty International by giving serious attention to the organization's inquiries, appeals and recommendations. Although Amnesty International did not receive any written response to the recommendations it made to the government in its report of September 1988, it recognizes that the government took action on several of the issues which it had addressed. In addition to the releases of political prisoners between October and December 1988, the General Amnesty of January 1989 led to the release of the majority of political prisoners who had been arrested in previous years. Furthermore, until the events of mid-July 1989, the cases of human rights abuses reported to Amnesty International in the first half of 1989 were far fewer than in many previous years, with the exception of abuses by the security forces in areas of armed conflict.

Amnesty International sincerely hopes that in the wake of the government's changed attitude to Amnesty International in allowing it to visit Somalia, in arranging extensive talks with government officials about human rights, and in stating its "willingness to cooperate with Amnesty International", there will be a new responsiveness to the recommendations which Amnesty International is now making.

With regard to the human rights abuses which occurred less than two weeks after Amnesty International's visit, Amnesty International made several appeals to the government to investigate the reports of extrajudicial executions of prisoners, to release those who were imprisoned solely for their opinions or beliefs, to implement the 48-hour limit on detention of suspects without referring them to a court, and to protect prisoners from torture or extrajudicial execution. The events of July 1989 were a serious setback to the human rights improvements made in the first half of 1989. Amnesty International hopes that the government will now commit itself fully to a policy of giving serious attention to human rights protection and remedying abuses, and that it will adopt a program of legal and institutional reforms to give full meaning to this commitment.

Finally, Amnesty International hopes that the new communication established with the government during its visit to Somalia will continue and that it will be able to visit Somalia again in the near future and renew direct contacts with the government.

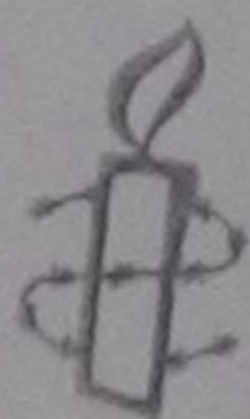
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## APPENDIX

Amnesty International's Recommendations to the Somali Government in 1988 on Safeguards against Torture or Ill-treatment of Prisoners

- (i) The head of state and senior government members, especially the officials responsible for administering law and justice, should publicly condemn torture. Officials who hold and interrogate prisoners should be told that torture is unlawful and will not be tolerated under any circumstances.
- (ii) Torture should be prohibited by law and made a criminal offence, with severe penalties for those convicted of inflicting it.
- (iii) The government should ensure that confessions or other statements obtained through torture cannot be used as evidence in court except in the trials of alleged torturers.
- (iv) No-one should be held in secret or unacknowledged detention. The government should ensure that all detainees are brought before a judicial authority promptly after arrest and that relatives, lawyers and doctors should have prompt and regular access to them within the time limit stipulated by the law.
- (v) All prisoners should have the chance to challenge in court the legality of and the reasons for their detention.
- (vi) Safeguards against torture should include regular inspection of interrogation centres by independent officials, judges, and national and international humanitarian organizations.
- (vii) All complaints and reports of torture should be investigated immediately and impartially and the results made public.
- (viii) Torture victims should be compensated for their suffering, given appropriate medical treatment and rehabilitation.



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