

# Situation in Somalia / October 1998

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## 1. Introduction

A smaller area is now affected by the conflict in Somalia than at the time of the official report of 9 January 1997 (ref. DPCAM/No 67640). The number of areas under regional control is currently rising and there is certainly no question of lawlessness there. The sporadic fighting which continues to break out is confined merely to a few areas in the south and has not spilled over into the more stable parts of Somalia. The area of conflict now mainly covers the triangle formed by the southern towns of Mogadishu, Baidoa and Kismayu <sup>(9)</sup>. The continuing armed struggle there is between three branches of the same clan, the Hawiye clan, namely the Abgal, Habr Gidir and the associated clan, the Hawadle.

The aim of this report is to update the above paper of 9 January 1997. For this purpose, it contains information gathered during an official mission which took place earlier this year in the north (Somaliland in the north-west and the three north eastern provinces) and which took in the important towns of Hargeisa, Bosasso (Bari province) and Galkaayo (Mudug), together with the transit town of Belet Weyne in the central province of Hiiraan. In preparing the report, account has also been taken of information from Amnesty International, U.S. State Department country reports, Human Rights Watch, the Economist Intelligence Unit, UNHCR and the UN High Commissioner for Human Rights, information which was compared and supplemented with information from Her Majesty's Embassies in Nairobi and Addis Ababa and from other EU States.

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<sup>(9)</sup> A map of Somalia is contained in Annex I.

## 2. Country

### 2.1 Background

Somalia lies in the Horn of Africa to the east of Ethiopia and Kenya. It has an estimated population of between 6.5 and 9.6 million inhabitants <sup>(10)</sup>, composed mainly of nomadic shepherds (Northern Somalia) and farmers (Southern Somalia). In addition to Somali, English is spoken in the north and Arabic and Italian in the south.

Somalia is chiefly populated by and derives its name from the Somali people, which comprises six major clan groupings <sup>(11)</sup>. The traditional homelands and pasture land of these groupings vary geographically: the Isaaq and Dir in the north-west, Darod throughout the north-east as well as in the southern province of Lower Juba, the Hawiye in the north-east and central coastal and inland provinces, the Rahanwein and Digil in the southern central provinces. The boundaries between clan territories do not usually match the provincial boundaries. There is no longer any question of amalgamating once more under a single authority those parts of the country which constituted the Republic of Somalia up until January 1991 (see following paragraph). However, the various clan groupings and their political factions have been engaged for some years now in promoting self-government and security within their respective areas. There are no longer conflicts between clan groupings or domination by one grouping of the others.

Between the independence of British Somaliland (26 June 1960) and Italian Somalia (1 July 1960) and their immediate unification to form the Republic of Somalia, and the end of Siad Barre's regime (October 1969 - January 1991), Somalia had a centralised power structure <sup>(12)</sup>. Once Barre had been ousted from power by a number of political factions, the state of Somalia as such disintegrated. Ever since then, the various political movements <sup>(13)</sup> have failed to reach agreement on the appointment of a new president and the creation of a central government.

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<sup>(10)</sup> Source: Economist Intelligence Unit Country Profile 1997-1998

<sup>(11)</sup> In fact, there are two main groups to which the most important clans belong:

- The northern Samaal group, to which four clan groupings originally engaged in camel breeding belong: the Isaaq, Hawiye, Dir and Darod (the largest grouping).
- The southern Saab group, to which two clan families originally engaged in farming belong: the Digil and the Rahanwein.

<sup>(12)</sup> For a review of recent events in Somalia, see the official report of 9 January 1997 referred to in section 1.

<sup>(13)</sup> See the report on political groupings in Annex II.

In the wake of the Republic's collapse, the dividing line between Northern and Southern Somalia, which had disappeared with the unification of British Somaliland and Italian Somalia in 1960, became visible once more. In May 1991, the area in the north corresponding to former British Somaliland was declared independent by the Isaaq-led Somali National Movement (SNM) and named Somaliland (not internationally recognised as an independent country). The Darod were forced to withdraw to the three neighbouring north-eastern provinces of Bari, Nugaal and Mudug, which were under the control of the Darod/Majerteen-led Somali Salvation Democratic Front (SSDF), which from mid-1993 constituted the official central authority in this area. From the end of June 1998, power in this area, now renamed "Puntland", was transferred to a president and a group of ministers (see section 2.2).

In the southern central part of Somalia, armed conflict first broke out with the Darod-led Somali Patriotic Movement (SPM) when the Hawiye-led United Somali Congress (USC) claimed power. Once the Darod had largely been driven out of Mogadishu, dissension arose within the USC between the elected chairman of the USC, General Farah Aideed, and the businessman Ali Mahdi who, without the General's knowledge, had been pushed to the forefront by the USC to become the new president of Somalia. For the time being, the armed conflict which broke out in the south continues to rage, especially between Ali Mahdi and Hussein Aideed, son of the late General Aideed, thus hindering progress in the conciliation talks set up in the meantime between the various factions and political movements, and damaging prospects for a possible reunification and central government.

### *Economy*

The events of 1991 and the ensuing armed conflict had disastrous consequences for the entire country's economy. In 1992, huge numbers of people, especially in the south, were said to be dying of starvation. From 1992 onwards, UNOSOM<sup>(14)</sup> directed most of its aid efforts towards combating this. Following UNOSOM's withdrawal from Somalia in 1995, the southern towns - partly due to the increased fighting - continued to face serious food shortages. At the end of 1997, huge downpours and flooding in southern and central Somalia caused the deaths of around 400 people and thousands of cattle, and devastated crops, especially sorghum. This in turn led to parts of the population

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<sup>(14)</sup> For information concerning the United Nations Operations in Somalia (UNOSOM), see the official report of 9 January 1997.

suffering from malnutrition and epidemics which resulted in a further 2 000 or more deaths <sup>(15)</sup>. One bright spot is that, outside the area of conflict (see Introduction), trade among and between the clans in the south is now picking up, which not only benefits the local economy but also promotes peaceful co-existence. Families generally cope with any individual financial and economic difficulties which arise.

In contrast to the south, there is no evidence of large-scale malnutrition in North Somalia (1,5% of the population according to UNICEF). The relatively stable situation in this area has contributed to an improvement on the socio-economic front. Agricultural production and imports and exports have increased considerably and are an important source of foreign currency. The latter has recently suffered a setback due to a (temporary) ban on imports of Somali cattle by a number of Gulf States. The ports of Bosasso and Berbera are significant in terms of exports, chiefly of cattle, to countries such as Saudi Arabia and Yemen. These ports are now being modernised with financial assistance from the European Union. Many organisations are similarly engaged in developing economic activity.

Somalia's own currency, the Somali shilling, rose in value last year against the American dollar. This is an indication that Somalia's economy is heading in the right direction. The peaceful and orderly atmosphere which now exists in Hargeisa, and the city's development in the wake of its renovation and regeneration, are further positive signs. Somalis from the south and Bantu are attracted by the job opportunities offered by the economic recovery and find employment there.

#### *Humanitarian aid*

There is agreement among donor countries that the current situation in both the north-west and north-east of the country no longer justifies the granting of emergency aid. However, aid towards recovery and reintegration *is* still required. In this context, the UNHCR provides support for Somalis deported back to Somalia from the Middle East and also offers repatriation programmes for Somalis returning from the Yemen, Ethiopia and Kenya.

In the context of international aid towards recovery in Somalia, dozens of programmes are also being implemented by, for instance, UNICEF, WFP, UNHCR and UNCTAD, as well as by various NGOs. A technical adviser from the European Commission is currently based in Berbera and involved in the UNCTAD scheme to renovate and expand the ports of Berbera and Bosasso.

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<sup>(15)</sup> Source: Her Majesty's Embassy in Nairobi.

In the north-east, aid programmes are being implemented by amongst others UNDP/UNOPS, UNICEF, WFP, UNHCR and UNCTAD, together with NGOs such as Africa '70, AICF/USA, World Vision, OTP, Diakonia, MSF/H and other organisations. These programmes are primarily aimed at rebuilding the health service, at water supplies and sewage systems, education and the role of women, and improving the region's economic potential (through the development of ports, cattle breeding and fisheries). In Bosasso, a special representative from the European Commission is on hand to assist development of the north-east region.

In addition to the emergency aid provided during the recent floods, assistance from the Netherlands is more specifically directed towards the sectors concerning water supplies, sanitation, health services, women's activities and towards Somali refugees in Kenyan camps.

## 2.2 Government

Central government control was not restored in Somalia following the ousting of President Mohamed Siad Barre in January 1991. Somalia as a nation ceased to exist. However, in some parts of the country a form of local government was established which included an independent, judicial authority. Local forms of administration are now being either set up or expanded along these lines in other parts of the country. Examples of this include "Hiiraanland", "Jubaland" and "Benadir", which comprises Mogadishu. "Puntland" (see below) is an example of a recently completed expansion of regional government.

### *North-western Somalia (Somaliland)*

In Somaliland there is claimed to be a properly functioning government with its own policies, courts of law and tax system. Power lies with Muhammad Ibrahim Egal, who was elected president in February 1997 by what Somalis consider to be democratic means (see section 2.3). Since May 1993 there has been a cabinet of ministers and a parliament consisting of two chambers, the House of Representatives and the Council of (Clan) Elders (the Guurti), each of which comprises 75 members. An independent legal authority delivers judgments chiefly on the basis of British common law, which on occasion is supplemented by Islamic law. In February 1997 Somaliland adopted a constitution for a period of three years. At the end of this period a decision as to whether the constitution should be amended will be taken by means of a referendum.

### *North-eastern Somalia (Puntland)*

In the north-eastern provinces of Bari, Nugaal and Mudug, responsibility for a common policy towards international relations, defence and national reconciliation lay until

recently with the Majerteen-led Somali Salvation Democratic Front (SSDF). Day-to-day administration in the provinces in this part of Somalia has been carried out since 1996 by regional councils composed of representatives from each (sub-)clan in the region and chaired by provincial governors.

On 30 June 1998 a change occurred in the way the area was governed. On this date an important conference held in Garowe between the SSDF, the United Somali Party (USP) and the Somali People's Democratic Union (SPDU), together with all the governing councils and clan elders from the region was brought to a close with the proclamation of the "Regional State of Puntland". At the same time, a civilian government or regional authority covering each of the provinces <sup>(16)</sup> in Puntland was set up for a transitional period of three years. The aim is not to create an independent state, but an autonomous administrative region which could form part of a possible future Somali federation. Colonel Abdullahi Yusuf Ahmed was elected president of Puntland for the transitional period. A cabinet was then formed which was provisionally composed of nine ministers (for Internal Affairs, Justice, Finance and Planning, Trade and Industry, Social Services, Information and Culture, Public Works, Fisheries, Agriculture and Cattle Breeding) originating from various Darod clans (Majerteen, Dashishe, Dulbahante, Warsangeli, Lel Kase). According to unconfirmed reports, since the homelands of the Majerteen (Darod)-subclans extend into eastern Somaliland, the borderline between Puntland and Somaliland is still under discussion between the two parts of Northern Somalia.

#### *Central Somalia*

Day-to-day administration in the province of Hiiraan is the responsibility of the Governor, two Vice-Governors and a handful of administrators covering areas such as public health, education and infrastructure. General Aideed, who used a show of strength to try to suppress the Hawiye subclan (mostly Abgal) present in the area, was driven out of the province in the latter half of 1995. The Shari'a courts in the province use their influence to help maintain the balance between the legislative and executive bodies. They are also successful in maintaining public order, partly thanks to the police force under their control. The local authorities here claim that the crime rate is falling, thus helping to increase trade.

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<sup>(16)</sup> The name Puntland is thought to come from the ancient Egyptian name for this part of the Horn of Africa. In addition to the provinces of Bari, Nugaal and Mudug, the Regional State of Puntland's jurisdiction also covers the provinces of Sool and Sanaag (Somaliland). No further details are currently available.

*Southern Somalia*

At present internal administration and relations between clans in large parts of Southern Somalia are again mainly based on traditional structures of authority, often, however, in dialogue with district councils which were created at the time by UNOSOM <sup>(17)</sup>. District councils largely correspond to the traditional gatherings of clan elders, except for the fact that a system of proportional representation applies in the case of district councils and also that women have the right to vote.

By contrast with these parts of Southern Somalia, there is the conflict zone - comprising the southern cities of Mogadishu, Kismayo and Baidoa and the area between these three cities - where a number of warring leaders reign as de facto rulers.

The southern part of Mogadishu, capital city of the former Republic and focal point of the power struggle, and the Lower Shabelle province containing that part of the city, are under the authority of Hussein Aideed (Hawiye-Haber Gedir). Aideed initially laid claim to the function of President of Somalia, but appears in the meanwhile to have renounced the idea. Northern Mogadishu and the Central Shabelle province in which that part of the city is situated are under the authority of the faction leader Ali Mahdi who can count on the support of the Islamic Shari'a courts in this area. He belongs to the Hawiye-Abgal and until recently was a declared opponent of Aideed. In the meantime both are participating in the reconciliation discussions and have agreed on the establishment of an administration for Mogadishu (referred to as the Benadir regional administration).

In Baidoa the administration was formed by a Supreme Governing Council which had the support of the ruling Rahanweyn clan, organised in the form of the Somalia Democratic Movement (SDM). However, this Council was put out of action in September 1995 by Hussein Aideed's father, i.e. General Aideed, after he had occupied Baidoa by force. Hussein Aideed's main opponent is the warlord Osman Ali Ato, who was excluded from the aforementioned agreement on administration.

Kismayo is ruled by General Morgan, the military leader of the dominant Majerteen faction which has been occupying the city since 1993.

An intermediate form of administration is found in the province of Gedo. The major part of the province is, indeed, ruled by the Somali National Front (SNF), the faction of the Marehan subclan belonging to the Darod, albeit through regional and district councils set up at the time on the initiative of the UNOSOM.

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<sup>(17)</sup> At the end of 1993 59 district councils and five provincial councils were set up in the area in which UNOSOM was active.



## 2.3 Political developments

### *Northwestern Somalia*

In February 1997 Egal was re-appointed President of Somaliland for a four-year period at a session lasting about three months of the national congress which is composed of members of the Guurti (the Council of clan elders), the House of Representatives and 150 other clan elders who were also added to the congress with a view to this important election. At the beginning of 1998 Egal announced that he wished to stand down on health grounds. The House of representatives turned down his request. The President seems to have reinforced his position since then. The new Constitution was adopted by Parliament.

### *Northeastern Somalia*

The previous paragraph already mentioned the establishment on 30 June 1998 of the "regional state of Puntland" (consisting of Bari, Nugaal and Mudug provinces) with an autonomous regional government and the appointment of a President and ministers. It would appear that all this will be further institutionalised during the three-year transitional period which has begun in the meantime. Independence does not seem to be a goal, although the aim is to promote cooperation between the provinces and the political factions involved in this region, and to form an autonomous state which could form part of a possible federated Somalia. Another current aim is to broaden political and economic relations with Somaliland.

### *Peace talks*

Since the end of 1996 a number of countries in the region (Ethiopia, Kenya and Egypt) have been undertaking peace initiatives directed at Somalia. An important endeavour was to get the Hawiye warlords who are fighting each other in the south to sit around the negotiating table. These are Ali Mahdi Muhammad, leader of the Somali Salvation Alliance (SSA) which controls northern Mogadishu, Hussein Muhammad Aideed, leader of the Somali National Alliance (SNA) operating in southern Mogadishu and Osman Hassan Ali Ato (who, like Mahdi and Aideed, also belongs to the Hawiye clan) who is in charge of the USC/SNA wing. All three are among the five chairmen of the National Salvation Council (see following paragraph) and are thus genuinely taking part with other leaders <sup>(18)</sup> in the peace talks.

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<sup>(18)</sup> Annex III contains an overview of the key political figures most of whom (with the exception of President Egal of Somaliland) are involved in the peace talks.

A number of discussions have been held to date.

- In October 1996 delegations of the main southern factions inter alia gathered in Nairobi for the first time. On that occasion it was agreed that all hostilities should cease. In actual fact, however, violence in the conflict region is constantly erupting.
- On 3 January 1997 leaders of 26 Somali political groups, including the abovementioned three factions met in Sodere, Ethiopia. Agreement was reached in a National Salvation Council specially set up for this purpose (NSC chairman is Aden Abdullahi Nur) on the preparation of a provisional national charter and on the establishment of a transitional authority or provisional national government. The relevant drafts would be discussed at follow-up conferences.
- In December 1997, 24 leaders (including Hussein Aideed) agreed in Cairo to form an interim government consisting of a Council of Presidents composed of about thirteen members, a Prime Minister and a national assembly. It was further agreed that a national reconciliation conference would be organised in Baidoa at which the detailed arrangements for forming a government would be worked out, including the allocation of important functions <sup>(19)</sup>. This meeting has not yet been held because a number of conditions (such as the prior withdrawal of Aideed's troops from Baidoa) have not yet been met <sup>(20)</sup>.
- At the beginning of April 1998 further preparations for a reconciliation conference and the setting up of an administration for Mogadishu and the surrounding area were made by Ali Mahdi Mohamed, Hussein Aideed and Osman Ato at a ten-day conference in Kenya <sup>(21)</sup>.

Following the conference in Cairo disagreement arose between Egypt (mandate from the Arab League) and Ethiopia (mandate from the Intergovernmental Authority for Development (IGAD)) over the competence to mediate in the Somali conflict. This disagreement appears in the meanwhile to have been resolved, as Egypt stated in March 1998 that it would be cooperating with the IGAD and would coordinate its mediation initiatives with that organisation. Both Egypt and Ethiopia are aware of the fact that the Somali issue has an African, Arab and Islamic dimension. Apart from the leaders of other political

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<sup>(19)</sup> A previously-planned NSC reconciliation conference to be held in Bosasso in November 1997 did not go ahead.

<sup>(20)</sup> The National Reconciliation Conference in Baidoa has been postponed four times. It had previously been scheduled for mid-February, the end of March, 15 May 1998 and mid-August 1998 (and now January 1999).

<sup>(21)</sup> The leaders and their delegations met in Kenya at the invitation of Kenya's President, Daniel Arap Moi. Leaders returned to Mogadishu together by plane on 16 April 1998.

factions, Ali Mahdi, Hussein Aideed and Osman Ato, above all, should also take an active part in these conferences if results and ultimate peace are to be achieved. Aideed, in particular, stresses that too much outside intervention is undesirable and that mediating third countries should respect the Somali's own (lengthy) negotiating methods. Only President Egal of Somaliland is not taking part in the Somali reconciliation process.

## 2.4 Security situation

### Introduction

The security situation still differs in the northern and southern parts of Somalia respectively. However, since Siad Barre was driven from power in 1991, no one clan family dominates any other or others any longer anywhere in Somalia. It was also not one single clan or united movement that drove the Darod president from power, but fragmented clan groups, armed groups of which occupied one or more areas where members of the clan in question formed a majority of the population <sup>(22)</sup>. Furthermore, for as long as the distribution of power in those areas was not (any longer) disputed, the peace was kept or returned. From 1995 onwards the whole of the north was relatively safe. In the south, however, armed conflict has continued to occur from 1991 to the present day.

### 2.4.1 The area of conflict in Southern Somalia

In and around Mogadishu, which is after all part of their traditional territory, the Hawiye regarded themselves as having played the most important role in driving the Barre regime from power, and for that reason demanded the position of president of the state of Somalia for themselves. The installation on 28 January 1991 of Ali Mahdi as interim president, without consultation with the larger front movements which had undertaken to set up a government of national unity, and even without consultation with the factions within his own front of the United Somali Congress (USC), immediately encountered resistance from the elected Chairman of the USC, General Farah Aideed, and from other parts of the Hawiye clan that had not been consulted beforehand. After the death of the general (Hawiye-Habr Gidir) in August 1996, the struggle against Ali Mahdi (Hawiye-Abgal) was continued by his son Hussein Aideed. A third group, the Hawadle clan, which is associated with the Hawiye, tries from time to time to intervene by force of arms. The armed conflict, mainly in and around the former government stronghold of Mogadishu, the port of Kismayu and Baidoa, flares up repeatedly as a result of constant shifts in the relative power of the fighting warlords.

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<sup>(22)</sup> Source: "Somalia in difficulties"  
Published by the Federation of Refugee Organisations in the Netherlands, April 1993.

The geographical triangle formed by the cities of Mogadishu, Baidoa and Kismayu is designated in this paper as the area of conflict. On account of the fighting which constantly flares up and as regards respect for human rights, the general situation in the area of conflict must be regarded as unsafe.

Within the area of conflict, there also live apart from Hawiye members of other clans, such as Digil and Dir, which are not directly involved in the conflict. Like members of minority groups, they run the risk of becoming victims of the hostilities, but are not a target of general persecution by the parties to the conflict. Other clans and parts of Somalia are not involved in this conflict.

The warlords and the various armed groups in the area of conflict aim mostly to occupy and retain control over targets which are economically and financially of strategic importance, so as to deny them to others. In this way, they secure for themselves what is usually the sole available source of income; this is one reason why armed conflict in this area is so persistent. Thus, for example, if in the view of one party the income from the port taxes in Mogadishu is not properly shared out, armed conflict will occur. Incoming aeroplanes and ships may be seized by the factions with no other aim than to obtain a high ransom. In March 1997 in Kismayu a Kenyan freighter was occupied by force of arms and not released until 15 000 US dollars was paid.

For the same reason, international organisations run a similar risk of encountering problems from armed groups, with robbery as the motive. In April 1998, with this aim in view, International Red Cross workers in transit were taken prisoner by an armed group at the airport in Mogadishu together with the pilots. Only after long negotiations between the warlords, and even international mediation, were all set free.

Although on various occasions, such as in a joint communiqué at the end of May 1997 after a meeting with the Egyptian President in Cairo, a ceasefire has been proclaimed by Aideed and Ali Mahdi, it is not yet apparent that it is being fully observed.

#### **2.4.2 The unsafe part of Southern Somalia**

Outside the abovementioned triangle of cities, the situation in the southern provinces of Bay, Bakool, Gedo, Lower and Middle Juba and Lower and Middle Shabelle as regards stability and the functioning of any local authority is still unclear. Unlike in the north, the clans in Southern Somalia have not (yet) concluded any peace agreements. The conflict in Mogadishu has for a long time had a destabilising influence on large areas of Southern Somalia. This is

lessening at present as a result of the attempts at reconciliation that have been set in train involving all 26 clan and/or political leaders. In Hoddur, the capital of the province of Bakool (approx. 350 kilometres north-west of Mogadishu), the Rahanwein people drove out Aideed's militia in May 1997 after tension had risen in the town as a result his faction collecting taxes. Since then it has been quiet in Hoddur.

In the province of Gedo (Western Somalia on the border with Ethiopia) the Islamic Fundamentalist Islamic Unity (Al-Ittihad Al-Islam) was driven out of the towns of Luuq and Bulo Hawo where it had great influence by the Somali National Front (SNF) in June 1997. According to reports, the SNF was helped by the Ethiopian armed forces. However, this was officially denied by Ethiopia.

### 2.4.3 The relatively safe part of Somalia

The relatively <sup>(23)</sup> safe part of Somalia comprises the remaining ten provinces. These are the five Somaliland provinces: Awdal, Galbeed, Togdheer, Sanaag and Sool, the north-eastern provinces of Bari, Nugaal and Mudug, and the central provinces of Galguduud and Hiiraan. Here are the clan areas of chiefly Isaaq/Dir/Darod and Darod/Hawiye respectively. The peace between them is based on a series of agreements, which they comply with. In these parts of Somalia there has been peace for several years. The clan families and their political factions have since 1991 been busy securing "their" parts of Somali territory by setting up a form of government, and ensuring through dialogue that both their own and the other (sub-)clans living within the area covered will participate in it. The existence of regional government prevents disputes degenerating quickly into armed conflict. More traditional forms of conflict resolution are also pursued, i.e. by councils of clan elders. Such conflicts usually concern the ownership of land, livestock or water and the control of (other) sources of income (including transit routes, harbours and airfields where tolls or taxes can be collected). The local authorities also claim that firm action is being taken against crime and that crime has decreased as a result. In many places in Somaliland an increasingly well-organised, and partly already uniformed, police force (at present about 4000 strong) is functioning. International organisations feel safe in working from Hargeisa. In Hargeisa at least eight United Nations organisations and twelve international non-governmental organisations are active.

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<sup>(23)</sup> With reference to these areas, the term relatively safe is used, since the resurgence of local conflicts and the use of weapons cannot be regarded as completely ruled out anywhere in Somalia.

In the central provinces Hiiraan and Galguduud the situation can also be regarded as safe and stable for the most part. In Galguduud, there were no reports in 1997 and 1998 of fighting between clans. Political and economic developments appear favourable here. In this predominantly Hawiye area (mainly Habr Gidir, Abgal and Murusade) there are, in the west, also traditional territories of the Darod-Marehan. Hiiraan was notorious in the past because of widespread banditry. After the departure of UNOSOM troops the area was overrun by General Aideed's SNA, above all as a consequence of the disarmament supervised by UNOSOM. The SNA was regarded by the Hawadle (a clan family associated with the Hawiye) who lived in that area as an occupying force. In 1995 the Hawadle managed to recapture the capital Belet Uen from the SNA and to drive out the SNA completely. Since then the area has remained free of conflicts between warlords and a situation has arisen where there is the opportunity for reconciliation and reconstruction. The Hiiraani seem to have succeeded in this. Nowhere in Hiiraan is there still fighting or serious conflict. The de facto authority, exercised on the one hand by the governor and on the other by the militia, is upheld to a significant extent in this province (except for the region of Matabaan which does not fall under the authority of Belet Uen but where there are also no indications of conflict) by the Shari'a courts. The Shari'a court's own police force, consisting of members of various sub-clans, is responsible for internal security. Here too, in principle, every Somali can travel into the province and Somalis can settle there with the consent of the local authority.

In the areas mentioned with a form of local government there were no reports in 1997 and 1998 of persecution on the grounds of origin, sex, religion or political persuasion. Nor are cases known of persecution of an individual or minority on those grounds being tolerated or encouraged by a (dominant) clan.

### *Mudug*

For the sake of completeness it should be noted that control by the SSDF in the three provinces of North-East Somalia (predominantly Darod/Majerteen territory) did not extend to the southern half of the province of Mudug. The part of the province to the south of Galcaio (which has now become an important town for the transit of people and goods on the Mogadishu-Bosaso and Mogadishu-Hargeisa road, which also runs through the central province of Galguduud) is Hawiye territory. In the Mudug Regional Council (with 51 seats in total) 15 seats are reserved for the Hawiye. On account of divided sympathies among the population for the different Hawiye factions in the area of conflict, it was impossible for a long time to reach

agreement on who should occupy those 15 seats.

The relative stability and safety which characterise the north-east have also been present for a considerable length of time in the southern part of Mudug. The last clashes in Galcaio with SNA militias date from 1993. In 1996 a joint Majerteen-Habr Gidir (Hawiye) police force was set up in Galcaio. In mid-October 1997 a peace agreement was signed between the Majerteen-led SSDF and the Habr Gidir-led SNA. On that occasion a reconciliation parade was held by members of the two clans in Galcaio <sup>(24)</sup>.

Since 30 June the whole of the province of Mudug has been under the temporary administration of Puntland Regional State. On 12 August 1998 there was a meeting between President Abdullahi Yusuf of Puntland Regional State and a representative of the USC/SNA which has many adherents in southern Mudug. On that occasion both argued for a strengthening of peaceful cohabitation throughout Mudug. According to unconfirmed reports the continuing attachment of the Hawiye part of Mudug to Puntland is still a subject of discussion.

With reference to Somalia as a whole - except for the area of conflict - it may be observed that the population is increasingly coming to realise that in a relatively peaceful situation flourishing trade brings benefits to all parties concerned. Increased trade between the regions and the different population groups and greater individual freedom of movement also lead to a reduction in violence arising from economic causes. The perception that people are talking to one another again, including about peace, seems in general to contribute to a somewhat less tense situation.

### 3. Human rights

#### Introduction

Reports of breaches of human rights come above all from the area of conflict (the geographical triangle formed by the cities of Mogadishu, Baidoa and Kismayu). There are reports of summary executions, Somalis and international aid workers being taken hostage, ill-treatment of prisoners, torture and rape. However, the number of cases is now considerably lower than in the years when the fighting was at its height. Although reports indicate that fighting is occurring less frequently in Mogadishu, within the area of conflict dozens of people have in the past year again fallen victim to the conflict

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<sup>(24)</sup> Source: Danish Immigration Service fast-finding mission, October 1997.

between the political factions, which sometimes flares up fiercely. Outside the area of conflict there have been no reports in Somalia of serious breaches of human rights, or of the persecution of groups or serious and systematic discrimination against particular (minority) groups. To deal with criminal and civil cases, civilian or islamic courts operate in all regions.

More generally it should be pointed out however that there has been no improvement in the inferior position of women, the genital mutilation of girls and women and, in some cases, the implementation of Shari'a punishments.

### 3.1 Guarantees

Because there is no central power structure in Somalia, there are in practice no guarantees for the protection of human rights on the basis of international agreements and a constitution. As far as is known, only a few local NGOs, usually in cooperation with the Swedish Life and Peace Institute (LPI), give attention to the general human rights situation, democratisation, and women's rights. In Somaliland, the Horn of Africa Human Rights Watch Committee and Guardians for Civil Liberties, among others, are active, and in Mogadishu the Dr Ismail Centre. They have reasonable freedom to operate and have contacts with Amnesty International. The influence of most NGOs cannot however be characterised as effective and direct influence on the prevailing situation. As examples of international organisations which are carrying out or have carried out investigations into the human rights situation in Somalia, and report on it, Human Rights Watch and Amnesty International may be mentioned. The International Committee of the Red Cross (ICRC) investigated living conditions in prisons in Somalia. The situation in the prisons differs from region to region. The Red Cross reported that the prison in Mogadishu was overcrowded, and that the majority of prisoners were suffering from malnutrition. The prisons in Baidoa, Bardera and Kismayu are primitive, but the situation there is not said to be unhealthy or overcrowded. Partly owing to the efforts of the World Food Program (WFP) there is sufficient food available for the prisoners. In addition, on the basis of Resolution 1997/47 of the UN Commission for Human Rights



and in connection with technical assistance to Somalia, a report has been brought out on the human rights situation there <sup>(25)</sup>.

### 3.2 Observance and violations

#### 3.2.1 Freedom of expression

Newspapers are published in a few important towns. In the cities brief news bulletins are also published on a large scale. These often originate from the various factions, but there are also a number of independent bulletins which are often critical of the faction leaders. There are reports of arrests and detention of journalists from the area controlled by Hussein Aideed. Only journalists who belong to the Habr Gidir sub-clan can work there. At present three newspapers are published in that area, Qaran, Xogogal and Ayamha. The publishers have a certain status within the Haber Gedir sub-clan. Aideed's troops have threatened fairly regularly to murder journalists who do not belong to the clan (and thus have no power base and can therefore expect no protection) and are critical of Aideed. It is not known if journalists have indeed been murdered, or what punishments can be inflicted on journalists who are arrested.

#### 3.2.2 Freedom of association and assembly

In the relatively safe areas, and usually also elsewhere in Somalia, there is freedom of association and assembly. Public gatherings occur frequently throughout Somalia. Such gatherings usually take place without problems or interference by outsiders.

In Northern Somalia opposition can be carried on publicly, and this is mirrored by a relatively free press.

Public protests and demonstrations by members of the public occur throughout Somalia, usually without this causing them problems.

#### 3.2.3 Freedom of religion

The majority of Somalis are Sunni Moslems. In some regions, such as in Gedo and Northern Mogadishu, Islam has been declared the official religion, often in combination with the introduction of the Shari'a law. Islamic traditions are usually observed under strong social pressure, especially in the more fundamentalist enclaves such as Luuq in the province of Gedo. In general non-Sunni Moslems are looked on with suspicion. The Christian community is small. There are no reports of non-Moslems in Somalia experiencing problems because of their religion.

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<sup>(25)</sup> Report of 16 January 1998 "Situation of human rights in Somalia" by UN special rapporteur Ms Mona Rishmawi.

International aid organisations with a Christian foundation can work in Somalia undisturbed.

#### 3.2.4. Freedom of movement

Inhabitants of Somalia can in principle move freely throughout the country, regardless of their family origin. They will in any case themselves choose to avoid certain areas and roads if they might be dangerous. Many thousands of people who at the end of the eighties fled Northern Somalia, and thousands of homeless people from within the country from various clans and minorities who fled Mogadishu in 1991-1992 on account of the civil war, returned undisturbed to their areas and property in Somalia once the security situation improved.

Many thousands more homeless people from within the country from a variety of clans find a safe place of refuge in the north of Somalia. Somalis travelling by the road from Mogadishu to the north, and vice versa, are not bothered as a rule. Foreign, above all western, travellers are however advised everywhere, because of the prevalence of bandits, to travel the road only with a (paid) armed escort.

It is in principle only possible for a Somali to settle outside the original territory of his own clan with the permission of the local clan elders or the local authorities. In such cases the persons concerned would have to refrain from making claims on land and property, because that could lead to conflict with inhabitants whose clan had its original territory there.

Exceptions to safe movement, return or settlement outside the original clan territory are situations where:

- there are armed inter-clan conflicts, which constantly involves risks in entering the territories concerned. This is not the case throughout Northwestern and Northeastern Somalia, or in the central provinces of Galguduud and Hiiraan;
- the person in question is known and sought because he has been guilty of subversive actions or breaches of human rights or the rules of war during earlier fighting in the area, for example as a former high-ranking soldier;
- the person in question behaves badly or carries out criminal acts, or it is known that he is planning to.

In the area of conflict especially, freedom of movement is limited by numerous checkpoints, set up by the factions' militias. There are reports that the demarcation line between the hostile factions (the so-called green line which

divides Mogadishu into a northern and a southern half) and also the checkpoints have been abolished in Mogadishu and then others that they have been set up again. One report states that Mogadishu is divided up into zones <sup>(26)</sup> politically and according to clan. In principle people can move freely to the zones, as long as they are not in possession of any weapon.

As there is no central government, most Somalis are forced to arrange travel documents for foreign journeys informally. In the markets of almost all cities in Somalia, and in Djibouti and Nairobi, identity papers, passports, driving licences, birth certificates and university diplomas can be obtained for payment. The Somaliland authorities may issue Somaliland travel documents to Somalilanders travelling in and out.

### 3.2.5. Judicial process

In Somalia as a whole there are various forms of administration of justice. In some regions local courts have been set up, which deal either with civil and criminal cases, or with criminal cases alone. In the latter situation, civil cases (above all marriage and property law) are usually dealt with by the Imam (religious leader), who will normally first leave it to the family (-ies) to find a solution to disputes (claims for compensation). In inter alia (full information is lacking) Gedo, Hiiraan and Northern Mogadishu since the beginning of 1994 the application of the Shari'a law, customary there, has been extended to cover criminal cases.

The sources of law are customary law, the Islamic Shari'a law, criminal law from the time of Siad Barre, or a combination of these. The Shari'a is not applied everywhere in Somalia. Furthermore, there are different forms of application of Shari'a law and the execution of punishments; on this point uncertainty remains <sup>(27)</sup>. In Northern Mogadishu, in the central region of the province of Shabelle and in parts of the provinces of Gedo and Hiiraan, judicial verdicts are exclusively based on Shari'a law. A strictly interpreted Shari'a leads generally to Shari'a punishments. Thieves are punished with amputation after the verdict has been confirmed by a court of appeal. Murderers are punished with death if the family or the clan does not reach or does not wish to reach an agreement on compensation with the family or the clan of the victim. Here thus traditional law prevails, whereas with theft that is mostly not the case.

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<sup>(26)</sup> Source: Report on Nordic fact-finding mission to Mogadishu, Somalia, June 1998 by the Danish Immigration Service.

<sup>(27)</sup> Source: Situation on Human Rights in Somalia, UN Special Rapporteur Ms M. Rishmawi.

Observance of laws is enforced either by the clan elders, the militias of the local authorities or the militias of the Shari'a courts. In Northern Mogadishu in 1998 five death sentences were carried out by the Shari'a court. All concerned men found guilty of banditry <sup>(28)</sup>.

In Somaliland and Northeastern Somalia in particular (and in other areas, but clear information is lacking), the old criminal code is still applied, alone or in combination with other systems of criminal law. In general, an accused person can be assisted by a lawyer and there is some form of appeal, even in the Shari'a courts.

### 3.2.6. Arrest and detention

In general it can be stated that outside the area of conflict no-one in Somalia runs the risk of being persecuted on the grounds of his clan origin alone, regardless of whether he/she is living in the traditional territory of his/her clan, or in a region where his/her clan did not originally belong. This also applies to people who belong to one of the minority groups in Somalia.

Detention without charge and without trial of political opponents in the broadest sense of the term occurs in the area of conflict. Outside it, there are no reports of this. In Somaliland, on the basis of an amnesty declared in January 1997, all political prisoners and clan members who had taken part in fighting and been detained in 1996 were set free <sup>(29)</sup>.

## 3.3. Position of specific groups

### 3.3.1 Clans

Unlike, for example, between the population groups in Ethiopia, there is in Somali society ethnic homogeneity and identity on the basis of language, religion and cultural (nomadic) traditions <sup>(30)</sup>. There is one Somali population group, consisting of six main groups or clan families, which each consist of dozens of clans and

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<sup>(28)</sup> Source: Report on Nordic fact-finding mission to Mogadishu, Somalia, June 1998 by the Danish Immigration Service.

<sup>(29)</sup> Source: Amnesty International Annual Report 1998.

<sup>(30)</sup> A very extensive description of the Somali clan system can be found in "Peoples of the Horn of Africa" by I.M. Lewis, Haan Associates, London. This book gives the names and descriptions of dozens of (sub-)clans, and of minorities and groups outside the clans.

sub-clans. They came into existence through traditional identification, passed down through the generations, with a common ancestor and with the common pastureland, the "deghan". Within the clans, on account of their size, authority is not exercised by one single pater familias but by several together. Decisions concerning, for example, the division of land, security, or relations with other groups, are taken by these clan heads and other authoritative clan elders (on the basis of personal knowledge and experience).

During the regime of Barre (October 1969 to January 1991) Somalia had a central power structure in which there was no role for the traditional forms of consultation within and between the clan families. The power of one single clan family (that of Barre's Darod) was however seen by the others as too dominant and threatening, and this finally led to his removal from power. As observed earlier, at present no one clan family dominates one or more other clan families. Only between branches of the Hawiye clan is there still violence, primarily within their own clan area.

However, the clan families together do not form a unit either. It is still not clear how power in any federal Somalia is finally going to be divided up among the clan families. At present they are holding negotiations on this question. Among the clans involved, however, the traditional form of consultation is again to the forefront, which means that the opinion of the clans and their clan elders counts to a significant degree in deciding on the final form of government and power structure.

Contacts between Somalis are in principle not influenced by differences in clan background. It is usually some additional factor which gives rise to disputes. As well as political factors, economic factors usually play an important role among Somalis, who are attached to status and possessions. In situations where authority and economic relations are accepted by both sides, relations between (members of) different clans can be described as peaceful. In conflicts with a political or economic background, however, sides are taken, most people backing their own group. The conflict in the south shows that disputes can arise within a larger group.

Any conflicts are tied to territory; outside the area of conflict people usually act as a single family. There is also little evidence of polarisation between the clans among Somalis outside their own country or outside the areas of conflict in Somalia. Somalis travel into Northwestern and Northeastern Somalia and the central provinces of Galguduud and Hiiraan from any clan and from any part of Somalia, normally without

experiencing any problems - unless they draw attention to themselves by unusual behaviour - and they have usually several alternative places to settle there, with the consent of the local authorities.

A view expressed by the authorities in these parts of Somalia which the members of the mission heard is that every Somali is a Somali and thus in principle has equal rights (this principle need therefore not apply to the same extent to non-ethnic inhabitants of the country). In the event of any serious conflicts between sub-clans the authorities, and in smaller conflicts the clan elders, intervene.

### 3.3.2 Minorities

Reference to clanless people or minorities, who have often already formed part of Somali society for quite some time, in fact means groups of persons who are not related to the Somali ethnic group. These include the Bantu, Gaboye/Midgan (shortened to Midgan), Toumal and Yiber (who claim to be of Jewish origin). It is assumed that they are of either Asiatic or Oromo and Bantu descent. They have no hierarchical structure, no tradition of aggression and usually no armed militia of their own.

The Bantu (like the Benadirs, Bravans and Banjunis) have their roots elsewhere in East Africa. The Bantu include the Zigua, Zaramo, Magindo, Makua, Manyasa, Mushunguli and Yao. In addition to their own language they usually speak broken Somali. They are said to have been brought to Somalia several centuries ago as slaves. Until 1991 they were chiefly involved in agriculture in the Juba river delta. Although they did not take part in the civil war and are not therefore in danger of recriminations or possible reprisals, they have been scattered by the fighting and disorder in 1991 and 1992. As a result they often lost their land along the Juba river to the north of Kismayo and in Middle Shebelle to the north of Mogadishu. According to the UNHCR many Somali Bantu refugees prefer to be resettled in their ancestral lands rather than return to Somalia. In practice there are also many displaced Bantu who have returned to the Juba valley where they are living both in and outside refugee camps. In addition, a large number of Bantu live in Middle Shebelle where they are free to move about without any problems <sup>(31)</sup>.

In areas where there is fighting, clanless people are in danger of being forced to participate. This has been the case, for example, with Midgan in Mogadishu and a

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<sup>(31)</sup> Source: Nordic fact-finding mission report, 15 February to 14 March 1997 Danish and Swedish Immigration Services.

small number of Midgan refugees are currently in camps in Kenya. Midgan do, moreover, settle in places where they can obtain protection from a clan and build up an economic activity. When the hostilities in and around Mogadishu began, the Reer Hamar mostly moved abroad for safety reasons. Members of this group who have remained in the war-torn area are harassed or treated in a degrading way. This has occurred with a small number of original residents from this group. The Reer Hamar are unable to find work or conduct trade in Mogadishu without the protection of one of the armed groups in the town. Most of the Reer Hamar's houses have now been occupied by the Hawiye militia. There have been cases of Reer Hamar being murdered for the valuables in their homes.

There have been no recent cases of persecution of individuals solely on the grounds of their origin or social status. In general minorities have been able to avoid involvement in clan disputes. As these groups are often a source of skilled workers, such as weavers, fishermen, builders or black-smiths, they are often economically better off than Somalis who belong to a clan.

It can be said in general that members of minorities and of clans which did not originate in the areas where they live have usually come, after a few years of residence, to be regarded as fully integrated into the society and environment of their "new home" <sup>(32)</sup>. People belonging to a minority can of course, like anywhere else, become targets of robbery, discrimination and intimidation and, e.g. be excluded from any form of public office. It is indeed also in the interests of these groups that there should be a functioning authority.

In the present situation of greater stability, except in areas of fighting, the position of minorities also seems to be improving and there are apparently in general fewer problems with the reintegration of members of minority groups. Northeastern Somalia is home to a number of smaller clans, clanless people and groups of foreigners such as the Gaboye/Midgan, Tumaal, Bantu, Madiban, Lel Kase and Ethiopian citizens.

In Somaliland the Bantu have found work in the construction industry. They have no problem working there. An example of the fact that Bantu in Somalia are also able to find more highly qualified work, is that the Registrar of the Court in Belet Weyne, who was interviewed by the mission, was a Bantu.

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<sup>(32)</sup> Source: Danish Immigration Service, fact-finding mission October 1997.

### 3.3.3 Women

Because Somalia is a patriarchal society, the majority of women occupy a subordinate position. There is considerable social discrimination against women. When the civil war was in progress from 1991 to 1992, many women were the victims of sexual violence and had to bear the accompanying stigma.

As a result of circumcision 98% of all Somali women have suffered genital mutilation.

Women are usually excluded from the political process. However, they can play an important background role in the various factions. High-level public office is reserved exclusively for men.

Women and girls can inherit property, but under Islamic law only half the amount which men can inherit. Similarly, it is traditional in Somalia for blood compensation (the diya) for the murder of a woman to be only half as much as that received by relatives of a male victim (fifty instead of a hundred camels). In areas subject to the influence of the fundamentalist al-Ittihad, women are usually forced to play a more "arab-islamic" role. This includes less freedom to leave the house.

A Somali woman, whether married or unmarried, can engage in economic activity as a producer and trader. The war seems to have made women more independent. Orphans were adopted, soup kitchens were set up, women organised demonstrations against war and violence and set up relatively large-scale cooperatives and credit associations in order to achieve greater economic independence. Many local NGOs are run by women.

#### *Marriage*

In Somali society, marriages chiefly take place within the same family and sub-clan. Marriages outside a person's own clan can occur anywhere in Somalia. These may be prompted by pragmatic considerations of reconciliation or the balance of power.

In cases of divorce or on the death or disappearance of one of the spouses, it is only in exceptional cases that exogamy involves risks for the surviving man or woman. This can occur if the clan which they marry into makes them a social outcast or treats them in a degrading way and their own clan is not represented in the place where they live. The person concerned may then be in a vulnerable position and suffer harassment.

In general, the surviving spouse will also enjoy the protection of the clan into which



he or she marries. In addition, protection will be offered by any local authority or magistrate.

If a woman loses her husband, she and her children may be taken in by the direct family of the husband. "Dumal" is the principle which then applies, i.e. the brother of the woman's husband has the opportunity of marrying her. If there is no brother, that opportunity is open to a nephew.

It is also possible for a woman to be taken in again by her father's family. Although "dumal" seems to take precedence, it is not unusual for consultations to be held between the widow's father and her brother-in-law, with the woman frequently also being allowed to state her preference. This is a matter in which the age and sex of the children play a minor role, even though it is probable that any slightly older sons will identify with their father's clan and therefore prefer the "brother-in-law option". This traditional approach means that a woman and her children only rarely find themselves without protection.

#### 3.3.4. Children

Children are the principal victims in war-torn areas. Many boys aged fourteen and fifteen have taken part in and become the victims of attacks by the militia, or have to cope with traumatic experiences (a number of NGOs are engaged in dealing with post-traumatic stress syndrome). According to UNICEF, Somali children who are fifteen years old are regarded as adults in Somalia. Somalis are then of age to carry weapons <sup>(33)</sup>. A number of young people are still members of the "Morian", i.e. bands of thieves.

Another major problem is that children in areas of fighting have had to miss many years of education. Education is otherwise available in Somalia, but is of poor quality. School buildings have often had to be repaired, by UNICEF for example. Schools have also been set up by Egyptian and Saudi-Arabian (N)GOs. In addition, there are many private schools run on a commercial basis. Private education for adults is also given locally in schools, mainly to young mothers from the age of 17 or 18. There is a shortage of professional training. Most craftsmen (bricklayers, carpenters) learn their crafts by practising them as apprentices. Considerable attention is, however, usually paid to medical training (nursing, maternity care).

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<sup>(33)</sup> Source: "Situation of Human Rights in Somalia", report from UN Special Rapporteur Ms M. Rishmawi, 16 January 1998.

Formal (paid) employment of children is rare, but it is customary for children to help from an early age with agricultural, stockbreeding and household work. This is normally done within the child's own family, partly in order to train him to take over the farm later and partly for economic reasons (no labour costs).

Finally, UNICEF is active in many parts of Somalia. This organisation's aid programmes concentrate on the health and feeding of children, education and immunisation (with the World Health Organisation) and on information concerning the rights of the child.

#### 4. Return

##### Introduction

There were two periods in particular in the last decade when there was a large exodus of refugees from Somalia.

The first was in 1988 when 300 to 500 000 Northwestern Somalis (chiefly Issaq) fled their homelands and mostly went abroad (Ethiopia, Djibouti, Yemen) following the quelling of the uprising in the north by Siyad Barre. Half of these returned very soon after the declaration of Somaliland's independence in May 1991 <sup>(34)</sup>. The fact that stability and security in Somaliland have been increasing since then prompts more refugees to return in their thousands every year (inter alia with the help of the UNHCR).

They are also invited to do so by the central authority of Somaliland, which regards a numerically strong population (consisting above all of the original clans) as important <sup>(35)</sup> and fully realises that reconstruction of the country must be by and for the people.

A second exodus of refugees was caused by the conflict in the south. Between 1989 (Barre versus the Hawiye) and 1995 (first the expulsion of Barre and Darod in 1991 and then the chaos of civil war in Mogadishu followed by the Hawiye power struggle some 63 000 Somalis applied for asylum in Europe (the majority in the Netherlands (31%), the United Kingdom (16%) and Germany (13%)).

##### *Flight alternative*

Persons from every clan did not, however, only cross the border (Darod to Kenya, Marehan to Ethiopia) but also sought refuge in their thousands in other parts of Somalia.

In subsequent years, these displaced persons were joined by others fleeing

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<sup>(34)</sup> The independence of Somaliland has not been recognised by any other country or by other parts of the former Somalia.

<sup>(35)</sup> The estimated population of Somaliland is 2,5 million.

either the war-torn area in the south or natural disasters such as extreme drought or flooding in the rainy seasons. This has not caused any new armed conflicts anywhere. In Northeastern Somalia, for example, which is a predominantly Darod area, tens of thousands of displaced persons live without encountering any significant problems amongst themselves or with the original population and have thus found a flight alternative there.

It is therefore true to say that membership of one of the clans present in the war-torn area, in particular Hawiye, Dir, Rahanweyn and Digil, does not automatically mean that persons fleeing the (area of) fighting are not welcome elsewhere in Somalia. The Hawiye like the Rahanweyn and Digil do, moreover, have areas where they live in other parts of the south of Somalia. The Dir also have areas where they live in Somaliland, Eastern Ethiopia and Djibouti and they can usually go there without any problems. Other clans too have areas where they traditionally live beyond the country's borders with Ethiopia, Kenya and Djibouti (e.g. the Issaq) <sup>(36)</sup>.

It is generally the case that Somalis who wish to do so can travel to and within Somalia until they have again reached their own or family territory. Such territory is usually in the area where their clan traditionally lives.

Many displaced persons are however poor. Of these Somalis several thousands have travelled on to European countries and applied for asylum there. According to UNHCR data, between 1991 and 1995 the Netherlands granted refugee status to 3 000 Somalis, which accounts for nearly 70% of all (4 300) cases in which refugee status was granted in that period in the countries of Western Europe.

It is striking that many Somalis with residence permits from various countries have returned to Somalia for shorter or longer periods of time, sometimes even in order to take up public office. The Somaliland cabinet includes at least seven ministers who also have United Kingdom nationality. Elsewhere in Somalia, the mission met Somalis holding Swedish, Canadian, United States and Netherlands passports, mostly working in local administration or education. There has not, as far as we know, been any study made of this phenomenon of (apparently problem-free) return of Somalis holding foreign passports. It is possible that a role is played here by the fact that such individuals and even groups feel they are less dependent on the local economic situation.

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<sup>(36)</sup> A highly placed Issaq told members of the mission that Somalis having areas where they traditionally live beyond the country's borders also usually have no problem in obtaining passports from the countries in the region and may even apply for nationality of those countries.

*Return of Somali asylum seekers who have exhausted all remedies*

For a Somali asylum seeker who has exhausted all remedies, the possibility of returning depends in principle above all on whether he was living in an area of fighting or peace before he left Somalia. Return to an area where there is fighting is (in principle, see below) possible.

However, Somalis are apparently not interested in returning to an unspecified part of Somalia but only want to go to a region which they regard as having a clear link with their origins. If this is what they really want, they will be able to go there. And since the area to which they return is usually the family homeland, settling there will not pose any problem.

The security situation in the Northwestern and the Northeastern parts of Somalia, as in the central provinces of Galgadud and Hiiraan, means that there is not in principle any reason why people should not return there or travel via these areas to other parts of Somalia. The Somaliland Government has on more than one occasion officially informed a number of European countries, including the Netherlands, and the UNHCR, that all Somalilanders, including refugees and asylum seekers, have the right to return to the areas where they originally lived and are welcome there. The SSDF too has indicated this as its position on the voluntary return to Northeastern Somalia of people who have their origins there.

It has, however, been found that in the case of the forcible return, and also of the voluntary accompanied return and settlement of Somali asylum seekers whose applications have been refused, the cooperation of the respective local authorities is required. Cooperation means that the authority concerned should indicate that there are no objections to return and settlement and provide a travel document where necessary. The Netherlands has managed to conclude agreements with Somaliland on return <sup>(37)</sup>, but has not (yet) done so with Northeastern Somalia or other parts.

It does, on the other hand, happen that the local authorities refuse to cooperate in the return of someone even after it has been shown that the returnee comes from the part of Somalia in question and/or has his clan relations there. When the local authorities produce arguments against return, these are often of a practical and/or economic nature.

The return all at once of large numbers of refugees could, for example, lead to problems owing to the absence of sufficient housing and necessary infrastructure or, particularly

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<sup>(37)</sup> In June 1997 and again in January 1998, agreements on return were concluded with the Somaliland authorities. In the latter case, it was also agreed that the International Organisation for Migration (IOM) would be involved in carrying out returns by the Immigration and Naturalisation service (IMD).

in Northwestern Somalia, owing to the presence of land mines from the civil war in traditional areas of origin. The foreign currency circuit is, moreover, clearly of great importance to parts of Somali society and the local economy.

The efforts of the UNHCR, the International Organisation for Migration (IOM), various UN bodies and NGOs are geared to establishing a socio-economic situation which makes it easier for Somalis to return from abroad and remain in Somalia. This does not however mean that the basic situation is worse than in many other parts of the African continent.

Returning to or travelling through areas of fighting is foolhardy given the lack of security. It is true that the dominant parties there are currently holding talks on establishing an administrative body in Mogadishu (the so-called Benadir Regional Administration) and organising of a common police force, but fighting does still break out and the situation throughout the area remains tense.

In the other provinces of Southern Somalia (Bay, Gedo, the two Shabelles, the two Jubas and Bakool) some forms of local administration do exist. There is not yet sufficient information available to enable us to gain a proper picture of the composition of such administrative bodies and the extent to which they exercise and respect authority.

#### 4.1 Policies of other countries

In addition to the Netherlands, the European countries where Somalis have sought or are seeking asylum are principally Denmark, Sweden, Finland, Switzerland, Belgium, Austria, Spain, France, the United Kingdom and Ireland. All these countries take the view that asylum seekers who have exhausted all remedies can in principle return to Somalia, with the exception of the area of fighting. When they actually try to repatriate or expel people to third countries, they encounter technical difficulties as a result of the absence of flight connections and travel documents and the uncooperative attitude of the Somalis concerned.

After a number of official missions in the period from the start of 1996 to the middle of 1997 had investigated the situation in Somalia, the Danish Immigration Service decided to adopt a regional approach in examining asylum applications. Asylum applicants who were living in the safe parts of Somalia before they left the country have no right to residence. Both Denmark and Sweden also try to see that rejected asylum applicants are returned in a safe and dignified way and are, as far as we know, the only countries apart from the Netherlands which have established contacts in this connection with the

authorities of Somaliland and Northeastern Somalia (and Hiiraan in the case of the Netherlands). In 1997 13 Somalis voluntarily returned from Denmark and one person was repatriated, while in the first half of 1998 6 people were forcibly returned. No problems occurred in any of these cases of return.

#### 4.2 UNHCR

Since 1995, the UNHCR has been conducting programmes to facilitate the voluntary return of Somali refugees to Northwestern and Northeastern Somalia. The UNHCR's return policy is based on the abovementioned position of principle adopted by the authorities of Somaliland and Northeastern Somalia. There are also returns to Lower and Middle Juba in the South-West and plans to repatriate about 1 000 Bajuni from refugee camps in Kenya, inter alia to Bajuni islands in Southern Somalia.

Since data on those returning is submitted in advance to the authorities with a view to ensuring the safety of the persons concerned in organised repatriation, the UNHCR has not heard of any problems following return. The authorities do have the final word on who is and is not to be admitted to their area of origin. On the basis of this practice and the Danish and Netherlands agreements in Somalia, the UNHCR takes the view that it would be unfair to overgeneralise clan origin as the sole criterion for any return.

The Somaliland Government has asked other countries to help expand Somaliland's capacity to absorb both voluntary and organised large-scale returns. In response, the UNHCR in cooperation with the Somaliland Ministry of Reconstruction, Rehabilitation and Resettlement successfully implemented a pilot programme from February to August 1997 for the return from Ethiopia of some 10 000 refugees. From 1994 to 1997, it is estimated that a further 40 000 refugees returned of their own accord, particularly to the capital Hargeisa and surrounding area and to Gabiley, Dilla and Boroma. In a further stage, the UNHCR in the period from October 1997 to February 1998 repatriated another 30 000 people from Ethiopia, Libya, Djibouti (mainly Issa) and Yemen. The ultimate aim for 1998 is to repatriate some 80 000 people from Ethiopia and 5 000 to 10 000 from Djibouti. The UNHCR also intends to take action to promote voluntary returns from the region in the second half of 1998 <sup>(38)</sup>. The UNHCR in Hargeisa is therefore currently preparing reintegration programmes in the house-construction,

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<sup>(38)</sup> Source: UNHCR Programme for the Voluntary Repatriation and Reintegration of Somali Refugees (programme for 1998).

agricultural and stockbreeding sectors. The UNHCR also acts, in the preparatory stage before return, as a mediator in setting up talks between representatives of the refugees ("refugee elders") and the authorities in Hargeisa. When the return of Somalis from abroad is notified in advance, the regional authorities usually seek the advice of the clan elders in the area to which the people are to return, mainly in order to check that they really are who they claim to be.

## 5. Conclusion

There is still no question in Somalia of reuniting the parts which formed the Republic of Somalia until 1991. Instead, provincial or regional forms of administration are being introduced and developed.

In the north, in Somaliland and the north-eastern provinces of Bari, Nugaal and Mudug (known collectively as Puntland) and in the central Somalia provinces of Hiiraan and Galgadud, there are forms of central administration and the situation is relatively safe and stable. There have, moreover, been no significant disruptions of the peaceful cohabitation of people from different clans and subclans since the appearance of the last official report. The local authorities are able to encourage stability within and between their respective regions. Crime and crime-related violence in these parts of Somalia are becoming less common thanks to the presence of local administrative bodies.

Practice has shown that Somalis who have become displaced as a result of clan fighting whatever their clan origin (not criminals or warmongers) can in principle find flight alternatives elsewhere in Somalia. There is no indication that Somalis who choose to enter and return to or via relatively safe and stable parts of Somalia (even when they come from areas of fighting) generally experience any problems regarding their safety. Tens of thousands of people are returning to Somalia from the region. This is in sharp contrast to the few dozen Somalis who return to Somalia every year from Western countries.

In determining whether Somali asylum seekers who have exhausted all remedies can be considered for organised return to these parts of Somalia or can be taken there and forcibly returned, the basic criterion is that they must have lived in the areas concerned before departure and have some clan ties there. The fact that there is often an absence of necessary infrastructure and adequate housing as well as the problem of land mines which have not been removed in some areas are reasons for ensuring that returns take place in stages and receive (financial and practical) assistance.

In the case of the area of fighting in the south, i.e. the area between and including the towns of Mogadishu, Kismayo and Baidoa, travel or return there must be regarded as foolhardy owing to the risks to personal safety and the violation of human rights by the parties still fighting each other.

In the rest of Southern Somalia (the provinces of Benadir, Bay, Gedo, the two Shabelles, the two Jubas and Bakool) progress is currently being made in setting up local administrative bodies. Among other things, an administrative region of "Jubaland" is apparently being set up for Lower and Middle Juba. The question of whether return to these parts of Southern Somalia is to be recommended cannot yet be answered, however, owing to the absence of sufficient information on stability and the extent to which any forms of local administration are able to function.

Nowhere in Somalia have any cases been indicated of persecution solely on grounds of clan origin, nor have clanless people and people belonging to minorities been persecuted solely on account of their origins, and there has been no systematic discrimination against particular (minority) groups of a kind which would suggest that the situation is unsafe.

The Minister for Foreign Affairs,  
The Director for Movement of Persons,  
Migration and Consular Affairs

p.p. van Wulfften Palthe



**ANNEX I**

**ANNEX II**

**ANNEX III**