

Asylum and Immigration Tribunal

MA (Galgale – Sab clan) Somalia CG [2006] UKIAT 00073

THE IMMIGRATION ACTS

**Heard at Field House
On 26 May 2006**

**Determination Promulgated
On 17 July 2006**

Before

**SENIOR IMMIGRATION JUDGE LATTER
SENIOR IMMIGRATION JUDGE KING TD
MRS A J F CROSS DE CHAVANNES**

Between

and

Appellant

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms H Weber, Legal Representative, Refugee Legal Centre
For the Respondent: Mr L Parker, Senior Home Office Presenting Officer

The Galgala is a “sab” or low caste clan, similar to the Tumal, Yibir or Midgan Clans. There are, however, two significant aspects of difference. There are no designated areas in which the Galgala may live; and they can no longer look to a major clan as patron. They may therefore have less expectation of protection than others. These two differences mean that members of the Galgala in general would, on return, face a real risk of persecution and treatment contrary to Article 3.

DETERMINATION AND REASONS

1. The appellant is a citizen of Somalia born on 5 May 1985. He originally entered the UK on 28 March 1999 with a false passport and claimed asylum. On 10 July 2002 the respondent refused to grant him asylum under paragraph 336 of HC 395. The appellant was granted limited leave to enter the UK until 4 May 2003. He lodged an appeal against the decision of the respondent which was heard by an Adjudicator on 25 August 2004. It was accepted that the appellant was a member of the Galgale tribe. It was not accepted by the Adjudicator that the Galgale were a persecuted minority in Somalia nor indeed was his overall claim as to his experiences in Somalia accepted as being credible. Although the Adjudicator accepted that the appellant would face a generally very high risk of becoming a victim of crime were he to be returned to Somalia, it was not considered that Article 3 was engaged on the basis of general risk. The Adjudicator dismissed the appeal of the appellant both on asylum grounds and on human rights grounds.
2. The appellant sought reconsideration of that decision and the matter came before the Tribunal on 1 December 2005 to determine whether or not there had been an error of law in the determination. The Tribunal held that in determining the credibility of the appellant and of his witnesses, the Adjudicator had failed to show that she had taken into account his young age. As to the risk of return it was found that the findings of the Adjudicator in paragraphs 60 and 71 of the determination were contradictory and that reference to “generally very high risk” indicated the imposition of a higher threshold than that of real risk.
3. Second-stage reconsideration was directed, all issues to be at large save for the fact that there was to be no dispute that the appellant is a member of the Galgale clan.
4. Thus as it was, the matter came before us for reconsideration on all issues other than clan membership. The reconsideration hearing was conducted on 14 March 2005 and the 26 May 2006. The appellant was represented by Ms H Weber, a legal representative from the Refugee Legal Centre (London). The respondent was represented by Mr L Parker, a Senior Home Office Presenting Officer.
5. The appellant adopted his witness statements of 21 August 2001, 29 July 2003, 1 April 2004 and 25 August 2004. He gave oral evidence in support of his claim.
6. When war broke out in Somalia the appellant was some 5 years old but he had memories of moving from house to house in Mogadishu. It was his understanding from his family that this state of affairs lasted about a year and a half. The family then moved to Afgoye, staying with a grandmother who had livestock and a farm. The family consisted of mother and father, six boys and four girls. His father seldom stayed with the family for fear of attack or from fear of attracting attention to the family. He would come and go bringing food or supplies. Life generally was difficult because of the lack of food and resources. Generally speaking the family were left alone to get on with their life together in that region. It was his understanding that the family left Mogadishu in 1993 and remained in Afgoye until 1998/1999.

7. There came an incident when two uncles were staying in the house when it was attacked by armed men. One uncle sought to intervene to stop the men taking the appellant's sister NA and that uncle was killed. The other uncle came out and was also killed. His little sister Sofir was also shot.
8. Given the violence of that incident the family attempted to move back to Mogadishu but did not feel safe there. Everything was destroyed and broken so the family returned to Afgoye.
9. Arrangements were made by the appellant's father and an uncle who lived in Saudi Arabia to remove the children from the region. The appellant's sister, SA, went first in 1998. The appellant left in 1999. The appellant's sister NA came to the United Kingdom in November 2000. Since his arrival in the United Kingdom the appellant has had no contact with any of his family members in Somalia. He lives with his two sisters in the home of their uncle, AA.
10. When questioned about the chronology of events in Somalia the appellant was somewhat vague claiming that he was very young at the time and that decisions were made by those older than he. During the six or seven years that the family were in Afgoye there was very little for them to do. He spent most of the time around the house and with the family. All he knew was that the grandmother owned the house in which they lived. There were others houses in the vicinity: he was unaware of the clan structure of his neighbours. It was agreed, however, that for the most part the family had been left in peace apart from the incident of violence which he has described.
11. The appellant called as a witness his elder sister NA who was born on 10 October 1978. She adopted her witness statement found at pages 145 to 147 of the appellant's bundle of documents. She came to the United Kingdom on 19 November 2000.
12. She was 12 years old when the civil war broke out. At that time the family lived in Mogadishu in an area called Tawfiq in the Yaqsid district. They had to leave their home and were being hunted down. They stayed in different parts of Mogadishu in abandoned houses and in derelict buildings hiding from the fighters of the Hawiye clan. During this time the women and children had to stay separate from the men. The family fled thereafter to Afgoye, staying there essentially until 1999. The incident of violence was conducted by the Hawiye who attacked Afgoye. She described the incident in similar terms to that of the appellant. The family returned to Mogadishu but only for a few weeks and then returned back to Afgoye. Arrangements were made for her to be taken from Somalia and she remembers leaving in a lorry to Kenya. She stayed in Nairobi with other refugees until arrangements could be made for her to come to the United Kingdom.
13. She described herself as the eldest of the family and set out the names and ages of the other siblings. She agreed that during the period 1993 to 1999 the family had been relatively safe in Afgoye. They helped their grandmother with her livestock. She herself helped with looking after the younger children. Life was difficult and occasionally her father would call in with some money or some food to help. Some of the neighbours in Afgoye were of the same clan as she was.

14. Our attention was drawn to the witness statement of SA. She has been granted indefinite leave to remain as a refugee and her statement essentially mirrors that of her sister. The uncle in the United Kingdom, Mr AA, also has made a statement to which our attention was invited. He came to the United Kingdom in 1990 and spoke a little about the history of the clan.
15. Dr Virginia Luling gave oral evidence before us. She adopted her report dated 22 January 2006 to be found at pages 212 to 219 of the appellant's bundle. A further report was cited, namely that of 12 March 2006, served by way of additional evidence. Her principle field of study was in Southern Somalia, and in particular in the town of Afgoye.
16. She said that the Galgala (Galgalo or Galegale) were a small low status group who perform tasks such as slaughtering animals and making shoes. They were especially known as wood carvers. In one way they were similar to the Midgan and other "caste" groups in Somalia. They were to be regarded as a special case in that unlike most of the caste groups they had been singled out for massacre in recent times and did not receive the protection from "noble" clans which they formerly did.
17. Unlike the Midgan, or other caste groups, the Galgala were not widely scattered throughout Somalia but traditionally lived in Gedihir among the Abgal and in an unspecified location in Majerten territory. Until the 1980s the Galgala were an obscure sub-clan. In the middle of the 1980s they were taken up by the then President Mohammed Siyad Barre, in keeping with his practice of patronising small, powerless groups and turning them into his loyal servants. It seemed that he used the pretext of their legendary origin among the Majerten, who were a Darod clan, to enhance their position. The Galgala became instruments in harassing political opponents which made them extremely unpopular. After the fall of Siyad Barre the Galgala became particularly victimised. In particular they were victimised by their former patrons the Abgal and there was a notorious massacre of the Galgala in the Mogadishu stadium, others were killed in Mogadishu or by the Abgal militia. Many of the Galgala owe their survival to Abgal Sheikh who gave them sanctuary and set up a camp for them. There was much killing in Mogadishu, particularly of those suspected of belonging to the Darod and Galgala. Brutal reprisals took place at the beginning of 1991. During the last days of his rule Siyad Barre had misused the Galgala community by arming them against the Abgal and following his defeat, the Abgal killed many Galgala and forced many others to abandon their homes.
18. There are no population figures for the Galgala that would seem to be available. They were always a small group, probably never numbering more than a few thousand. Most of them lived in the Gedihir village just north of Mogadishu, along the coast and in the city itself. They also lived around a small village of Adal on the coast north of Mogadishu.
19. There are two branches of the Galgala, the Aden and Mohamed. There is a suggestion that their origin may have been among the Majerten in the north east and that some may have remained among the Majerten. It is not clear to Dr Luling whether the Majerten origin is objectively accurate or whether it was an invention for the purposes of Siyad Barre.

20. From information gleaned from people living near Mogadishu in January 2006 it seemed that there are very few of the Galgala community still in Mogadishu. Those that remain are discreet about disclosing their identification. Survivors from the massacre in Mogadishu fled to Kismayo and Kenya. Those remaining in Somalia live as Internally Displaced People in Adale near Mogadishu and Kismayo. Conditions under which IDPs live are known to be extremely harsh. Reference was made in the report of Dr Luling to the UNCU/OCHA report "Study on Minority Groups in Somalia" (July 2002, section 3.3) which indicated that there are nearly 5,000 Galgala IDPs in Kismayo and elsewhere. Since the Galgala identify themselves with the Majerten sub-clan they have received minimal clan support from the Darod clan in Kismayo. According to Dr Luling, minimal support is a considerable understatement. They have no support at all and on the contrary have been targeted by the Darod clan, the Marehan and their allies the Habar Gidir, who have now taken over Kismayo. In her report Dr Luling continues:

"According to the United Nations Co-ordination Unit in Somalia (UNCU) 8 April 2003, UN Report on Internally Displaced Persons in Somalia (section 7.1.1.1-2).

There are 5,000 Galgala IDPs in Kismayo. Because of their position as minorities, the IDPs from the Bantu and Galgala suffer a wide range of human rights violations which include discrimination and economic exploitation by the Habar Gedir and Marehan militia who are now in control of the city. On the ground that they are affiliated with the Majerten, the Galgala suffer more than even the Bantu IDPs because they are considered as part of the enemy. As a consequence many Galgala were summarily executed during the conflicts during the Mejerteren and Habar Gedir and between Marehan and Kismayo. Because of the fear of persecution, many Galgala IDPs fled Kismayo to Kenya, while others remained as IDPs."

21. It is reported that in the Nuh Mohamed camp in Kismayo gunmen rape women and girls.
22. It is said that about 2,000 Galgala IDPs are exiles in their own former territory at Adale on the coast north of Mogadishu. Although they are less threatened there than in Kismayo the same report at section 7.33 reports that:

"The Galgala IDPs suffer gross human rights violations and deprivation of many of their rights. The Galgala IDPs complain that their traditional symbol on their animals for identification was erased by the Abgal, with an intention to appropriate the Galgala livestock. The Galgala IDPs also suffer discrimination. They allegedly claim that some members of the IDP community were denied to buy animals and houses in Adale. They were also denied integration into the main population. Health condition of the people in Adale is rated as very poor."

23. The conclusion of Dr Luling's is that the survivors in Adale seem to eke out a barely tolerated existence subject to harassment and deprivation.
24. The Galgala clan was not to be confused with the Galjaal which was a large and important Hawiye clan.

25. In the report of 12 March 2006 Dr Luling indicates that the Yibir and the Midgan live scattered all over the pastoral areas of Somalia and do not have one particular clan as patron. They would adopt as patron who ever happened to be the powerful clan or sub-clan in a given area. The Midgan, Tumul and Yibir traditionally lived in the areas of the four, main nomadic clan families of Darod, Isak, Dir and Hawiye in the northern and central Somalia.
26. In her oral evidence, Dr Luling confirmed that the reports were accurate. Commenting generally as to the chronology of the account as given by the appellant and his witnesses she noted that the Somali people use the Islamic calendar rather than the western calendar. She confirmed that the results of her enquiries would reveal that very few Galgala now lived in Mogadishu for the reasons as set out in her report. Galgala are to be found either in Kenya or in the IDP camps in Somalia. One particular camp at Qoryoli town, 100 kilometres south of Mogadishu, may contain some Galgala. Also Galgala live in Adale which is some 150 miles from Mogadishu. They live however without support and in dire conditions.
27. The town of Afgoye since 1993 remained under the control of the Habar Gidir clan, which is a sub-clan of the Hawiye. Within the community nature of society in Somalia, the details of clan membership are almost always known. There have however been a flood of refugees in 1991 and 1992. She had last visited Afgoye for a visit in 1996 and before that in 1986 for a few months. Dr Luling indicated that from her enquiries from her contacts living in the area she could find no trace of any Galgala now living in the Afgoye area. Any that were there would be vulnerable to the militia of the Habar Gidir. It is her opinion that any Galgala living outside the camps would do so without any protection. It would not be possible for Galgala to return to Mogadishu.
28. We have regard to a report by Cedric Barnes dated 7 March 2006 which can be found at pages 219 to 221 of the appellant's bundle of documents. It in fact refers to Dr Luling's report and in her comments relating to the Galgala. He describes the Galgala as being located in Mogadishu and Gadihir in middle Shabell region identifying themselves with the patrons representing the sub-clans of Majerteen. Majerteen are a sub-clan of the Darod.
29. We have also had our attention drawn to a document which was electronic mail from Ahmed Mohamud Farah of the Galgallo Minority Refugee Community dated 7 December 2000. He spoke of the Gagallo living in the Shabell region of Somalia before the civil war among the Abgal. He said that in Mogadishu in the camps were some 450 families, in Kismayo in the camps 1,150 families, in the Shabell region 640 families and in Kenya in the camps 458 families. The source of such information and statistics is not stated. We were not addressed by either party on that particular document but we cite it for the sake of completeness.
30. Both parties then made their submissions to us and we regard it as important to summarise the arguments which each advances.
31. Mr Parker submits that the Galgala as "caste" clan is in no different position to the Tumul, Yibir or Midgan clans. He develops his argument by reference to Home

Office Operational Guidance Note of Somalia v9 issued on 21 November 2005 at chapter 9. In traditional Somali society a number of “occupational castes” live scattered among the majority of “noble” Somali clans. Northern Somali Pastoral Society distinguishes three occupational castes, the Midgan, Tumul and Yibir. They are referred to collectively as “Sab” (which means low caste). The word “Sab” refers to professional castes without territorial, geological or ethnic foundation and are less than 1% of the country’s population. Three quarters of them are shoemakers, barbers, blacksmiths and others are weavers. The Sab are attached to noble Somali tribes through patronage and perform specific duties in return for which they are paid and allowed to remain in the territory of the tribe of attachment. The Sab attached to a noble tribe identify themselves with it in relation to other tribes. They have no recognised genealogy of their own and are not landowning groups. Conventional paths of upward and social mobility are not open to them. Although the position of the Sab have many points in common with the position of slaves in Somali society their position was nevertheless distinct. Although they own no land, they are nevertheless distinct communities with their own customs. The Sab have the right to move from noble family to family at will.

32. For the past few decades many Midgan, Tumul and Yibir had migrated to the cities where they have been employed by politicians from more powerful clans as drivers, bodyguards and spies. Siyad Barre elevated certain Midgan to important positions in the ministries of defence and education. The castes traditionally live over the areas of the four main nomadic clan families of Darod, Isak, Dir and Hawiye. Midgan, Tumul and Yibir live scattered all over Somalia but mostly in northern areas. There are no indications that their security is at risk from targeted actions from other clans.
33. In the connection our attention was drawn to the United Nations Report on Internally Displaced Persons in Somalia, 2002, particularly the Generic Clan Chart of July 2002 attached to that report. On that chart it can be seen that the Galgale are linked with the Sab grouping with many other clans, such as the Yibir, Tumul, Madhiban. Mr Parker submits that therefore there is no distinction to be made between the Galgale and the other small caste tribes.
34. Mr Parker further developed his argument by reference to the decision of the Tribunal in YS and HA (Midgan – Not generally at risk) Somalia CG [2005] UKIAT 00088. In that decision the Tribunal held that the Midgan or Madhiban were not generally at risk because it was part of the tradition of that clan to obtain the protection of a local patron. Mr Parker submits that that was precisely what was done in the case of the appellant and of his family.
35. The fact that the appellant and his family were able to live in Afgoye for so many years without incident indicates that they had in practice the protection of the majority clan in control of the area. They would not have been tolerated otherwise. We were invited to follow the reasoning of the Tribunal in YS and HA and apply it also to the Galgala clan.
36. As with all the caste clans the Galgala can be readily assimilated into the predominant population. Our attention was drawn to the Study on Minorities in Somalia, a report to be found at page 88 of the appellant’s bundle. The report at paragraph 2.1 confirmed that the clan has physical appearances similar to that of the

dominant clans, as well as having ethnic and cultural similarities. What distinguishes these assimilated minorities are their distinct economic background.

37. Further reliance is placed on that particular report which says that the Galgala have assimilated into the Abgal in Jowhar and Mogadishu. They also identify themselves as Nuh Mohamud, a sub-clan of the Majerten clan. Thus it is submitted that the Galgala have the patronage of more than majority clan.
38. As to credibility generally, we were asked to find that the account of the appellant lacked credibility to a significant extent. It was clear from the objective evidence that there was indeed a massacre of the Galgala in Mogadishu in 1991. It was not feasible or believable that the appellant and family could have stayed in Mogadishu for a further two years thereafter. It is clear from the objective evidence that most of the Galgala either fled to Kenya, or to Qoryoley in the lower Shabell. The Habar Gidir were of the Hawiye clan as were the Abgal. It would not have been possible for the appellant and his family to have lived in Afgoye unless given the protection of the majority clan there. If they had that protection then it is not credible that the incident of violence as described occurred at all. The appellant's sister had spoken of Hawiye militia attacking the town but they were of the same clan as those who lived in the town. The vagueness of the appellant as to dates and events relied upon indicated a lack of credibility. Although the appellant stated that he lived from hand to mouth, nevertheless he and his sisters were able to come by substantial sums of money in order to effect their departure. All of which went to support the contention, submits Mr Parker, that the appellant's family enjoyed a reasonable lifestyle under the protection of a majority clan and did not suffer the deprivations as described. There was no reason therefore why they could not return to the same area to continue to enjoy the same protection.
39. Ms Weber directs our attention to her skeleton argument. She submits that first of all the Galgala are indeed part of the Sab group of clans. It is common ground and indeed recognised in YS and HA that such clans are more vulnerable than many others depending for their wellbeing upon the protection of a major clan. She submits however that the Galgala are more vulnerable than others because they have forfeited their traditional patron. The society in Somali is very traditional. The other sub-groups have the tradition of allying themselves with a variety of patrons whereas the Galgala have not. We were asked to note that during the regime of Siyad Barre he made attempts to elevate the status of all the minority clans. That created some difficulties for a number of the clans thereafter but mostly for the Galgala who were systematically eliminated by the Abgal and treated with the utmost disrespect by the Darod and other majority clans in and around Mogadishu. Without a patron it is a matter of chance whether any particular group of Galgala will enjoy protection or otherwise. Such a lottery is not to be regarded as acceptable.
40. We were invited to find that the appellant's account was indeed a credible one. Afgoye was controlled by the Habar Gidir, part of the Hawiye clan. Often the Habar Gidir was in conflict with the Abgal, thus there would be no reason to believe otherwise than that the Habar Gidir would be sympathetic to the victims of the Abgal. The fact however that the appellant and his family could live in the area of Afgoye without incident did not mean that they had the positive protection of the controlling clan. It was submitted that the fact that that protection was not available was

demonstrated by the attack upon them by the invaders into the area. No doubt had that protection been available it would have been extended to them by the militia of the Habar Gidir. Thus their protection was at most right to exist and nothing more. We were invited to have regard to the youthfulness of the appellant and his sister to explain the lack of detailed knowledge as to their predicament and circumstances when living in Somalia.

41. Although it is right to note that the Galgala live in IDP camps, it has been held by the Tribunal that such conditions cross the threshold of Article 3. To return the appellant to Afgoye would be simply to expose him to a risk of exploitation or violence. Unlike the other Sab groups there is no designated area in Somalia to which the Galgala can go and no traditional patron to be associated with. As Dr Luling made clear in her report there are very few Galgala living in southern Somalia, otherwise than in IDP camps. Isolation and lack of protection indicate a real risk of persecution and/or of ill-treatment. We were therefore invited to allow the appeal.
42. We remind ourselves of the importance of considering the claim of the appellant within the overall context of the objective evidence as presented. There was the appellant's bundle itself consisting of some 399 folios together with the additional reports of Dr Luling. Mr Parker most helpfully provided two bundles of documents containing the Somalia Operation Guidance Note v9 of 21 November 2005, the Report on Minority Groups in Somalia/Joint British, Danish and Dutch Fact-Finding Mission to Nairobi, Kenya of 17 – 24 September 2000, the US State Department on Somalia dated 28 February 2005 and one of 8 March 2006. In addition there was the report on Internally Displaced Persons in Somalia which was prepared by the UNCU/UN-OCHA 2002. In addition we have considered a number of Tribunal authorities. We will not set out in great detail the general situation in Somalia. Such has been referred to in many a Tribunal decision. Rather we concentrate upon two issues in this appeal, namely the credibility of the appellant as to his experiences in Somalia and the nature and protection which would be available to him were he to return as a member of the Galgala clan.
43. The first matter which exercises our attention is to understand the classification or membership of the Galgala. The suggestion is raised by Mr Barnes in his report that the Galgala comprise 0.2% of the population and identify themselves as descendents of Mohamud and Omar Mahamud, sub-clans of the Majerten. The latter being of course a sub-clan of the Darod which is itself a majority clan. The Generic Clan Chart of July 2002 attached to the report on Internally Displaced Persons in Somalia 2002 makes a distinction between the Somale and Sab. The Majerten and the Hawiye and Habar Gidir are said to be part of the "Somale" clan. There seems to be a degree of conflict in the objective evidence on this aspect. The Report on Minority Groups in Somalia dated 2000 at chapter 9 speaks of the Midgan, Tumul and Yibir as Sab and in that fairly lengthy chapter it discusses their structure and difficulties. No mention is made, however, in that chapter of the Galgala. In the Study of Minorities in Somalia report set out at page 88 (or 108) of the appellant's bundle it is said that the Gayaboye, Tumul, Yibir and Galgala are ethnically associated with the Somale which forms a dominant clan in Somalia. However cultural stigma and traditions have excluded them as outcasts from the Somale clan. Most of the minority groups have assimilated into other Somale clans with whom they live. It is repeated that the Galgala have assimilated into the Abgal in Jowhar and Mogadishu but identify

themselves as Nuh Mohamud, a sub-clan of the Majerten clan. Other clans that have assimilated themselves are the Isak in Somaliland or the Darod in Puntland.

44. On the other side the Home Office Operational Guidance Notes, Somalia 6 May 2004, paragraph 3.7.3.8 links the Midgan, Tumul, Yibir and Galgala together as minority groups speaking of them as occupational caste groups. Dealing with sufficiency of protection and internal location the report goes onto say:-

“Minority groups will be safest in areas where they enjoy the protection of a dominant clan. ‘Occupational caste’ groups such as the Midgan, Tumul and Yibir are among minority groups that have also been able to secure such protection, though to a lesser extent in rural areas.”

The Report on Internally Displaced Persons in Somalia, UNCU/UN-OCHA 2002 would seem to be supportive of the proposition that the Galgala are members of Sab as illustrated in the Generic Clan Chart. It speaks in another chart of the Galgala having the protection of the Abgal.

45. As Dr Luling made clear in her report, the precise origin of the Galgala is far from clear but it is possible that their Majerten origin was an invention by Siyad Barre to link them with his clan, the Darod clan.
46. Looking at the objective evidence as a whole, we prefer the evidence of Dr Luling as to the association of the Galgala with the Abgal and we place considerable weight upon the UNCU/UN-OCHA report on Internally Displaced Persons in Somalia. It is a report of some detail and we accept, on the basis of that evidence and of the evidence of Dr Luling, that the Galgala fall within the Sab caste clans, and as such fall within the similar category of clan as of the Midgan, Tumul and Yibir.
47. The Tribunal in YS and HA considered in some detail the Midgan clan and we do not repeat all that is set out in that most helpful determination. The nature of the clan is set out in some detail at paragraph 42 of that decision. The relationship of that clan to others is set out at paragraphs 43 to 44. A summary of the conclusions of the Tribunal are set out at paragraph 73. Paragraph 73(vii) has a particular relevance. That provides that Midgan who enjoy the patronage and protection of a noble clan when they left Somalia can normally be expected to regain such patronage and protection in the event of their return. The protection afforded would extend to provision being made upon return for their internal safe travel back to rural areas. However a Midgan who has lost protection of a local patron and who has not found alternative protection in a city would be vulnerable to persecution. The same would apply to any loss of protection in the home area.
48. What is urged upon us is to find that, so far as the Galgala are concerned, they face two disadvantages. The first being that they were or are still associated with the Siyad Barre regime in the minds of other clans, and secondly that they have lost the protection of their patron the Abgal. To use the word “loss” is perhaps an understatement because the Abgal continue, it would seem, to bear the Galgala ill will.

49. As to the general issue of reputation, it is perhaps helpful to bear in mind the Report on Minority Groups in Somalia, and in particular chapter 9 to which reference has already been made. As we have commented, that tends to concentrate upon the Midgan, Tumul and Yibir. It is noted from paragraph 9.3.1 that Siyad Barre, in his policy of modernisation and abolition of tribalism, tried to emancipate the minorities. Some members of the occupational castes, especially Midgan and Yibir, held important offices during his regime including in the military. As a result the occupational castes supported Siyad Barre and were accordingly expelled after his downfall. Midgan, Tumul and Yibir, not being party to any peace agreement, found recovery after the war especially difficult. It is said that during the civil war that followed Siyad Barre's downfall in 1991 the occupational castes were in general not specifically targeted, although particular individuals and families who had visibly supported the Barre regime were vulnerable to targeted retaliation. Yibir as with the Galgala were armed and sent to kill Abgal clansmen who in turn attacked them. Similarly the Midgan and Tumul found their role in the conflict earned them hostilities from SNM rebels and of the Isak clans in general. Many fled in fear of retaliation to Ethiopian Puntland. Matters would seem now to be on a more even keel, and as the report indicates:

“There are no indications that the security of Midgan, Tumul and Yibir is at risk from targeted actions by other clans. At the same time, indications are that their relationships with the major Somale clans have not improved much from traditional times and that they are still discriminated against in social and economic spheres.”

It is agreed that the Galgala suffered as a result of their association with Siyad Barre regime and so did the other clans. Such may of course be a matter of fact and degree as it would seem certainly from the report by Dr Luling that the Galgala were in particular used by Siyad Barre to harass his political opponents and they reaped very much the reward of that relationship at the hands of the Abgal. The passage to which we have already referred is contained in Dr Luling's report citing the UNCU Report of April 2003 on the Internally Displaced Persons in Somalia, section 7.1.1.1-2 speaking of the wide range of human violations inflicted on the Galgala by the Habar Gidir and Marehan militia, even the fact that the Galgala suffered more than even the Bantu IDPs because they were considered part of the enemy. Although couched in general terms the report would seem to be supportive of the proposition as advanced to us on behalf of the appellant that of all of the Sab castes, the Galgala seems to have been the least popular because of its perceived political support for Siyad Barre. It also seems to be common ground that they have lost their patron, the Abgal.

50. We remind ourselves of the definition of refugee as set out in Article 1A of the 1951 Geneva Convention. The burden and standard of proof is to the lower standard, namely “a reasonable likelihood” or “a serious possibility”. We apply a similar low standard to the issue of human rights bearing in mind in particular the decisions in Ullah and Kacaj. We remind ourselves of the importance of taking a holistic approach to the evidence, seeking to place each factor and aspect of evidence within its proper context within the whole.

51. We are asked on behalf of the respondent to make an adverse finding of credibility in respect of the appellant's evidence. The vagueness as to chronology and dates is obviously a matter of some concern, although in fairness to the appellant and to his witnesses they would have been very young at the time of the events which they seek to describe. It lies in strange contrast with a lifestyle of abject poverty that funds were found to be available to the appellant and his sisters to come to the United Kingdom. It was said that such funds came from their father and from an uncle in Saudi Arabia. Clandestine entry into the United Kingdom is also a factor which would tend to weigh against their credibility. Mr Parker prays in aid the fact that as Galgala the appellant and his family are unlikely to have survived two years in Mogadishu immediately following the civil war.
52. We place in the balance, however, that the lifestyle as described by the appellant and his witnesses is one which matches the objective evidence. The fact that there would seem to be few Galgala in Afgoye town now does not necessarily mean that there were not some on a previous occasion. The appellant spoke of the attack as being an attack upon the town itself, rather than upon the family in particular. So far as can be gathered from the Report on Internally Displaced Persons in Somalia and the schedule attached thereto, Afgoye town and the surrounding areas has been the subject of a number of specific conflicts, also in the Kismayo area there had seemed to be a conflict between Darod and Hawiye in 1992 with the Habar Gidir militia in 1995 and Garre militia in 1993. The point made by Ms Weber on behalf of the appellant is that ad hoc protection is only as good as the good will that currently exists.
53. We remind ourselves, when assessing credibility, that the issue of clan membership is not in doubt nor indeed did Mr Parker seek to suggest on behalf of the respondent that the appellant and his family had never lived in the area of Afgoye. It would have been open for the respondent to have made the suggestion that, given the nature of clan membership, the appellant and family had in fact left Somalia and/or were living in Kenya or in an IDP camp. That was not however the suggestion that was made, rather reliance was placed upon the fact that the appellant did live in Afgoye. Given the warring situation which existed between clans and the precarious nature of any protection which may then have extended towards the appellant and his family, we do not discount the experience of violence which he has described. That the Galgala should experience violence at the hands of militia forces from time to time is very much in keeping with the objective evidence. The appellant has not sought to exaggerate the difficulties which he and his family experienced in Afgoye. It would have been easy to have described many attacks and much violence but he has not done so. We find generally the account to be credible.
54. We remind ourselves, however, that credibility is not the central issue in this appeal. The central issue being of course the ability and safety of return.
55. We recognise at the outset that there are two significant distinctions as between the Galgala and the Midgan, Tumal and Yibir clans. The first is that of territory. It is clear from the generality of the reports that there are areas in Somalia to which the Midgan can return to. There are areas in which they live and in which they have the protection of the noble clans. There is no clear evidence before us that such designated areas exist in the case of the Galgala. The evidence as presented before

us indicates that for the most part, the Galgala have been removed either by force or by voluntary departure from their traditional area in the lower Shabell. Those who remain are in IDP camps in Kismayo town, Qoryole town and in Adale. The letter from the chairman of the Galgalo Minority Community is perhaps somewhat out of date, 2000, when it speaks of some 640 families in the Shabell region. That may serve to reinforce the credibility of the appellant that there other families in the area but the situation may well have changed. The evidence from Dr Luling was that from her contacts she could detect very few in Mogadishu or in Afgoye and very few otherwise than in Kenya or in the camps. It would be easy to suggest that the appellant could safely return to Afgoye but that would be to ignore the possible changes which may have taken place in the period since 1999 when he left. It would seem from the evidence of Dr Luling that whatever community of Galgala there may have been in Afgoye now no longer live there. Whether that is a result of simply leaving or a result of hostile activity towards them cannot be determined with any accuracy. The appellant however would be returning in isolation to a community which was not his own. We have no doubt that to do so would expose him to the possibility of violence or extortion. It is clear from the reports to which reference has been made that there exists still some degree of hostility towards the Galgala in the lower Shabell region by a number of the clans. If those in IDP camps group together for safety are without great safety, it follows that individuals within a community may be less protected than otherwise might be the case. Thus we can find no indication that there is any traditional area within Somalia to which the appellant can return to join a significant number of Galgala.

56. The second issue of course is that of protection, and we accept the submissions which have been made that, given the particular circumstances the Galgala clan and their loss of their main patron, they will have less expectation of protection and indeed less evidence of receiving it than the other tribes to which reference has been made.
57. Return to the IDP camps exposes the appellant to the harsh regime that is to be found in there. We have briefly summarised part of those difficulties. There is little protection of the communities against the wishes of the majority clans' militia who rape and loot seemingly at will. Indeed the Tribunal was recently held that anyone who was at risk of being compelled to live in an IDP camp would have little difficulty in making out their claim under Article 3 ECHR, if not under the Refugee Convention. In M and Others (Lone Women – Ashraf) Somalia CG [2005] UKIAT 00076. We are also sensitive to remarks recently made by the Court of Appeal in the recent case of Januzi [2006] UKHL 5.
58. In all the circumstances we find that the appellant suffered persecution in the past for a Convention reason, namely by reason of tribal membership. We find no reason to believe that that risk has been removed with the passage of time and accordingly we find that the appellant has a well-founded fear of persecution were he to return. Further we find that the nature of the treatment which he is likely to receive would be such as to affect his safety and well-being to the extent that it crosses the threshold of Article 3 of the ECHR.
59. Given the findings which we have made it is perhaps academic to further consider the issue of Article 8. It was not raised in the grounds seeking reconsideration, nor

indeed have we been addressed on the point. As the Tribunal decision of AH (Scope of S.103A Reconsideration) Sudan [2006] UKAIT 00038 promulgated on April 2006 makes clear reconsideration is limited to the grounds of appeal to the Tribunal. The appeal in respect of Article 8 was not one of those grounds.

60. For the above reasons the original decision of the Adjudicator is quashed and a new decision substituted, namely that the appellant's appeal in respect of asylum is allowed. His appeal in respect of Article 3 of his human rights appeal is also allowed.

Signed

Date

Senior Immigration Judge King

APPENDIX A

Cases, expert reports and background material before the Tribunal

Cases

DJ (Bantu – not generally at risk) Somalia [2005] UKIAT 00089
YS & HA (Midgan – not generally at risk) Somalia CG [2005] UKIAT 00088
HY (Yibir – YS & HA applied) Somalia [2006] UKIAT 00002

Expert Reports

Country Report by Dr Cedric Barnes . 11.6.2004 with update letter 7.3.06
Letter from Dr Virginia Luling dated 15.1.2006 with Report dated 22.1.06.
Electronic mail from Dr Virginia Luling ,dated 12.3.2006.
Electronic mail from Ahmed Mohamud Farah, of the Galgalo minority refugee
Community (annexed to the report of Dr Luling).

Background Material

Somalia operational Guidance Notes v 9.0 and 10.0, issued 21.11.05 and 5.5.06.
COIS Report – Somalia, issued April 2006.
USSD reports on Somalia 28.2.2005 and 8.3. 2006.
UNCU/UN-OCHA Somalia report: Internally Displaced Persons combined report on
Somalia, July 2002.
CIPU report on Somalia , April 2005, annexes B and C.
Joint British, Danish and Dutch fact- finding mission to Nairobi, Kenya
17 – 24 September 2000.
Letter from Somali Minister for Refugees and Diaspora to Asylum Aid
3.6.2004.
Letter from Amnesty International to SSHD, 10.6.2004.
Article from the Guardian 15.6.2004, Deportees sent back from War Zone.
Danish Immigration Service Report on human Rights and Security in Central and
Southern Somalia, 7 – 21 January 2004.
UNCU/UN – OCHA Report on Somalia: Study on Minority Groups in Somalia July
2002.