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Country Report – Somalia

Dr Cedric Barnes, SOAS, 9th August 2007

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COUNTRY PROFILE – SOMALIA

The views and opinions stated in this report do not necessarily reflect the views of the organizers of the workshop. This paper is not, and does not purport to be fully exhaustive with regard to conditions in the country surveyed, or conclusive as to the merits of any particular claim to refugee status or asylum.

Somalia

Location: Eastern Africa, bordering the Republic of Djibouti on the north west, the Republic of Ethiopia on the west, Kenya on the south west, the Gulf of Aden on the north east and the Indian Ocean on the east.

Area: 246,200sq miles / 637,657 sq km

Capital: Mogadishu

Independence: July 1960 (from a merger of British Somaliland, which became independent from the UK on 26 June 1960, and Italian Somaliland, which became independent from the Italian-administered UN trusteeship on 1 July 1960, to form the Somali Republic)

Constitution: 25 August 1979, presidential approval 23 September 1979

note: currently a Transitional Charter applies to the Transitional Federal Government and Institutions (declared in Nairobi, September 2004)

Population: 7.7 – 10.4 million (various estimates.)

Ethnic Groups: Somali 85%, Bantu and other non-Somali 15% (including Arabs 30,000)

Languages: Somali (official), Arabic, Italian, English

Religions: Sunni Muslim

Government type: no permanent national government; transitional; parliamentary federal government

Political parties and leaders: none

Political pressure groups and leaders: numerous clan and sub-clan factions are currently vying for power

Economy

GDP – per capita: \$600 (2006 est.)

Imports: \$576 million f.o.b. (2004 est.)

Exports: \$241 million f.o.b. (2004 est.)

Source: CIA World Fact Book 2007, Economist Intelligence Unit, World Bank.



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1. Introduction

Somalia continues to be one of most prolific sources of refugees and asylum seekers in the world relative to its size. The central unitary state of Somalia collapsed in 1991, and though parts of the country have re-formed into relatively stable autonomous or semi-autonomous units, the south of the country continues to endure extreme political instability and military insecurity. The last eighteen months have proved especially tumultuous and the first half of 2007 has seen the worst violence in southern Somalia since the early nineteen-nineties. The city of Mogadishu and surrounding regions has been the epicentre of conflict and displacement. There have also been less well publicised instances of instability and insecurity in other regions. It is also important to note that there are strong regional variations of security and administrative conditions across the former unitary state of Somalia.

This report is intended to be an overview and introduction to the social and political situation in present day Somalia. The report's coverage is intentionally broad and many issues are covered only briefly, partly due to the complexity of the situations described, as well as the marked regional differences.¹

1.1 Historical Overview

In 1960 Italian Somaliland and the British Somaliland Protectorate joined as one unitary state just days after their respective independence from colonial over-rule. There were high hopes for Somalia's post-colonial state. Indeed until the early nineteen-nineties Somalia was depicted as a rare example of a nation-state in Africa, with a common identity, language and religion. Somali nationalist rhetoric made much of this unique African nation: the reality was far more complex.²

A period of robust multi-party democracy followed independence, accompanied by rampant corruption and political factionalism. The common problem was perceived to be the struggle to supersede 'clan' as a means of political organization. A military coup in 1969 – styled as an 'October Revolution' - brought an end to civilian politics and ushered in seventeen years of military dictatorship under Siad Barre who proclaimed an ideology of 'scientific socialism'.

Initial post-colonial patronage by the Soviet Union was replaced by the United States after the Soviet Union transferred its support to Ethiopia following its socialist revolution in 1974. Nevertheless the Somali state was still notionally 'revolutionary'. In practice the state became increasingly nationalistic and declared war on 'clan' to the extent that identification by 'clan' became a criminal act. By the late 'eighties, a combination of a failed irredentist war with Ethiopia (1977-78), devastating famine, recurrent economic problems, coup attempts and regional insurgency, made the Siad

¹ Due to the sustained attention of humanitarian agencies and human rights monitors in Somalia over the last fifteen years there is a wealth of up to date (and historical) material that is easily accessible. Links to electronic sources are provided wherever possible. Documents listed without a URL may nevertheless also be available online.

² The standard historical account of modern Somali history remains I. M. Lewis, *A Modern History of the Somali* (James Currey, Oxford, 2002).

Barre regime increasingly unpopular. The state became extremely repressive and despite the previous rhetoric, there was reversion back into the politics of 'clan'. The end of the Cold War brought a decrease in patronage from the United States, and in face of growing internal military challenge and civilian dissent, Siad Barre's dictatorship collapsed in 1991.

The government was defeated by a coalition of various armed opposition groups. Once the central regime collapsed, factionalism and regionalism brought civil war and moves towards secession and regional autonomy. Political competition in the south, especially around the main cities of Mogadishu, Kismayo and Baidoa degenerated into full civil war and ethnic ('clan') cleansing. The lack of clear international engagement, massive stockpiles of 'cold-war' weaponry, and a breakdown of all state institutions, allowed 'warlordism' to gain a foothold in the vacuum of power in southern Somalia. The United Nations' badly coordinated and overly politicized humanitarian intervention from 1992 to 1995 ended in failure. There followed a decade long international disengagement from Somalia.

Though the unitary state of Somalia has remained in a state of collapse for the last fifteen years, several regions of relative peace and stability have emerged. This is particularly true in the north-west where a regional administration based on the former colony of British Somaliland declared its independence from the rest of Somalia in 1991, as the Republic of Somaliland. The road to peace in Somaliland was not without its set-backs – and concerns are still expressed from time to time in the area of human rights, press freedom, and its commitment to democratic principles – but for the most part Somaliland has been the antithesis of the situation in the south. For Somaliland the primary problem has been the lack of international recognition for its *de facto* state.³

The north-eastern region known as Puntland State of Somalia has also asserted its autonomy since 1998, though only partially so.⁴ Puntland represents a half-way house between the chronic insecurity in the south and the relative stability of Somaliland.⁵ However, Puntland's attempts at democratic rule have been undermined by military interventions. Most worryingly in recent times Puntland and Somaliland have clashed militarily over their mutual border in the Sool and Sanag regions that they both claim as their sovereign territory.

The positive political developments in the north have largely eluded the south. In contrast to the experience in Somaliland and Puntland, the collapse of central state and reification of traditional authorities filling the vacuum left by the central state was more contested in the south. 'National' peace conferences and agreements – almost all designed to address the situation in south-central Somalia - have come and gone. The last peace process - the thirteenth no less - hosted by the Kenyan government (first at

³ Mark Bradbury, Adan Yusuf Abokor, and Haroon Ahmed Yusuf, 'Somaliland: Choosing Politics over Violence', *Review of African Political Economy* No. 97: 455-478, 2003.

⁴ Frederico Battera, 'Remarks on the 1998 charter of Puntland state of Somalia', UNDOS Working Paper, No. 1 Sept. 1999 follow link <http://www.somaliawatch.org/archivejun02/020707602.htm>

⁵ The best introduction to Puntland is War Torn Societies Project, *Re-building Somalia: issues and possibilities for Puntland* (Haan Associates, London, 2001)

Eldoret and then at Mgabathi) under the auspices of the regional Inter-Governmental Authority on Development (IGAD) organisation⁶, began in 2002 and ended in the creation of the Transitional Federal Government (TFG) in October 2004.

The TFG replaced the Transitional National Government (TNG) created in Djibouti at the Arta Peace conference in 2000. The self-declared Republic of Somaliland did not recognise the authority of the TFG, and the Puntland State of Somalia retained its autonomy though it recognised the overall sovereignty of the TFG.⁷

2. A brief overview of Somali society

It can be argued that the TFG and its predecessor the TNG, are merely the latest manifestations of the unstable factional rivalry – partly though not wholly based along ‘clan lines’ - that has dominated southern Somalia after the fall of Siad Barre in 1991. Since then Somalia has been characterised on the one hand by ‘national’ conflicts over the control of central government, and on the other hand by local dynamics centring on control of resources by clans or local warlords.

2.1 The Somali ‘clan’ system

In the absence of state structures Somali traditional authorities have been reactivated; this has led to reification of ‘traditional’ clan-based politics but in a ‘modern’ context. In areas where resources were meagre and where there was a greater continuity of relationships between clans, e.g. in Somaliland and Puntland, traditional elders played an important role in re-establishing peace and security and nascent state structures. The same reversion to traditional non-state based institutions has been more problematic in the south, not least due to the heterogeneous ethnic composition of the peoples residing there.

It would be misleading to characterise politics in Somalia as driven exclusively by primordial ‘clan’ logic, but there are broad social groupings and divisions in Somali society that have their basis in clan identity. That said, clan identity is only one of many different factors where commonality and difference may be found. Moreover, the whole system of clan identity may be influenced by external dynamics that continually alter how groups of people are perceived and perceive themselves. Nevertheless, historical notions of clan are an important starting point in understanding Somali society.

The majority of social groups found in Somalia are primarily organised and governed by patrilineal (agnatic) descent groups - known as clans - that also function as a basic political unit.⁸ The clan system builds on the smallest lineage units that are identified in the Somali context as *mag-* (or *diya* in Arabic) paying groups responsible for

⁶ IGAD includes the states of Somalia, Kenya, Uganda, Sudan, Djibouti, Eritrea and Ethiopia.

⁷ President Abdullahi Yusuf of the TFG was previously President of the Puntland State of Somalia until 2004.

⁸ The classic anthropological description is found in I. M. Lewis, *A Pastoral Democracy: A Study of Pastoralism and Politics among the Northern Somali of the Horn of Africa* (James Currey, Oxford, 1998 Edition).

blood-money payments and claims. The *mag*-paying groups are small networks of families who claim a common ancestor. *Mag*-paying groups are bound together by another institution *xeer* ('customary law') into a kind of collective security pact. It is also important to recognise that the *mag*-paying group is not static since it is based on families and lineages that expand 'demographically' over generations. In time original *mag*-paying groups will inevitably outgrow themselves and divide so that 'every ancestor in the genealogy is in principle a point of potential division, as well as of unity'.⁹

2.2 Regional differentiation

The northern and central areas of Somalia are historically dominated by the largely pastoral camel-herding 'clans' that have become known as the 'majority' clans. In the past majority clans believed that they were descended from *Samaal*, a common ancestor who is linked to the family of the Prophet Mohamed and the *Qurayshi* clan. This belief persists among many Somalis until the present day. Beyond this putative common origin Somalis divide themselves into large 'clan families'.

Four main 'majority clan' families might be discerned: namely the Darod, Dir, Hawiye and the Rahanweyn¹⁰ clan-family groups. Even within these four divisions there is disagreement. For example whether the Isaq clan also qualifies as a stand-alone group is debatable, otherwise they are included either with the Dir or Darod, or are even grouped with Dir and Hawiye as Irir. Though individuals and lineages from each of these main clans are (or were) present in varying numbers across the former unitary state of Somalia, they are also each associated with a particular region.

For instance, the Somaliland Republic is dominated by the Isaq clan(s), though the President is Gadabursi, a lesser but some say genealogically senior (Dir) clan to the Isaq. Somaliland also has a significant presence of the Darod clan family - especially the Dhulbahante and Warsengeli - that are also resident in Puntland. Relations between Somaliland and Puntland are strained due to the disputed regions of Sool and Sanaag mostly inhabited by the Dhulbahante and Warsengeli. Somaliland has significant numbers of minor or minority clans, as well as a sizeable internally displaced/refugee population from the southern regions.

The autonomous Puntland State of Somalia is dominated by the (Harti) Darod clan family, especially the Majerteen, as well as the Warsengeli and Dhulbahante. There is also a significant presence of Hawiye clans in and around the town of Galkayo (in the former Mudug province). Like Somalia, Puntland also has significant numbers of refugees or internally displaced people from the south of Somalia.

The southern half of Somalia – the region which still claims to be the Republic of Somalia – is the most heterogeneous area, clan-wise and by ethnicity. The dominant

⁹ Joakim Gundel, 'The Predicament of the "Oday"': The role of traditional structures in security, rights, law and development in Somalia', Danish Refugee Council/Novib-Oxfam, November 2006, p.6.

¹⁰ The Rahanweyn are sometimes known as the Digil and Mirifle, however both Digil and Mirifle can also act as stand-alone descent groups.

clan-family is the Hawiye. Several Darod clans are also present; most importantly numerically are the Marehan, Ogaden, and Majerteen. The south is also home to the Rahanweyn that populate the agricultural regions between the Shabelle and Juba rivers.

A collective Rahanweyn clan identity is a fairly recent phenomenon. The Rahanweyn were historically loose confederations of clans inhabiting the agricultural regions of the south, previously known by the slightly derogatory label *saab*. The Rahanweyn speak a different dialect of Somali (*Af Maay Maay* or *Af Maay tiri*) from the majority clan Somalis such as the Darod, Dir (Isaq), and Hawiye. Though the Rahanweyn groups consider themselves Somali and claim descent from the Prophet's family, they trace a different forefather *Saab*. Interestingly, the Rahanweyn can use the calculations of descent common to the majority clans, but they can also use links of locality or 'vicinage' to assert their identity. The Rahanweyn use two systems of social organisation simultaneously – one segmentary and one more hierarchical one.¹¹

In the south of Somalia there were several historical examples of far more hierarchically structured and territorially based political systems e.g. the Bimaal sultanate near Marka, and the Geledi sultanate in modern day Afgoye, than in the 'pastoral north'. These southern systems were the most resistant to Italian conquest and colonisation in the nineteenth century and the Italians did much to undermine the pre-colonial traditions of authority. The Siad Barre regime went further still.¹²

2.3 Clans, land and resources

Territorial identification is traditionally weak among 'pastoral' majority clans but strong among 'agricultural or agro-pastoral clans'. However, many majority clans have at times been more strongly agro-pastoral and developed a tradition of continual settlement. There are some majority clans for whom links of vicinage are equally strong. Identification of clans with territory – the idea of 'autochthonous' clans - has been one of the emerging dynamics of political violence in stateless Somalia. This has been especially acute in southern and south central Somalia.

The collapse of the central state in 1991 led to a generalised revitalisation of traditional authority. In the northern areas where the populations were smaller and more rurally based this process was efficient and brought relatively good results. The ethnic heterogeneity of the south and the widely differentiated 'traditional' structures, compounded by a far more active colonial and post-colonial state presence – largely due to the better resources of the south – have made the conflict here more intractable. When the same return to tradition happened in the south the process was far more contested and open to manipulation, especially in the large urban areas of Mogadishu and Kismayo.¹³

¹¹ Joakim Gundel, 'The Predicament of the "Oday"', p. 30

¹² Joakim Gundel, 'The Predicament of the "Oday"' pp. 27; 29.

¹³ Joakim Gundel, 'The Predicament of the "Oday"', p. 28

Leaders of modern clan factions in the south co-opted and corrupted traditional clan elders as a means of employing 'political clannism' to dominate economic and political resources. In the south of Somalia 'political clannism' has resonance with the politics of 'tribe' in other parts of Africa. Moreover, conflicts between competing elites employing 'political clannism' was fuelled by the wide availability of arms. Where previously armed warriors secured the scarce and valuable pastoral resources of water and grazing land for the good of the clan, now clan-faction leaders employ young militiamen to secure regional and national resources including farmland, towns, markets, ports, airports and humanitarian aid.¹⁴

There is an informed body of opinion that believes that rather than a primordial struggle between clans, the Somali crisis is the struggle to control and dominate the Somali economic arena, and that only by addressing these economic 'class' conflicts rather than 'clan' conflicts, will the continuing crisis be resolved.¹⁵

2.4 Dominant and marginalised groups

There was, historically, a belief among the *samaal*-descended majority clans that the *saab*-descended Rahanweyn as well as other 'minorities' are somehow inferior to the *samaal*. The southern part of Somalia includes any number of smaller 'weak' clans and ethnic minorities most of whom are completely dominated – demographically, politically, economically, militarily, and socially - by the 'majority' clans. The *samaal-saab* distinction is just one of many social divisions of the Somali 'nation'. For example, there is a long tradition of 'caste-like' groups, as well as several distinct minorities, who are neither *samaal* nor *saab*, and who have existed on the margins of society.

Social and ethnic divisions are most acute in the south due to a long history of north to south migration of 'majority clan' pastoral Somalis (of purported *samaal* descent). Over the last two hundred years northern Somalis have expanded into areas already settled by agro-pastoral and agricultural groups of *saab* descent, as well as minorities perceived to be of 'foreign' origin such the *gibil cad* (light-skinned groups such as the Rer Hamar, Rer Marka, Barawanese, Ashraf) and so-called 'Bantu' groups also known semi-politely as *jereer* ('kinky-hair') and pejoratively as *adone* ('slaves').

The expansion of *samaal* at the expense of *saab* and the various non-Somali minorities is, at root, the result of environmental and demographic change. Environmental change – generally speaking a decline in the grazing resources of the north – is exacerbated by demographic growth that is also a major dynamic in the growth and extension of the *samaal* clan system. Colonial and post-colonial governments tried to ease marginal livelihoods in the pastoral north through 'resettlement' schemes in the agricultural south. Resettlement schemes were also used to 'gerrymander' clan distribution as means of political patronage. When the central

¹⁴ A pioneering collection describing the political economy of the south is Catherine Besteman and Lee Cassanelli, *The Struggle for Land in Southern Somalia: The War behind the War* (Westview Press, Boulder, 1996)

¹⁵ See essay by Alex de Waal, 'Class and power in stateless Somalia', available on <http://hornofafrica.ssrc.org/dewaal/>

state collapsed in 1991 the tensions between original inhabitants and new-comers came to a head.

Parts of Somalia have certainly encountered the politics of autochthony, up to and including clan/ethnic cleansing, as well as continued and increased influxes of new-comers over original inhabitants. The south is especially marked by successive settlement of the majority Hawiye clan-family from the central regions. The Habr Gedir clan are the most recent Hawiye newcomers. In the south the Habr Gedir clan has now become militarily and demographically dominant over earlier Hawiye migrants and non-Hawiye clans, *saab* Somalis and other minorities.

The Benadir (Greater Mogadishu) and Lower Shabelle regions are good examples of this dynamic. In Mogadishu another Hawiye clan, the Abgal and related clans of the 'Mudulod' alliance, have held out against the Habr Gedir. In Lower Shabelle, the Habr Gedir clan rivals the (Dir) Bimaal. The competing claims of territorial ownership between 'Mudulod' and Habr Gedir over Mogadishu, and Bimaal and Habr Gedir over the Lower Shabelle, are played out over significant populations who have stronger claims to 'autochthony' but little military or political might. These include earlier and smaller Hawiye groups, any number of small 'Benadiri' groups including the *Gibil Cad* (Rer Hamar, Rer Marka, Barawans), Bantu groups, and various Digil and Mirifle (Rahanweyn) groups such as the Geledi, Tunni, and Ba Gedi. There are similar examples of throughout southern Somalia; Kismayo and Jubba-land being one of the most complex and intractable mosaics of clans and ethnicities fighting over ownership and political influence.

From the 1940s onwards Somali nationalism in secular and religious forms has tried to downplay divisions and inequalities in Somali society. Nevertheless in practice it can be said that in the modern history of Somalia, all Somalis are equal, but some Somalis are more equal than others. One of the claims made for the period of Islamic courts control in Mogadishu during 2006 was that it overcame clan divisions and long-standing social inequality within Somali society.

2.5 Islam in Somalia

For centuries Islam has been integral to the Somali lands and the Somali speaking people. Islam has often acted as unifying and levelling force over entrenched clan, ethnic, and class divides of Somali society. Like many areas on the fringes of the Islamic heartlands, 'traditional' Islam in Somalia was associated with Sufi traditions, the veneration of local saints, and 'syncretic' style of belief. However, some purist 'orthodox' branches of Islam from outside took root in Somalia and attempted to regularise and reform the local practices.

The most well known historical example of Islamic radicalism in Somali history is *Sayyid* Muhamed Abdille Hassan and his Salihya movement¹⁶ that took hold in the northern part of Somalia during the first two decades of the twentieth century. *Sayyid* Muhamed Abdille Hassan declared *Jihad* and attacked both local Somali Muslims,

¹⁶ Called the 'Dervishes' by the British colonial administration.

Christian Ethiopians and British and Italian colonial powers, ranging across modern day Somaliland, Puntland and Ethiopian Somali Region Five. A still earlier example of Somali militant reformist Islam was the *jihad* that emanated from a religious settlement of Bardheere on the Juba river (in the modern-day province of Gedo) from the 1820s to the 1840s. Both the Bardheere *jihad* and *Siyad* Muhamed's movement originally aimed to purify local practice of Islam – especially the centres of *sufi* teaching – and both became involved in larger regional 'political' rivalries which ended in large-scale conflict and destruction.

Radical reformism has surfaced several times in Somalia's Islamic history, though there have been many examples of less dramatic but possibly equally important Islamic social movements. These movements have often been relatively quietist largely in sympathy with local practices; for example through the preaching of Sheikh Uways Muhammad al-Barawi in the late nineteenth century or Sheikh Mahamed Moallim associated with the Al-Islah movement in modern times. These less spectacular movements have gone largely unheralded despite their important contribution to education and social welfare.

Modern 'political' Islamic ideologies imported from outside have been a constant in Somali political life. Initial inspiration came from Egypt in the form of Muslim Brotherhood in the late 1950s, and later the neo-traditionalist Salafiya theology originating in Saudi Arabia and the Gulf States from the 1970s onwards. Politicised Islam has found an eager audience in the burgeoning educated urban populations of Somalia. The brief ascendancy of the Islamic Courts movement over large areas of southern Somalia, including Mogadishu during 2006 was an indication of the attraction of political Islam as an alternative to warlordism and factionalised secular politicians.¹⁷

Yet in general – with some notably short-lived exceptions - Somalia has not been receptive to widespread radicalisation in the name of Islam. Traditionally, according to one authority Islam in Somalia was a 'veil lightly worn'.¹⁸ The same 'clan factor' that has foiled so many attempts to resurrect a fully functioning state in Somalia has also played a role in mitigating the hold of more extreme Islamist programmes. Furthermore, foreign extremism has foundered on the tradition of Somali antipathy towards dominance by outsiders whether they are Christian colonialists or Muslim Arabs.¹⁹

3. Recent Political History

The general Somali scepticism towards outside interference together with the capacity for clans (and their political factions) to turn external assistance to their own ends is

¹⁷ Joakim Gundel, 'The Predicament of the 'Oday', p. 41

¹⁸ See Ken Menkhaus 'Somalia' section in *Al Qa'ida's (Mis)Adventures in the Horn of Africa* West Point Harmony Project, May 2007. <http://www.ctc.usma.edu/aq/Al-Qa'ida's%20MisAdventures%20in%20the%20Horn%20of%20Africa.pdf>

¹⁹ 'Foreign Fighters Face Obstacles Joining the Somali Jihad', Jamestown Foundation, Terrorism Focus, Vol. 4, Issue 24 (24 July, 2007), <http://www.jamestown.org/terrorism/news/article.php?articleid=2373568>

especially marked in the troubled progress of the Transitional Federal Government. The TFG's founding charter explicitly recognises the 'clan' factor in Somali politics. But equally it could be argued the inclusion of warlords and factions at the heart of the TFG in fact recognises 'political clan-ism' rather than 'clan' *per se*.

3.1. The Transitional Federal Government

The TFG institutions are based on the so-called '4:5 formula' (originating in a previous peace conference at Arta, Djibouti in 2000) that is designed to balance and share representation and power in Somalia between the 'four' main clan families (Dir, Darod, Hawiye and Rahanweyn), as well as giving the collected constituencies of various 'minority' groups the same political share as one of the main clan groups i.e. 2/9^{ths}.

At first glance the TFG's composition reflects the 4:5 clan 'formula'. The President of the TFG, Colonel Abudullahi Yusuf is a (Harti) Darod (from the Majerteen clan). The TFG's Prime Minister, Ali Mohamed Gedi is a Hawiye from the Abgal branch (sub-clan Warsengeli), and the Parliamentary Speaker, Aden Madobe is Rahanweyn (as indeed was his predecessor Sharif Aden, now in exile in Asmara). Though the Prime Minister's role is the 'Hawiye' representative at the heart of the TFG, it is often argued that he does not represent the rump of Hawiye military and economic power in southern Somalia, specifically the Habr Gedir and Murosade Hawiye sub-clans. Indeed the popular perception in southern Somalia – at least among some of the Hawiye opinion formers – was that the TFG is an 'alien' Darod institution, and not *their* government.²⁰ Recently the growth in Abgal influence in the TFG has divided the general Hawiye resistance to the TFG.

The particular circumstances of the TFG's creation were not ideal; a prolonged peace conference in Kenya whose frustrated external sponsors forced a hurried conclusion, and incomplete arrangements for the implementation of government on the ground. The resulting TFG lacked legitimacy even before it left Kenya and many outstanding issues plagued the first year of its existence.²¹

3.2 The TFG and Mogadishu

For the most of the first two years of its existence the TFG was not able to relocate to the capital Mogadishu.²² The TFG was based itself first in Jowhar (Middle Shabelle province) and then moved to Baidoa (in Bay province). A collection of warlords from the Hawiye clan - ironically including 'ministers' of the TFG that became known as the 'Mogadishu group' - opposed the TFG assuming full control of southern Somalia,

²⁰ 'Somalia: Dominant Mogadishu Area Clan Opposes Planned Reconciliation Meeting', *Source: Somaaljecel website in Somali 5 March 07* [BBC Mon AF1 AFEauwaf 050307/job].

²¹ For a quick overview of the troubled TFG, see 'Somalia: The Tough Part is Ahead', International Crisis Group, African Briefing No. 45, 26 January 2007.

http://www.crisisgroup.org/library/documents/africa/horn_of_africa/b45_somalia_the_tough_part_is_ahead.pdf

²² An excellent summary of the last eighteen months in Somalia is Ken Menkhaus, 'The Crisis in Somalia: Tragedy in Five Acts', *African Affairs*, 106/204 (2007), pp. 357-390.

especially the capital. The main point of public contention was the issue of the deployment of peacekeepers from IGAD including Ethiopian troops.

Towards the end of 2005 it looked like the TFG and dissident warlord ministers of 'the Mogadishu group' would confront each other militarily. This conflict was averted through the mediation of the President of Yemen. In the meantime a growing Islamist political network, centred on a number of Islamic *sharia* courts and their militias based in Mogadishu and Lower Shabelle - still dominated by the Hawiye clans - were challenging 'warlord' control of Mogadishu.

By the first half of 2006 the Islamic courts had achieved remarkable progress, dislodging most of the warlords from Mogadishu, and beginning to establish a city-wide administration. The Islamist victory was due partly to a small group of well trained and disciplined militia, but also to a groundswell of 'public' opinion against 'warlordism' in Mogadishu, made effective by clan elders transferring tacit support from the warlords to the Islamic courts. As the Islamist movement coalesced and became more like an alternative government it took on the organisational title of the Council of Somali Islamic Courts (CSIC).²³

It soon became apparent that the Islamic Courts were no more accepting of the TFG than were the 'warlords'. As well as their obvious ideological differences, one of the central issues of disagreement was again the deployment of peacekeepers. Furthermore, since some of the courts and their supporters had links to more radical Islamists – including groups that attacked Ethiopia in the past and others suspected of sheltering Al-Qaeda suspects in the US Embassy bombings in Nairobi and Dar-es-Salaam – international concerns were raised about the ultimate intentions of the Islamic Courts.

The TFG and Islamic courts quickly became rivals and international actors also began to take sides. Finally in December 2006 following a tense military escalation along a frontline some distance from Baidoa, fighting broke out between the militias of the Islamic courts and the TFG (heavily backed by Ethiopian troops and military hardware). The unexpected result was the rapid defeat and demise of the Islamic Courts administration that brought the Transitional Federal Government (TFG) to Somali capital Mogadishu for first time in its two year history.²⁴

For all the apparent ease of the winning the war against the Islamic courts, winning the peace in Mogadishu proved difficult for the combined Ethiopian-TFG forces. Within the first few months of the TFG's arrival to Mogadishu a visitor characterised the TFG 'in residence, but not in power'.²⁵ Large parts of the powerful political and business elite of Mogadishu (mostly Hawiye based) regarded the TFG with deep suspicion. Many saw it as an alien occupying force since it was a predominantly

²³ In fact there does not seem to be agreement on the official English title of the Islamic courts administration.

²⁴ For a concise account see Cedric Barnes and Harun Hassan, 'The Rise and Fall of Mogadishu's Islamic Courts', Africa Programme, Chatham House, (April 2007) see http://www.chathamhouse.org.uk/publications/papers/download/-/id/458/file/9776_bpsomalia0407.pdf

²⁵ Personal communication, January 2007.

Darod backed entity closely associated with Ethiopia (and indirectly with the United States).

The first three months of 2007 saw a steady deterioration in security in Mogadishu. The tardy and partial deployment of African Union peacekeeping force 'AMISOM' of only 1,700 Ugandan troops of a promised 8,000 strong force had little success in keeping the peace. In late March in the face of a growing collective insurgency - the so-called *Muqawaama* - TFG and Ethiopian forces began a large-scale operation to clear 'insurgents' from their strongholds. From late March to May 2007 military engagements were the worst Mogadishu had seen for a decade or more.²⁶ Details of the operations and precise casualties are still unclear.²⁷ At the height of the fighting in Mogadishu it was estimated by various agencies that up to 400,000 people may have been displaced.²⁸

The current political situation (as of late August 2007) in Mogadishu and its immediate environs is a matter of perspective. There are evidently significant sections of the population who do not support the TFG government; there are regular and often successful assassination attempts against TFG officials of all ranks. Buildings, businesses, and installations associated with TFG are targeted by mortars on a daily basis. The TFG and Ethiopian forces conduct wide-ranging 'security' operations against groups or individuals perceived to be actively resisting the government. Both sides can be accused of acting indiscriminately against their perceived opponents. The inauguration of the much delayed National Reconciliation Conference in Mogadishu on 15 July has brought still greater levels of violence.²⁹

The TFG government has struggled to maintain its unity; the government is in constant state of flux, full of personal rivalries and unreliable alliances. The insurgency also involves a number of disparate and often uncoordinated factions fighting for different ends and with different means. Glib comparisons in the media with the insurgency in Iraq have become common. Prime Minister Gedi recently announced that the TFG will try and create a Baghdad style 'green zone' for the safety of government official and foreign visitors.³⁰ Overall, the current level of conflict would seem unsustainable even by the very low standards of Mogadishu.

3.3 TFG and the Regions

The administrative picture in southern Somalia outside Mogadishu is complicated by the uneven patterns of the development, as well as the deterioration, of peace and

²⁶ For a general overview of these events from a humanitarian angle see 'South/Central Somalia: Factsheet – May 2007', United Nations Office for the Coordination of Humanitarian Affairs, 3 May 2007, <http://www.reliefweb.int/rw/rwb.nsf/db900SID/LSGZ-72UCSL?OpenDocument&rc=1&cc=som>

²⁷ An initial attempt has been made by Human Rights Watch, 'Shell Shocked: Civilians Under Siege in Mogadishu', Volume 19, No. 12 (A), August 2007, <http://hrw.org/reports/2007/somalia0807/>

²⁸ 'Main Findings of the Rapid Vulnerability Assessment of Mogadishu, June 2007', USAID/Fewsnet go to www.fews.net/somalia

²⁹ 'Deadly Mogadishu blasts overshadow peace talks', Reuters, 18 July 2007; 'Renewed violence in Mogadishu sets thousands on the road once more', UNHCR, 20 July 2007.

³⁰ 'Somalia to create Iraq-style "Green Zone"', Reuters, 14 August 2007.

security. Before the arrival of the TFG there was a mix of local administrations: local 'traditional' structures', various 'fiefdoms' of faction-leader /warlords, and 'regional' administrations such as the Rahanweyn areas of Bay and Bakool. Since arriving in Mogadishu the TFG has attempted to consolidate its control over south-central Somalia by appointing local administrative bodies.

It is fair to say that outside Mogadishu the TFG enjoys only patchy support, though there may be more notional support for it than is commonly recognised. Certainly in the regions above Galkayo the TFG was regarded as a legitimate government. The province of Middle Shabelle (the stronghold of the Abgal warlord and Mayor of Mogadishu) has more or less accepted the TFG. The central Bay and Bakool areas (dominated by the Rahanweyn) are thought to support the TFG, and have made progress in establishing local administrations. Recent elections for a regional administration have been held in Hoddur, Bakool. But Rahanweyn unity is notoriously fragile and there has been serious intra-Rahanweyn fighting in the recent past. A number of other areas remain uncertain territory for the TFG control including Gedo, Galgaduud and Mudug.

There are still key regions where the TFG authority is actively challenged, often by previous incumbents in power, and especially where the dominant clan does not feel adequately represented in the TFG. In recent months Hiran province has resisted the imposition of a TFG appointed administration. In Lower Shabelle province - dominated by the Habr Gedir-Ayr sub-clan of the Hawiye - previous incumbents of power have resisted TFG appointed administrations over the key towns of Qoryoley, Marka and Barawa. Southern Somalia's second city, Kismayo remains outside TFG control. Again previous incumbents of power rejected the TFG administration and ousted it by force in April 2007. The fact that the TFG does not control Somalia's second city and a significant financial and strategic resource in its own right, illustrates the TFG's continuing 'national' weakness.

3.4 Somaliland

Somaliland has enjoyed the most stability since the collapse of the central state in 1991, though it has remained internationally unrecognised as an independent state.³¹ Somaliland is dominated by a former rebel movement, the Somali National Movement (SNM). The SNM reconstructed state and society through engagement with 'traditional' structures, especially the elders. There are two parliamentary chambers in Somaliland, one democratically elected House of Representatives on the basis of a three party system, and one House of Elders (*Goolaha Guurti*) nominated by clans but excluding women.

After a troubled few years following independence, a mostly successful democratic culture has been established in Somaliland; indeed a remarkably smooth transfer of

³¹ 'Somaliland : Time for African Union Leadership ', Africa Report No. 110 – 23 May 2006, International Crisis Group, Hargeysa/Addis Ababa/Brussels, http://www.crisisgroup.org/library/documents/africa/horn_of_africa/110_somaliland_time_for_african_union_leadership.pdf

power took place after the death of President Mohamed Ibrahim Igal when the current incumbent Dahir Rayale Kahin took office. In 2003 Presidential elections and in 2005 Parliamentary elections were successfully held³² but there continue to be underlying tensions in 'democratic politics'.³³ There are signs of gathering political tensions between the government and opposition in the run up to Presidential elections scheduled for 2008.³⁴

Somaliland's relative internal stability has been rocked over the last few years. There was significant military conflict between Somaliland and Puntland over the disputed province of Sool and Sanaag in October 2004 and April 2007 that remains unresolved. A series of assassinations of foreign aid workers by suspected Islamic extremists raised doubts about Somaliland's internal security and threatened the valuable contribution made by external international aid organisations. There have also been serious instances of clan fighting though Somaliland's traditional peace-making mechanisms have been able to contain the conflict.

The Somaliland government certainly felt threatened by the period of ascendancy of Islamic Courts in Mogadishu with whom many Somalilanders were (surprisingly) sympathetic. The political opposition in Somaliland showed quiet support for the Islamic Courts administration in the south. There was incipient unrest centred on Burco which some feared was the foothold of the Islamists in Somaliland resulting in widespread arrests.

It is the possibility of finally achieving *de jure* sovereignty – international recognition – rather than *de facto* independence that Somaliland currently enjoys that may prove the real test for Somaliland's stability. It is plausible given the instability that has accompanied the creation of the internationally recognised sovereign government in the south (the TFG), that recognition might seriously de-stabilise Somaliland.

3.5 Puntland

In Puntland – in a process similar to Somaliland - a rebel movement, the Somali Salvation Democratic Front, worked with traditional authorities to fill the gaps left by the collapse of the central state, and resurrected a nascent state system. The role of traditional authorities was not as clearly institutionalised as it was in Somaliland. The traditional authorities are known as the *issimo* and the agents of this authority are the elders. The Puntland State of Somalia is in theory subordinate to the *issimo* though the relationship is not entirely clear and the relationship is largely informal.³⁵

³² Adan Yusuf Abokor, Steve Kibble, Mark Bradbury, Haroon Ahmed Yusuf, Georgina Barrett, 'Further steps to democracy: The Somaliland Parliamentary Elections, September 2005', Progressio, 2006, http://www.progressio.org.uk/shared_asp_files/uploadedfiles/4B3047C0-7EEF-4A0F-B70C-8B9DD0D1D8A8_Furtherstepstodemocracy_lowres.pdf

³³ 'Somaliland: Democratisation and its Discontents', Africa Report No. 66 – 28 July 2003, International Crisis Group, Nairobi/Brussels
http://www.crisisgroup.org/library/documents/report_archive/A401067_28072003.pdf

³⁴ 'Breakaway Somali Republic arrests 3 politicians', Reuters, 28 July 2007.

³⁵ Gundel, 'The Predicament of the Oday', p. 23.

Puntland's autonomous state structure is much less well developed than Somaliland's institutions. The role of the President - currently Mohamud Adde Muse who took over from the current TFG President Abdullahi Yusuf in January 2005 - and the executive has dominated formal politics. As a former President of Puntland and Majerteen clan member, Abdullahi Yusuf has been able to build on relatively strong support from Puntland. Puntland's army, 'the Darawiish', are the majority element of the TFG armed forces.

Puntland has also been susceptible to Islamist politics in recent times; Puntland was home to Islamist parties in the early 'nineties. The rise of the Islamic Courts in Mogadishu severely threatened the 'secular' political class and there was widespread reporting at the time that Puntland was on the verge of introducing *sharia* law. However Puntland's close relationship with Ethiopia brought reinforcements and military aid; Puntland's border-lands (Mudug) were an important flashpoint between the Ethiopian-supported Puntland militias and Islamic Court's forces. In July 2007, US Navy and Special Forces attacked a remote part of Puntland's coastline where suspected Islamists were said to be gathering.

Several simmering problems have come to a head in recent months that seriously threaten Puntland's internal stability.³⁶ Somaliland currently has the upper hand in the territorial dispute over the border regions of Sool and Sanag. Puntland's finances are in a mess leading to popular protest against the Presidency.³⁷ Though it is still part of Somalia the exact nature of Puntland's autonomy in relation to the TFG may trigger dormant quarrels especially over the share of Puntland's mineral resources.³⁸

4. Socio-Economic conditions

One of the remarkable aspects of the former unitary state of Somalia has been its socio-economic resilience in the face of the continued collapse of the central state and chronic insecurity.³⁹ The economy, similar to the variations in security and competent administration, shows strong regional diversity.⁴⁰

4.1 The Economy

The most economic dynamism has been found amid the ruins and insecurity of Mogadishu and southern Somalia. Here businesses have flourished in the traditional and modern sectors, including cash crop farming, charcoal production,

³⁶ 'The Puntland State of Somalia' Comes into Play', Power and Interest News Reports, 2 August 2007, <http://www.pinr.com>

³⁷ 'Protest turns violent in Puntland ahead of Somalia president's visit', Garowe Online, 25 July 2007.

³⁸ Katie Nguyen, 'ANALYSIS – Power play at the centre of Somalia oil debate', Reuters, 10 August 2007.

³⁹ One paper that looks at the various socio-economic dimensions to the Somali crisis is William Reno, 'Somalia and Survival in the Shadow of the Global Economy, Queen Elizabeth House Working Papers Series No. 100, February 2003, <http://www3.qeh.ox.ac.uk/pdf/qehwp/qehwps100.pdf>

⁴⁰ The most recent report on every sector of Somalia's current economy and its needs for the future is 'Somalia: From Resilience Toward Recovery and Development. A Country Economic Memorandum for Somalia', Report No. 34356-50, World Bank, 11 January 2006 http://siteresources.worldbank.org/INTSOMALIA/Resources/cem_01_06.pdf

telecommunications, transport, and small scale manufacturing. The economy has remained functional largely due to the ubiquitous 'hawala' remittance companies that also serve as banks, located 'offshore' in the Gulf and Kenya. Remittances for example, have mitigated the extreme impacts of social and economic conflict, and periods of complete absence of state. In 2004 it was estimated the remittances accounted for 60% of Somalia GNP.

The lack of state in all the Somali lands has allowed a flourishing private sector. The absence of bureaucracy may explain the speedy adaptation of the Somali economy to new opportunities. There are better telecommunications and air services now than before the civil war, and parts of the industrial sector have also experienced growth. However, the lack of state regulation has heavy costs; there has been unsustainable and hugely damaging exploitation of Somalia's few natural resources, e.g. forestry for charcoal. Agricultural production has suffered severely; the sector is 50% less productive than it was in the pre-civil war era.

Certainly part of the resistance towards the TFG in southern Somalia (especially Mogadishu) is the reluctance of businesses to pay the formal taxes demanded by the nascent TFG state. Since the beginning of 2007 the economic dynamism of Mogadishu has suffered a serious set back as a result of the on-going conflict between TFG-Ethiopian forces and the various insurgent groups. The population – and especially the vulnerable elements such as IDPs – are facing uncertain times. Since late March Mogadishu's populations have faced rapid inflation, currency fluctuations, and sudden declines in incomes.⁴¹ The effective closure of the main Bakaraha market for three weeks in July following security operations has brought further economic woes.

The health and education sectors tell a similar story of surprisingly good but uneven provision, with sudden and dramatic declines. The recent World Bank memorandum on Somalia demonstrated that (until recently) there was in fact a surprisingly high level of provision of health and education in Somalia, though access to it and its quality was markedly uneven. However, since March 2007 some of Mogadishu's hospitals have found themselves in the epicentre of battles between Ethiopian/TFG forces and groups of insurgents. Only the Medina and Keysaney hospitals are functioning in markedly reduced circumstances.⁴²

4.2 Civil Society

There are any number of civil society groups and local Non Governmental Organisations (NGOs) that operate in the Somali lands. Indeed, due to the absence of formal state structures and government services, civil society groups and charities/NGOs provide many essential services. In Somaliland, and to a lesser extent

⁴¹ 'Main Findings of the Rapid Vulnerability Assessment of Mogadishu, June 2007', USAID/Fewsnet go to www.fews.net/somalia

⁴² 'Somalia: Mogadishu violence hurting health care delivery, says charity', IRIN, 20 August 2007.

in Puntland⁴³, most NGOs are able to operate with relative freedom as long as relations with local authorities are good.

In the south of Somalia civil society groups/NGOs are under greater pressure. Since the TFG arrived in the capital Mogadishu, NGOs have complained of harassment. A high profile example was the raid made by TFG and Ethiopian forces on the offices of a respected local NGO, SAACID-Somalia. According to press reports staff members including the country director were arrested under suspicion of links with terrorism, offices were damaged and equipment confiscated.⁴⁴

Human rights groups – of which again there are many⁴⁵ - have also experienced a difficult operational environment.⁴⁶ Over the years there has been a litany of arrests and killings of human rights workers; the latest killing came earlier this year when in March, Isse Abdi Isse, chairman of the Kasima Peace and Development Organisation was shot dead in Mogadishu.⁴⁷

4.3 Media

The survival, resilience and strength of the private media in the Somali lands is another remarkable aspect of post-1991 Somalia. The Somali lands are well served by state and privately owned media outlets including newspapers, radio and television stations, and any number of web-sites. Nevertheless, in all the Somali lands there have been regular instances of interference with media freedom. Journalists in Somaliland and Puntland have been arrested and held by the authorities in recent times; the arrest and detention of three journalists from the Haatuf Media Network in Somaliland⁴⁸ for critical reporting of the President, demonstrated a growing authoritarian streak in the Somaliland government.

Southern Somalia and especially Mogadishu, not only has the most prolific media, but has also faced the stiffest challenges. Journalists have been regularly killed in the course of their work and often killings have been politically motivated.⁴⁹ Popular media houses – including Horn Afrik Media and Shabelle Media Network - have been closed on numerous occasions by the TFG mostly due to accusations of biased reporting.⁵⁰ There are several instances where it seems insurgent factions including

⁴³ 'Somalia: Human rights offices closed in Puntland', IRIN, 5 March 2003, <http://www.irinnews.org/report.aspx?reportid=41910>

⁴⁴ 'Somalia: Government criticised over NGO raid', IRIN, 20 June 2007

⁴⁵ Among many examples one of the most respected human rights groups in south central Somalia is Dr Ismael Jumale Human Rights Organisation, and in the extreme south is around Kismayo and Bardheere is Kisima; in Puntland there is We are the Women Activists; in Somaliland an umbrella organisation called Shuro-net. There are many more.

⁴⁶ Amnesty International, 'Supporting and strengthening the work of Somali human rights defenders – a workshop report' AI Index: AFR 52/004/2003, 1 July 2003, <http://web.amnesty.org/library/print/ENGAFR520042003>

⁴⁷ 'UN condemns killing of Somali rights activist', Reuters, 15 March 2007.

⁴⁸ Amnesty International Urgent Action Update, AI Index: AFR 52/003/2007, 19 February 2007.

⁴⁹ 'CHRONOLOGY – Recent attacks on journalists in Somalia', Reuters, 11 August 2007.

⁵⁰ 'Somalia: Radio Stations Shut Despite Contact Group Meeting', Human Rights Watch, 7 June 2007.

Islamists were responsible for targeting journalists and media organisations, including the recent killing of two well-known journalists from Horn Afrik.⁵¹

5. Law and authority

National law in a unified and post-independent Somalia was problematic due to the differing colonial experiences of the British and Italian Somalilands. The revolutionary military regime tried to bring wholesale reform of law in Somalia in a unified civil code that marginalised older and traditional precedents. As well as passing a number of authoritarian laws, the revolutionary regime abolished 'clan' in 1964 and with it much of the jurisdiction of 'customary law' or *xeer*. The full exercise of *Sharia* was similarly curtailed.⁵² Nevertheless all formal state statutory law in the Somalia in past and present forms have all drawn on precedents found within *Sharia* law.

There are, broadly speaking, four different justice systems found under the various administrative arrangements in the present day Somali lands: formal judiciary structures, traditional 'customary law' or *xeer*, quasi-institutionalised arrangements in specific localities, and *sharia* courts.⁵³ As a result of state collapse and partial resurrection in some areas, often two or more of these different legal systems will co-exist in some locations. Sometimes there is a choice between which system is employed in specific cases or preferred by specific parties. Under these conditions it can be said that not all Somalis have equal recourse to the law, and that collective power will often override individual justice.

The potential growth and consolidation of the Transitional Federal Government will try to harmonize and codify the legal system across the territory it controls. It is certain, however, that many areas will remain beyond the reach of a national codified law for the foreseeable short term future. Customary law will be staunchly defended as a bastion of social and regional autonomy from the state. In any case the 'federal' nature of the transitional government and the relationship between the federal government and regional government is still to be decided. Somaliland law will not under present conditions recognise any legal developments enacted by the Transitional Federal Government.

In the meantime in the northeast and northwest of Somalia (Puntland and Somalia) a hybrid system of traditional law (*xeer*) and a formal judicial system will continue. The institutionalisation of this hybrid is most advanced in Somaliland⁵⁴, though in practice it is not without problems. Both systems struggle to cope with the changes of the last fifteen years, especially increasing demands of the re-emergent state-structures and global influences.

⁵¹ 'Top two Somali journalists slain in Mogadishu', Reuters, 11 August 2007.

⁵² Andre Le Sage, 'Stateless Justice in Somalia', pp. 18 - 20

⁵³ Andre Le Sage, 'Stateless Justice in Somalia: Formal and Informal Rule of Law Initiatives', Centre for Humanitarian Dialogue, July 2005, p. 7,

<http://www.hdcentre.org/datastore/Justice/Somalia%20final.pdf>

⁵⁴ An excellent resource is <http://www.somalilandlaw.com/>

5.1 Customary Law or *xeer*⁵⁵

Customary law or *xeer* is the system of justice most commonly employed.⁵⁶ *Xeer* has its roots in the rural areas, and is especially effective in the northern regions of Somalia. *Xeer* is ‘clan’ law, specific to managing relations within and between Somali ‘segmentary lineages’, and traditionally concerned with the regulation of access to water or grazing for competing clan’s herds.⁵⁷ *Xeer* is a dynamic system primarily dependent on relations between groups who closely interact. Moreover, as an oral tradition *xeer* is not codified and open to constant re-interpretation.

Since *xeer* relates to interacting lineages it is not law that serves the individual’s interest well, rather it is designed to regulate relations between groups. While *xeer* theoretically regulates relations between *mag*-paying groups, groups that have larger ‘fighting strength’ are more powerful under *xeer*; in the Somali case it is often the case that ‘might’ is also ‘right’. Consequently weak or minority groups/clans are not well served by *xeer*.

Because it is primarily developed between ‘local’ lineages and clans, *xeer* inevitably finds itself in conflicts with international norms of law, as well as *Sharia*. In its traditional context *xeer* is undoubtedly consensual, but *xeer* is exclusively the domain of the male *elders* who are ‘legislators, executors and judges’.⁵⁸ Unsurprisingly, youth often feel largely unrepresented in this form of traditional authority. Women also feel marginalised; this exclusion is acutely felt given the greater public socio-economic roles women have taken since the collapse of state in Somalia.

In present conditions customary law is overstretched. It is also sometimes found to be irrelevant. The rise of the Islamic courts movement in Mogadishu was a response to the breakdown of *xeer* in the modern context, though the *Sharia* courts were still almost entirely based within a specific sub-clan’s ‘territorial’ context. Ordinarily, *Sharia* and customary law have co-existed, though *Sharia* played a junior role. The defeat of the ‘unified’ Islamic courts political movement which grew out local courts in Mogadishu may set back the likelihood of a prominent public role of *sharia* law in the foreseeable future.

6. Human Rights and Humanitarian Environment.

In May 2007 the United Nations Office for the Coordination of Humanitarian Affairs released an overview of ‘protection’ issue in Somalia noting:

“Somalia has been characterised since 1991 by violence and instability, weak governance structures and limited humanitarian access to populations in need

⁵⁵ Pronounced like the English ‘hair’ with a breathy ‘h’ sound.

⁵⁶ Andre Le Sage, ‘Stateless Justice in Somalia’, p.8.

⁵⁷ Gundel, ‘The Predicament of the Oday’, pp. iii-iv.

⁵⁸ Quoted by Andre Le Sage, ‘Stateless Justice in Somalia’, p. 16

of assistance and protection in many parts of the country. Over the years, systematic human rights violations have become endemic.”⁵⁹

6.1 Humanitarian environment⁶⁰

It is the day to struggle of existence that poses the greatest challenge for the people of the Somali-lands. Moreover, the Somali-lands pose one of the most challenging environments for humanitarian organisations.⁶¹ Problems, acute at the best of times, are further exacerbated by periods of instability and conflict. Since January 2007 the humanitarian environment in southern Somalia has worsened considerably. Conflict in Mogadishu and its immediate environs has stretched medical and humanitarian services.⁶² Continuing flows of large numbers of internally displaced persons to the areas surrounding Mogadishu has brought extreme pressure on existing populations in outlying towns such as Afgoye, and further afield in Galkayo.⁶³

According to the UN Food and Agriculture Organisation the food security and nutrition situation has deteriorated dramatically in south-central regions (especially Lower and Middle Shabelle) ‘the bread-basket’ of Somalia. The number of people in need of humanitarian assistance in Somalia as a whole has increased from 1 million to 1.5 million; nearly 300, 000 of these are in ‘humanitarian emergency’ requiring life-saving interventions.⁶⁴

6.2 Human Rights

Due to the widely differing security situations from region to region it is difficult to give a general overview of human rights in Somalia. Puntland⁶⁵ and Somaliland⁶⁶ are generally considered safe for groups who have had a long term presence there. Nevertheless, there are areas of concern in all regions and for particular social groups,

⁵⁹ ‘Somalia: Protection, Fact sheet – May 2007’, United Nations Office for the Coordination of Humanitarian Affairs, 10 May 2007 <http://www.reliefweb.int/rw/RWB.NSF/db900SID/LSGZ-738EXN?OpenDocument&rc=1&cc=som>

⁶⁰ Updates on the humanitarian and conflict trends in Somalia can be accessed via FAST Updates published by Swiss Peace www.swisspeace.org and USAID Famine Early Warning Systems Network ‘FEWSNET’ at www.fews.net/somalia

⁶¹ ‘Somalia: National staff, local partners carry the load in a dangerous environment’, IRIN, 10 May 2007.

⁶² ‘Somalia – ICRC Bulletin No. 02/2007’, 30 May 2007; ‘Somalia – ICRC Bulletin No. 03/2007’, 27 July 2007, see <http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/somalia?opendocument&link=home>

⁶³ ‘Somalia: Conditions worsen in camps as thousands more flee Mogadishu’, IRIN, 13 August 2007; ‘Somalia: Situation worsens in Afgoye following the arrival of newly displaced families from Mogadishu’, Medecins Sans Frontieres International, 23 July 2007; ‘Renewed exodus from Mogadishu reaches distant Somali town’, UNHCR, 3 August 2007.

⁶⁴ ‘Sudden On-set Humanitarian Emergency Breaks in the Shabelle Regions of Somalia Amid Escalating Civil Insecurity’, Joint Press Release, Food Security Analysis Unit, Somalia and FEWSNET, Somalia, 14 August 2007.

⁶⁵ ‘Somalia, Puntland Fact sheet – April 2007’ United Nations Office for the Coordination of Humanitarian Affairs, 19 April 2007, <http://www.reliefweb.int/rw/rwb.nsf/db900SID/SHES-72KQPC?OpenDocument&rc=1&cc=som>

⁶⁶ Somaliland Fact sheet - December 2006’, United Nations Office for the Coordination of Humanitarian Affairs (OCHA), <http://www.reliefweb.int/rw/rwb.nsf/db900SID/EGUA-6W8MHF?OpenDocument&rc=1&cc=som>

not to mention specific problems connected with the media, political parties, and systems of law and punishment.

It is the opinion of recent observers in Mogadishu and parts of southern Somalia that there is little effective governance or security provided by the TFG.⁶⁷ Unofficial communications tally with media reports: for example Ahmed Kiimiko of the Somali Human Rights Defenders Network stated: 'The situation of human rights violations in Somalia is worsening when killings, robbery, kidnapping, creation of anarchism, raping and subjugation of personal rights have increased.'⁶⁸ In June 2007, the United Nations Independent Expert on the situation of Human Rights in Somalia told the UN Human Rights Council in Geneva that circumstances are considerably worse in Somalia than his last briefing in September 2006.⁶⁹ According to the United Nations Office for the Coordination of Humanitarian Affairs (UN-OCHA), 'new or increased human rights abuses have accompanied the recent conflict.'⁷⁰

The ongoing security operations in Mogadishu are regularly criticised by local human rights groups.⁷¹ The government dismiss these accusations as opposition propaganda. There is undoubtedly some partisan reporting; for example, the former Juba Valley Alliance warlord and Member of Parliament, Yusuf Mire Serar recently accused another warlord, now Mayor of Mogadishu, Mohammed Dheere, of 'illegally detaining civilians and stirring renewed clashes'.⁷² Moreover the Mogadishu-based media that regularly post reports of TFG abuses is owned by people not readily identified with the TFG.⁷³

Despite the polarised political climate in Mogadishu, there is no doubt that abuse of human rights is at its worst for quite some years. Neither side of the current conflict in Mogadishu is blameless.⁷⁴ In current conditions suspicion of association with 'terrorists' or 'insurgents'⁷⁵, or suspicion of collaboration or identification with the TFG⁷⁶, makes almost any person at risk of human rights abuse, up to and including harassment, persecution, imprisonment, kidnap, physical violence or assassination.

For the last six months there has been an increase in general criminality in Mogadishu and surrounding areas. The disruption to Mogadishu's economy has led to an increase

⁶⁷ Personal communication with a Mogadishu-based humanitarian organisation, 1 August 2007

⁶⁸ 'UN condemns killing of Somali rights activist', Reuters, 15 March 2007.

⁶⁹ 'Human Rights Situation in Country Deteriorating, UN Rights Expert Says', UN News Service, 12 June 2007.

⁷⁰ 'Somalia: Protection, Fact sheet – May 2007', United Nations Office for the Coordination of Humanitarian Affairs', 10 May 2007.

⁷¹ 'Mogadishu fighting kills 31 in 24 hours – rights group', Reuters, 14 August 2007.

⁷² 'Somalia lawmaker accuses Mogadishu mayor of abusing power', Garowe Online, 26 June 2007.

⁷³ 'Government forces accused of torture', Shabelle Media Network, 28 July 2007.

⁷⁴ This is the general argument made by the recent Human Rights Watch Report, 'Shell Shocked: Civilians Under Siege in Mogadishu'.

⁷⁵ According to members of the EU Delegation to Somalia, quoted in 'Somalia: Report of Information Gathering Mission, 27 – 30 April 2007', UK Home Office Border and Immigration Agency, Country of Origin Information Service, 17 May 2007, Section 1.13 <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=465be0f12>

⁷⁶ Personal communication with a Mogadishu-based humanitarian organisation, 1 August 2007.

in freelance militias, the reappearance of illegal checkpoints, and regular instances of extortion and robbery. Kidnapping and ransom demands are increasing. Sexual violence is also endemic.⁷⁷ Most reporting has come from Mogadishu, but it is clear that there are considerable instances of human rights abuse in other areas of southern Somalia, such as the second city of Kismayo.⁷⁸

6.3 Vulnerable Groups

A recent report based on extensive fieldwork across the Somali lands during 2006 stated:

“Generally, the fundamental human rights in Somalia for women, children, minorities, other vulnerable groups and IDPs are not guaranteed”⁷⁹

It should be noted that though the situation for some individuals and groups is certainly better than others, and some regions are more secure than others – notably Somaliland - nevertheless it remains true that universal respect for fundamental human rights is not certain in *any* part of Somalia.

6.3.1 Women and children

In terms of the population as a whole, women and children are especially vulnerable to abuse of their basic human rights. In present day Somalia women feel that they “carry the greatest burdens of insecurity and survival”⁸⁰ In general, sexual and gender based violence is endemic in all the Somali lands, though more widespread in some areas than others.⁸¹

The position of women under immediate source of authority for the majority of Somali people – the traditional customary law (*xeer*) – is often in basic contravention of most ‘universally accepted’ notions of human rights. For example *xeer* allows the marriage of a widow to her deceased husband’s close male relative (*dumaal* in Somali). *Xeer* also theoretically allows the forced marriage of a raped woman to the perpetrator to guard against an escalation of revenge and forces the clan to compensate for the potential *yared* (bridewealth in Somali) of the raped woman.⁸² Though these practices are not always practiced, they are still recognised under *xeer*.

Rights of children are equally weak in all regions of the Somali lands. A recent report by United Nations Secretary General, Ban Ki-Moon, estimated that a third of the fatalities due to conflict in Somalia during 2006 were children, and that the ongoing violence in southern and south-central Somalia was characterized by ‘grave child rights violations’.⁸³

⁷⁷ ‘Increased sexual violence raises HIV concerns’, IRIN, 16 August 2007.

⁷⁸ ‘Somalia: Human rights group condemns assaults on Kismayo civilians’, Garowe Online, 26 June 2007.

⁷⁹ Joakim Gundel, ‘The Predicament of the ‘Oday’, p.50.

⁸⁰ Joakim Gundel, ‘The Predicament of the “Oday”’, p. 40.

⁸¹ ‘Somalia: Protection, Fact sheet – May 2007’,

⁸² Joakim Gundel, ‘The Predicament of the “Oday”’, p. 40. P. 50

⁸³ ‘Somalia: One-third of victims were children – UN’, IRIN, 15 May 2007.

6.3.2 Minority groups

In southern Somalia there is probably not one clan or ethnic group who has escaped episodes of persecution and discrimination at some point since the collapse of the state in 1991. Deterioration in human rights began long before the worst excesses of the 1990s and affected both majority and minority clans. 'Majority' clans like Isaaq, Majeerteen, Hawiye, Marehan, and 'weaker' groups such as Bimaal, Shekhaal and Rahanweyn have all suffered instances of mass killings and displacement from their home areas in years gone by. But these groups have been also been able to muster large forces to defend themselves against future attacks.

Nevertheless, there are groups who have been less able to defend themselves, for example, those who are small and scattered in numbers and who do not have the ability to combine against larger groups. There is not the space to give a description of all the minority groups who have been at risk in Somalia in the recent past,⁸⁴ however their often obvious 'ethnic difference' and external perceptions of their culture, e.g. wealth, subservience, origin, has led to widespread persecution at times. In the early nineteen-nineties many of the 'minority groups' suffered at the hands of majority clan militias. But since there was no state, the level of persecution of certain groups could never be total. There were, and continue to be, ways and means of mitigating or avoiding persecution, through friendship, marriage or financial means. Many individuals from minority groups have fled Somalia, but there are nevertheless always exceptions.

It is also important to consider who has the means to flee and when and how it is accessed. For example, many of the 'higher caste/class and educated' *gibil cad* (white-skinned clans and lineages) of the collective Benadiri identity, e.g. Rer Hamar, Rer Marka and Rer Barawa, who tended to be wealthier and better connected - not least with international refugee agencies - left earlier and in larger numbers. Others from the 'lower caste/class' *gibil madow* (dark-skinned clans and lineages) from the same minority clans remained in greater numbers. There is a class and economic dimension to flight that differentiates the flow of minorities as refugees. The earliest to flee had more time and wherewithal to organise themselves as a diaspora, therefore were able to bring more people out of Somalia. The timing of flight does not always exactly coincide with the worst periods of persecution or insecurity, but rather when economic means or opportunities present themselves.

Moreover evaluation of risk is a matter of perspective. Minority Rights Groups International has put Somalia at the top of a list of the most dangerous countries for minority groups.⁸⁵ It is also reported that no communal group is being actively persecuted in present day Somalia. However, because of the nature of Somali society

⁸⁴ A good overview (though not exhaustive) overview of minority groups in Somalia can be found in the report 'Minority Groups in Somalia', Report of the Joint British, Danish and Dutch fact-finding mission to Nairobi, Kenya, 17-24 September 2000, <http://www.unhcr.org/cgi-bin/txis/vtx/rsd/rsddocview.pdf?tbl=RSDCOI&id=3ae6a5fa0>

⁸⁵ Minority Rights Groups International, 'State of the World's Minorities', March 2007, <http://www.minorityrights.org/>

minority groups remain politically, economically and militarily weak, and thus vulnerable.

6.3.3 Internally Displaced Peoples

The civil war and the continuing collapse of the central state in Somalia made large civilian populations subject to serious violations of internationally accepted humanitarian norms and human rights laws. A common and continuing response of civilian populations to insecurity - whether due to man-made conflict or natural disasters such as famine or flooding - was to move either within or outside Somalia. Within Somalia there has been massive displacement of civilian populations, often several times over, particularly in the south-central regions.

Before the recent upheavals in south-central Somalia, there was an already chronic displacement situation. Some 370,000 – 400,000 of the growing numbers of Internally Displaced Peoples (IDPs) have been displaced for up to fifteen years.⁸⁶ According to a recent survey of Mogadishu IDPs nearly 78% were displaced between the years of 1991-1995.⁸⁷ There are no precise figures of the total numbers of IDPs in Somalia,⁸⁸ but in light of the continuing insecurity in Mogadishu since March the numbers of IDPs are estimated to have risen beyond the half million mark.⁸⁹ In June 2007, a local Somali NGO (SACIID) conducted a survey of the internally displaced population in Mogadishu that showed there were an estimated 263,994 to 336,688 IDPs in Mogadishu *i.e.* nearly 19% of the total population of Mogadishu (estimated to be 1,600,000). The return to Mogadishu of the displaced people has been slowed by renewed political instability.⁹⁰

Once displaced IDPs find themselves caught between two worlds, struggling to reintegrate with their original communities, or having to join communities where access to basic needs, land, housing, services, and livelihoods is already subject to intense competition. IDPs are most often found in camps or designated areas, suffering extreme insecurity in terms of their livelihood, basic needs and physical safety (including the risk of theft, violence, rape, forced removal). Host community discrimination against IDPs accessing basic services is an additional factor, and they also often encounter restrictions on their freedom of movement and political rights.⁹¹

⁸⁶ 'Somalia: IDP Fact Sheet', United Nations Office for the Coordination of Humanitarian Affairs (OCHA), 11 December 2006, <http://www.reliefweb.int/rw/rwb.nsf/db900SID/ACIO-6WDKZY?OpenDocument&rc=1&cc=som>

⁸⁷ 'Report on Profiling of Internally Displaced Persons, Mogadishu', IDP Profiling Project Somalia, Danish Refugee Council, UNHCR Branch Office, Nairobi, 18 May 2007,

<http://www.reliefweb.int/rw/RWB.NSF/db900SID/TBRL-74ARRP?OpenDocument&rc=1&cc=som>

⁸⁸ <http://www.reliefweb.int/rw/rwb.nsf/db900SID/ACIO-6WDKZY?OpenDocument&rc=1&cc=som>

⁸⁹ 'Somalia: Massive new displacements as power struggle in Mogadishu flares up again', Internal Displacement Monitoring Centre, Norwegian Refugee Council, 24/4/2007 see [http://www.internal-displacement.org/idmc/website/countries.nsf/\(httpCountries\)/02EE5A59E76049F5802570A7004B80A?OpenDocument&count=1000](http://www.internal-displacement.org/idmc/website/countries.nsf/(httpCountries)/02EE5A59E76049F5802570A7004B80A?OpenDocument&count=1000)

⁹⁰ 'United Nations says Mogadishu violence scaring returnees', Reuters, 1 August 2007.

⁹¹ Joakim Gundel, 'The Predicament of the 'Oday', p. 40. p. 52

IDPs as a ‘class’ probably make up the largest numbers of vulnerable peoples in Somalia. IDPs themselves may be drawn from other distinct groups or classes of people, who may or may not be considered vulnerable in their own right. IDPs come from all groups; a large number come from the various minority groups, but also from the Rahanweyn clans who are not necessarily classed as a ‘vulnerable group’, but who have in the past suffered extreme periods of conflict, famine and generalised insecurity. One survey of IDPs in Mogadishu results showed that nearly 40% of IDPs belonged to the Hawiye clan - generally seen as a ‘majority clan’ and therefore not at risk – and the next biggest group were Rahanweyn at around 23%.⁹²

IDPs from clans – such as the Hawiye in Mogadishu - who have a presence in the area where they are settled usually feel a greater sense of security despite their status as IDPs. IDPs from minority clans or from clans who do not have a strong presence in their area of settlement feel less secure. However, there are no hard and fast rules. Fortunately, a great deal of work has been done to profile IDPs, and document their situations in various parts of Somalia.⁹³ Though insecurity for IDPs is most chronic in the areas below Galkayo, nevertheless concerns are regularly voiced about IDPs in Puntland and Somaliland

6.3.4 Advice on forced returns to Somalia

There has been no update on the official UNHCR advisory on the return of rejected asylum seekers to Somalia since November 2005.⁹⁴ The November 2005 advisory updated a longer position statement published in January 2004.⁹⁵ The supplementary UNHCR report published in November 2005 reiterates the January 2004 position which advised against forced return to anywhere south of Galkayo.⁹⁶

From the analysis presented in this report, the risks facing returnees from all backgrounds to southern Somalia is still significant, despite the presence of the Transitional Federal Government in Mogadishu. Ethiopian troops remain in Mogadishu supporting the TFG and their presence certainly fuels insecurity. The Amisom peacekeeping force – still wholly Ugandan – has been mandated for another six months, but is still less than quarter of its original promised strength of 8,000. The United Nations remains reluctant to commit peacekeepers to Somalia while there is no peace to keep.⁹⁷

⁹² ‘Report on Profiling of Internally Displaced Persons, Mogadishu’, IDP Profiling Project Somalia, Danish Refugee Council, UNHCR Branch Office, Nairobi, 18 May 2007,

<http://www.reliefweb.int/rw/RWB.NSF/db900SID/TBRL-74ARRP?OpenDocument&rc=1&cc=som>

⁹³ The Danish Refugee Council has released five detailed studies of the situation of IDPs in the cities of Baydhaba (Baidoa), Galkaayo, Bosasso, Mogadishu, and Burco. These reports are available on the Somalia page of the ReliefWeb website <http://www.reliefweb.int/rw/dbc.nsf/doc104?OpenForm&rc=1&cc=som>

⁹⁴ ‘UNHCR Position on the Return of Rejected Asylum-Seekers to Somalia’, UNHCR, Geneva, 2004, <http://www.unhcr.org/publ/RSDLEGAL/437082c04.pdf>

⁹⁵ ‘UNHCR Advisory on the Return of Somali Nationals to Somalia’, UNHCR, November 2005, <http://www.unhcr.org/publ/RSDLEGAL/4020dc864.pdf>

⁹⁶ ‘UNHCR Advisory on the Return of Somali Nationals to Somalia’, UNHCR, November 2005.

⁹⁷ ‘Africans urge more UN peace support in Somalia’, Reuters, 13 August 2007; ‘UN approves planning for possible force in Somalia’, Reuters, 20 August 2007

The security of Mogadishu, and specifically the risk of ordinary individuals returning to Mogadishu and travelling between the airport and their final destinations, is subject to almost daily changes. Nevertheless, return to Mogadishu is evidently possible since flights are arriving and departing from at least two airports serving the city.⁹⁸

It is the case that the physical act of return to Somalia will not in itself be a risk of breach of human rights unless the individual is suspected of involvement with the opposition to the TFG.⁹⁹ However anecdotal information suggests that many with the wherewithal to leave – *i.e.* businessmen and professionals, have chosen to leave Somalia in the last months because of the declining security situation, especially the risk of kidnap for ransom purposes.¹⁰⁰

The possibility of returning failed asylum seekers to Somalia should be judged against the prevailing security conditions that all ordinary Somalis face in Somalia. At the present moment and for the last two months security conditions have deteriorated. Recent communications from Mogadishu have noted that there is an increase in free-lance militias¹⁰¹, illegal checkpoints, and generalised harassment and persecution of civilians especially on roads leading out of the capital.¹⁰² Violence against women and girls is also rising.¹⁰³ More worryingly in a recent interview, the Mayor of Mogadishu and ex-warlord Mohamed 'Dheere' stated that 'terrorists' were hiding in the camps for displaced peoples and said 'we will go after them wherever they are for the sake of security of the region'.¹⁰⁴ As in the past, any large scale further security operations will entail civilian casualties.

7. Conclusion: Future prospects

Only Somaliland offers good prospects for peace and security, though the coming elections in December will again test the Somaliland's government commitment to multi-party democracy.¹⁰⁵ Puntland also seems to be entering a period of internal uncertainty, and questions remain over the degree of Puntland's autonomy within the TFG.¹⁰⁶ In southern Somalia the National Reconciliation Conference in Mogadishu

⁹⁸ For varied accounts of Mogadishu during the period May – June 2007 see the recent report: Somalia', Country of Origin Information Service, Home Office, Border and Immigration Agency, 20 July 2007, <http://www.homeoffice.gov.uk/rds/pdfs07/somalia-ffm-260707.doc>

⁹⁹ Personal communication with a Mogadishu-based humanitarian organisation, 1 August 2007, and see also comments (dated 30 April 2007) made by Walid Musa, Senior Policy Advisor, European Commission reported in Somalia: Report of Information Gathering Mission, 27 – 30 April 2007', Section 2.06-2.08; 2.16.

¹⁰⁰ Interview with a resident of Mogadishu, Chatham House, 9 August 2007.

¹⁰¹ Personal communication, Local NGO representative, 1 August 2007.

¹⁰² 'Somalia: Situation Report', United Nations Office for the Coordination of Humanitarian Affairs, 27 July 2007.

¹⁰³ 'Somalia: Increased sexual violence raises HIV concerns', IRIN, 16 August 2007.

¹⁰⁴ 'INTERVIEW: Mogadishu mayor says government has boosted security', Reuters, 22 August 2007; 'Somalia: Displaced people branded as "terrorists" by Mogadishu mayor', IRIN, 22 August 2007.

¹⁰⁵ 'Somalia: Imprisoned political leaders to be released as elections approach', IRIN, 22 August 2007.

¹⁰⁶ 'Puntland, Somali Government Rift Grows over Oil Resources', Garowe Online, 21 August 2007.

limps on amid a steadily worsening climate of conflict, insecurity and need in southern Somalia.¹⁰⁷

Meanwhile, a number of dissident parliamentarians led by the ex-Speaker, politicians and intellectuals from the diaspora, and the moderate wing Islamic courts have found a base in Asmara, Eritrea. A meeting scheduled for early September in Asmara will attempt to establish an 'official' Somali opposition in exile. Given the multiplicity of factions and interests who remain opposed to the TFG, achieving unity among the opposition outside Somalia looks as great a task as achieving consensus inside Somalia.

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