

8th December 2011

A commentary on the October 2011 Somalia Operational Guidance Note

This commentary identifies what the ‘Still Human Still Here’ coalition considers to be the main inconsistencies and omissions between the currently available country of origin information (COI) and case law on Somalia and the conclusions reached in the October 2011 Somalia Operational Guidance Note (OGN), issued by the UK Border Agency. Where we believe inconsistencies have been identified, the relevant section of the OGN is highlighted in blue. An index of full sources of the COI referred to in this commentary is also provided at the end of the document.

This commentary is a guide for legal practitioners and decision-makers in respect of the relevant COI, by reference to the sections of the Operational Guidance Note on Somalia issued in October 2011. To access the complete OGN on Somalia go to:

<http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylum/policyogns/>

The document should be used as a tool to help to identify relevant COI and the COI referred to can be considered by decision makers in assessing asylum applications and appeals. This document should not be submitted as evidence to the UK Border Agency, the Tribunal or other decision makers in asylum applications or appeals. However, legal representatives are welcome to submit the COI referred to in this document to decision makers (including judges) to help in the accurate determination of an asylum claim or appeal.

The COI referred to in this document is not exhaustive and should always be complemented by case-specific COI research.

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2.5 Case law

Whilst the OGN does accurately cite the summary of the European Court of Human Rights (ECtHR) conclusions in *Sufi & Elmi v UK*, the OGN goes on to advise that:

Excerpt from October 2011 Somalia OGN

Please note – this judgment is not final and is not therefore currently to be relied upon. We have requested a referral to the Grand Chamber of the European Court and await a decision on whether permission will be granted.

This statement is misleading since it implies that the UK government sought to challenge the whole of the Chamber's reasoning and conclusions. Actually it sought to refer the case only in respect of the conclusion that the humanitarian situation breached Article 3, but not in respect of the conclusions about risk from Al-Shabaab or about risk from violence in Mogadishu.

The OGN's assertion that the judgment is not to be relied upon because a referral request is pending is now, since 28th November 2011, incorrect. On 28 June 2011 the Chamber of the ECtHR handed down judgment in *Sufi and Elmi v UK* in which it held at §320-321, that in accordance with Article 44(2) ECHR, the judgment would not become final unless inter alia the Panel of the Grand Chamber rejected a request to refer the case under Article 43 ECHR. On 27 September 2011 the UK Government requested that the case of *Sufi and Elmi v UK* be referred to the Grand Chamber of the Court. On 28th November 2011 the Grand Chamber of the ECtHR decided not to accept the UK's request that *Sufi & Elmi v UK* be referred to the Grand Chamber. On 30 November 2011, the AIRE Centre was formally notified, in writing, by the Court that, pursuant to Article 44(2) of the Convention, the judgment of 28 June 2011 in *Sufi and Elmi v UK*, App. nos. 8319/07 and 11449/07, became final on 28 November 2011.

Moreover, since the publication of the OGN in October 2011, the latest Country Guidance case (CG) on Somalia was handed down on 28th November 2011 as [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#).¹ The main findings are as follows, but please also note the relevant paragraphs that have been excerpted throughout this commentary:

Law

1) *Whilst section 2 of the Human Rights Act 1998 and its associated case law requires United Kingdom tribunals in general to give effect to the jurisprudence of the European Court of Human Rights, including that Court's guidance on how to approach evidence in international protection cases, the weighing of evidence and the drawing of conclusions as to the relative weight to be placed on items of evidence adduced before a United Kingdom tribunal are ultimately matters for that tribunal. Whilst the factual finding the Strasbourg Court has made as a result of applying its own guidance is something to which the domestic tribunal must have regard, pursuant to section 2, it is not bound to reach the same finding.*

2) *There is nothing jurisprudentially problematic with the Strasbourg Court's judgment in *Sufi & Elmi v the United Kingdom* [2011] ECHR 1045, as regards Article 3 of the ECHR. The Court's finding, that the predominant cause of the humanitarian crisis in southern and central Somalia was due to the current warring parties, meant that the high threshold (identified, inter alia, in *N v United Kingdom* [2008] ECHR 453) for finding an Article 3 violation in the case of naturally occurring phenomena did not need to be met.*

¹ Still Human Still Here is grateful to Ronan Toal of Garden Court Chambers for allowing his 'Note on the tribunal's decision in AMM and others (Somalia) CG' to be used in this Commentary and re-produce it in full in the Appendix 2 on page 146.

3) That high threshold is, however, still capable of being crossed in cases of sufficient exceptionality. In deciding what constitutes an exceptional case, regard must be had to all the factors, including the actions of the parties to a conflict, albeit that those actions are not the predominant cause of the humanitarian crisis.

4) Despite the suggestion in the judgment in *Sufi & Elmi* that there is no difference in the scope of, on the one hand, Article 3 of the ECHR (and, thus, Article 15(b) of the Qualification Directive) and, on the other, Article 15(c) of the Directive, the binding Luxembourg case law of *Elgafaji* [2009] EUECJ C-465/07 (as well as the binding domestic authority of *QD (Iraq)* [2009] EWCA Civ 620) makes it plain that Article 15(c) can be satisfied without there being such a level of risk as is required for Article 3 in cases of generalised violence (having regard to the high threshold identified in *NA v United Kingdom* [2008] ECHR 616). The difference appears to involve the fact that, as the CJEU found at [33] of *Elgafaji*, Article 15(c) covers a “more general risk of harm” than does Article 3 of the ECHR; that Article 15(c) includes types of harm that are less severe than those encompassed by Article 3; and that the language indicating a requirement of exceptionality is invoked for different purposes in *NA v United Kingdom* and *Elgafaji* respectively.

5) Article 10 of the Qualification Directive requires the holding of some sort of belief, comprising a coherent and genuinely held system of values, whether these be theistic, non-theistic or atheistic, and is not satisfied in the case of a person who holds no such belief. Social restrictions, such as bans on watching football or television, do not comprise an interference with the right to religion, in the case of a person whose religious etc beliefs do not require him or her to participate in those activities. It is immaterial that a person may be permitted, according to those beliefs, to participate in the activities concerned.

6) Even where the motivation for a law is religious, the religious aspect will not, without more, lay the basis of a claim to international protection in relation to anyone who might fall foul of that law. However, the more such religiously motivated laws interfere with someone’s ability to hold and practise their religious or other beliefs, the more intense will be the scrutiny.

7) The necessary religious element to satisfy Article 1(A) of the Refugee Convention is not satisfied solely by reference to the persecutor; but that element can be satisfied if the persecutor ascribes to the victim a perceived religious opinion.

8) There is no general legal principle that, in determining a person’s entitlement to international protection, the Tribunal must leave out of account any possibility of that person’s carrying out an act in the country of proposed return, which – if carried out in the United Kingdom – would constitute a criminal offence. A genuine conscientious objection to complying with unjust laws or demands may, however, provide an entitlement to such protection.

9) On the assumption that Al-Shabab’s likely behaviour towards those who transgress its rules is as found in this determination, the position is as “extreme” as the factual basis in *RT (Zimbabwe)* [2010] EWCA Civ 1285. In the light of *RT*, a person from an Al-Shabab area who can show they do not genuinely adhere to Al-Shabab’s ethos will have a good claim to Refugee Convention protection, once outside Somalia (subject to internal relocation and exclusion clause issues), regardless of whether the person could and would “play the game”, by adhering to Al-Shabab’s rules. As can be seen from a comparison with *Sufi & Elmi*, the effect of *RT* is, accordingly, to take the Refugee Convention beyond the comparable ambit of Article 3 ECHR protection.

10) There is no legal burden on the Secretary of State to prove that there is a part of the country of nationality etc of an appellant, who has established a well-founded fear in their home area, to which the appellant could reasonably be expected to go and live. The appellant bears the legal burden of proving entitlement to international protection; but what that entails will very much depend upon the circumstances of the particular case. In practice, the issue of internal relocation needs to be raised by the Secretary of State in the letter of refusal or (subject to procedural fairness) during the appellate proceedings.

11) It will then be for the appellant to make good an assertion that, notwithstanding the general conditions in the proposed place of relocation, it would not be reasonable to relocate there. In an Article 3

claim, a similar position pertains, in that, although the test of reasonableness/undue harshness does not formally apply, unduly harsh living conditions etc – albeit not themselves amounting to a breach of Article 3 – may nevertheless be reasonably likely to lead to a person returning to their home area, where such a breach is reasonably likely.

12) An appellant who pursues their appeal on asylum and humanitarian protection grounds, following a grant of leave, is entitled to have their appeal decided on the hypothetical basis (if the facts so demonstrate) that family members would be reasonably likely to return with the appellant and that potential harm to those family members would cause the appellant to suffer persecution or Article 15(b) harm.

13) A person is not entitled to protection under the Refugee Convention, the Qualification Directive or Article 3 of the ECHR, on the basis of a risk of harm to another person, if that harm would be willingly inflicted by the person seeking such protection.

14) Article 8(1) of the Qualification Directive provides that Member States may determine that a person is not in need of international protection “if in a part of the country of origin there is no well-founded fear of being persecuted or no real risk of suffering serious harm and the applicant can reasonably be expected to stay in that part of the country. Article 8(3) states that Article 8(1) applies “notwithstanding technical obstacles to return to the country of origin”. Although the Court of Appeal in HH & Others [2010] EWCA Civ 426 found that Article 8 was “to do principally with internal relocation”, there is nothing in that judgment or in the Qualification Directive that demonstrates the Article is so confined, and it would be illogical for it to be so. Accordingly, difficulties in securing documentation to effect a return to a person’s home area may not entitle that person to international protection, whether or not there are real risks to that person in some other area of the country concerned.

15) In assessing the effect of an appellant’s lies (whether to the Secretary of State or a judicial fact-finder), it is unnecessary to construct a prescribed set of steps from the judgments of the Supreme Court in MA (Somalia) [2010] UKSC 49, particularly if they might lead to a “mechanistic” rather than a holistic approach. The significance or “negative pull” of the lie will possibly depend not only on the strength of the background evidence but on whether the lie – looked at in its own terms – is about an issue that is central to the disposition of the appeal. Where a person tells lies about issues which that person thinks are important to their claim but which, because of the passage of time or otherwise, are not, it is open to the Tribunal, given the earlier lies, to approach with caution the person’s evidence regarding matters that are central to the current claim.

Country guidance

Mogadishu

- 1) Despite the withdrawal in early August 2011 of Al-Shabab conventional forces from at least most of Mogadishu, there remains in general a real risk of Article 15(c) harm for the majority of those returning to that city after a significant period of time abroad. Such a risk does not arise in the case of a person connected with powerful actors or belonging to a category of middle class or professional persons, who can live to a reasonable standard in circumstances where the Article 15(c) risk, which exists for the great majority of the population, does not apply. The significance of this category should not, however, be overstated and, in particular, is not automatically to be assumed to exist, merely because a person has told lies.*
- 2) The armed conflict in Mogadishu does not, however, pose a real risk of Article 3 harm in respect of any person in that city, regardless of circumstances. The humanitarian crisis in southern and central Somalia has led to a declaration of famine in IDP camps in Mogadishu; but a returnee from the United Kingdom who is fit for work or has family connections may be able to avoid having to live in such a camp. A returnee may, nevertheless, face a real risk of Article 3 harm, by reason of his or her vulnerability.*
- 3) Except as regards the issue of female genital mutilation (FGM), it is unlikely that a proposed return to Mogadishu at the present time will raise Refugee Convention issues.*

Southern and central Somalia, outside Mogadishu

- 4) *Outside Mogadishu, the fighting in southern and central Somalia is both sporadic and localised and is not such as to place every civilian in that part of the country at real risk of Article 15(c) harm. In individual cases, it will be necessary to establish where a person comes from and what the background information says is the present position in that place. If fighting is going on, that will have to be taken into account in deciding whether Article 15(c) is applicable. There is, likewise, no generalised current risk of Article 3 harm as a result of armed conflict.*
- 5) *In general, a returnee with no recent experience of living in Somalia will be at real risk of being subjected to treatment proscribed by Article 3 in an Al-Shabab controlled area. "No recent experience" means that the person concerned left Somalia before the rise of Al-Shabab in 2008. Even if a person has such experience, however, he or she will still be returning from the United Kingdom, with all that is likely to entail, so far as Al-Shabab perceptions are concerned, but he or she will be less likely to be readily identifiable as a returnee. Even if he or she were to be so identified, the evidence may point to the person having struck up some form of accommodation with Al-Shabab, whilst living under their rule. On the other hand, although having family in the Al-Shabab area of return may alleviate the risk, the rotating nature of Al-Shabab leadership and the fact that punishments are meted out in apparent disregard of local sensibilities mean that, in general, it cannot be said that the presence of family is likely to mean the risk ceases to be a real one.*
- 6) *Al-Shabab's reasons for imposing its requirements and restrictions, such as regarding manner of dress and spending of leisure time, are religious and those who transgress are regarded as demonstrating that they remain in a state of kufr (apostasy). The same is true of those returnees who are identified as coming from the West. Accordingly, those at real risk of such Article 3 ill-treatment from Al-Shabab will in general be refugees, since the persecutory harm is likely to be inflicted on the basis of imputed religious opinion.*
- 7) *Although those with recent experience of living under Al-Shabab may be able to "play the game", in the sense of conforming with Al-Shabab's requirements and avoiding suspicion of apostasy, the extreme nature of the consequences facing anyone who might wish to refuse to conform (despite an ability to do so) is such as to attract the principle in RT (Zimbabwe). The result is that such people will also in general be at real risk of persecution by Al-Shabab for a Refugee Convention reason.*
- 8) *The same considerations apply to those who are reasonably likely to have to pass through Al-Shabab areas.*
- 9) *For someone at real risk in a home area in southern or central Somalia, an internal relocation alternative to Mogadishu is in general unlikely to be available, given the risk of indiscriminate violence in the city, together with the present humanitarian situation. Relocation to an IDP camp in the Afgoye Corridor will, as a general matter, likewise be unreasonable, unless there is evidence that the person concerned would be able to achieve the lifestyle of those better-off inhabitants of the Afgoye Corridor settlements.*
- 10) *Internal relocation to an area controlled by Al-Shabab is not feasible for a person who has had no history of living under Al-Shabab in that area (and is in general unlikely to be a reasonable proposition for someone who has had such a history - see above). Internal relocation to an area not controlled by Al-Shabab is in general unlikely to be an option, if the place of proposed relocation is stricken by famine or near famine.*
- 11) *Within the context of these findings, family and/or clan connections may have an important part to play in determining the reasonableness of a proposed place of relocation. The importance of these connections is likely to grow, as the nature of the present humanitarian crisis diminishes and if Al-Shabab continues to lose territory.*
- 12) *Travel by land across southern and central Somalia to a home area or proposed place of relocation is an issue that falls to be addressed in the course of determining claims to international protection. Such travel may well, in general, pose real risks of serious harm, not only from Al-Shabab checkpoints but also as a result of the present famine conditions. Women travelling without male friends or relatives are in general likely to face a real risk of sexual violence.*

- 13) *An issue that may have implications for future Somali appeals is the availability of air travel within Somalia (including to Somaliland). Flying into Mogadishu International Airport is sufficiently safe. There is no evidence to indicate a real risk to commercial aircraft flying to other airports in Somalia.*

Somaliland and Puntland

- 14) *The present appeals were not designed to be vehicles for giving country guidance on the position within Somaliland or Puntland. There is no evidential basis for departing from the conclusion in NM and others, that Somaliland and Puntland in general only accept back persons who were former residents of those regions and were members of locally based clans or sub clans. In the context of Somali immigration to the United Kingdom, there is a close connection with Somaliland.*
- 15) *A person from Somaliland will not, in general, be able without real risk of serious harm to travel overland from Mogadishu International Airport to a place where he or she might be able to obtain an unofficial travel document for the purposes of gaining entry to Somaliland, and then by land to Somaliland. This is particularly the case if the person is female. A proposed return by air to Hargeisa, Somaliland (whether or not via Mogadishu International Airport) will in general involve no such risks.*

Female genital mutilation

- 16) *The incidence of FGM in Somalia is universally agreed to be over 90%. The predominant type of FGM is the "pharaonic", categorised by the World Health Organisation as Type III. The societal requirement for any girl or woman to undergo FGM is strong. In general, an uncircumcised, unmarried Somali woman, up to the age of 39, will be at real risk of suffering FGM.*
- 17) *The risk will be greatest in cases where both parents are in favour of FGM. Where both are opposed, the question of whether the risk will reach the requisite level will need to be determined by reference to the extent to which the parents are likely to be able to withstand the strong societal pressures. Unless the parents are from a socio-economic background that is likely to distance them from mainstream social attitudes, or there is some other particular feature of their case, the fact of parental opposition may well as a general matter be incapable of eliminating the real risk to the daughter that others (particularly relatives) will at some point inflict FGM on her.*

3.6 General country situation in southern and central regions

Security/Areas of control 3.6.3-3.6.7

Excerpt from October 2011 Somalia OGN

3.6.4 Figures and estimates vary considerably between sources on the number and type of casualties resulting from the conflict, reflecting difficulties in monitoring and documenting incidents in a conflict situation and also differences in methodological approach.²¹ Some sources do not distinguish, for example, between combatant casualties and civilian casualties.²² The May 2011 COI report sets out numbers, types and location of violence.²³

It is surprising that in the context of a fast-developing security situation such as Somalia, the OGN directs decision makers to the UKBA COI report for statistics on violence and insecurity, given that these reports are published as often as twice a year at the most. Indeed, having consulted the most recent May COIS Report, the section *Trends and statistics in security-related incidents and casualties* (paragraphs 8.08 ff) in fact only addresses 'Number of Casualties: 2010', 'Frequency of Incidents: 2010' and a short section on 'Incidents in 2011' (paragraphs 8.15-8.17) which only includes sources up to 10 May 2011. The COIS Report also provides a 'Latest News' section including events between 11 May 2011 and 27 May 2011 and provides a list of 'Useful news sources for further information' although these do not necessarily specialise in reporting security incidents.

Given the nature of the conflict in Somalia, it is unsurprising that the sections in the OGN which relate to the security situation become fast out of date. For example the section on security *Outside Mogadishu 3.6.5-3.6.7* fails to document Kenya's military intervention into Al-Shabaab controlled southern Somalia which began in mid-October 2011, the resultant forced displacement and the negative impact this is likely to have on delivering humanitarian assistance to these areas:

Excerpt from October 2011 Somalia OGN

Outside Mogadishu

3.6.7 Further north, it has been reported that forces supporting the TFG in Galguduud are adopting a —defensive position²⁸ in Dusamareb, the regional capital. In April 2011, Al-Shabaab captured the town but withdrew on the same night.²⁸ **There is little evidence of armed conflict in Kismayo, which has been described as —in general safe.**²⁹ There is little evidence of armed conflict in Lower Shabelle, including Merka/Marka, where Al-Shabaab is in control but enjoys little public support and in relation to which it has been said that —the security situation is relatively stable, although there are local pockets where the situation can be more volatile.³⁰

The Kenyan military incursion since October 2011 also renders the above highlighted sentence inaccurate, (which is cited as the October 2010 UKBA Report of its Fact-Finding Mission to Somalia) given the strategic importance this port city has for Al-Shabaab. Several sources have already previously documented aerial attacks on Al-Shabaab in and around Kismayo resulting in civilian as well as combatant casualties. See for example:

➤ [Voice of America News, Kenyan Military Targeting al-Shabab Finances, 07/11/2011](#)

[...] The Kenyan military says it is trying to incapacitate the militant Islamist group al-Shabab by targeting its financial and logistical operations in Somalia.

Kenyan military officials say they are closing in on key al-Shabab targets, four weeks into military operations in Somalia. [...]

The military is also relying heavily on its Air Force to hit al-Shabab positions. Major Chirchir says air strikes near the port-town of Kismayo have been successful. [...]

"In Kismayo, it was one of the jetty's that's close to the port," said Chirchir. "There used to be a palatial home and they believe this was the nerve center where they used to plan their battles. But now, after the first incursion and the second incursion we've not had - they have resorted to moving back to the city to mix with the local population."

Kismayo is another important economic asset for al-Shabab, and a city where the United Nations says the group gets much of its financial and material support.

Some civilians have been fleeing the city out of concern over Kenya's aerial campaign or an impending showdown with al-Shabab. There are also reports that many others have been trapped by the rainy weather, unable to escape. [...]

- [Centre for Strategic and Policy Studies, Kenya's Military Operation in Somalia, 04/11/2011](#)
[...] Kenya is in the third week of a major military offensive inside neighboring Somalia. Called "Operation Protect the Nation," it is Kenya's largest military operation since independence in 1963. Around 1,600 troops are sweeping through areas of Southern Somalia controlled by the extremist Islamist group, al Shabaab. The Kenyan air force has also been in action, launching bombing raids on insurgent bases. [...] Until now, al Shabaab has been fairly robust financially. It has made a lot of money from taxes, port revenues, and exports of charcoal. For this reason, it will be interesting to see what happens if Kenyan troops are able to secure the coastal city of Kismayo, an al Shabaab stronghold. Control of Kismayo port is a significant revenue stream for al Shabaab, and if they lost it, they would suffer a big hit financially. [...]
- [Alert Net, Somali rebels arm Kismayu against Kenyan assault, 03/11/2011](#)
[...] Somali Islamist militants linked to al Qaeda mounted weapons on roofs, dug trenches and armed students in the port of Kismayu, warning the "Kenyan invasion" would lead to "cataclysmic consequences". [...]
- [UNICEF, UNICEF Kenya Horn of Africa Crisis Situation Report # 15, 19 – 25 October 2011, 02/11/2011](#)
[...] General Overview
The USG has agreed to provide an additional \$100 million, primarily in food assistance, for drought affected areas of Kenya, Ethiopia and Somalia. This is beyond the almost \$650 million for food and humanitarian assistance already provided by the USA. Kenya's defence forces began a military action in cooperation with pro-Somali government forces on 15 October 2011 and are slowly moving towards Afmadow, just north of Kismayo. [...]
- [Somalia Report, Airstrikes Pounding Kismayo Seaport, Airport, 23/10/2011](#)
At last five missiles from aircraft bombed a mosque and the seaport of Kismayo in Somalia's Lower Juba region while several more are currently striking the airport in the city controlled by al-Shabaab insurgents, multiple witnesses told Somalia Report on Sunday.
The unidentified planes, suspected to be Kenyan aircraft or drones, struck Kismayo's seaport and a mosque where the insurgents were preparing to pray for Asir prayer at about 3:45 pm (local time), said Kismayo resident Ahmed Nur.
He added that some of the missiles hit inside at the port area while others hit the Hamaha Mosque, near the port, where senior al-Shabaab officials and their guards in Kismayo are known to pray.
[...] Airstrikes have hit Kismayo multiple times over the last several months as the Somalia government battles the insurgents for control of the county.
- [Somalia Report, Airstrikes Destroy Main Al-Shabaab Base, 24/09/2011](#)
Reports from Lower Juba region indicate that suspected American aircraft (said to be drones) shelled and destroyed al-Shabaab insurgent group's main military camp in the airport of Kismayo in southern Somalia on Friday night killing an unknown number of insurgents.
Residents of Kismayo confirmed the attacks to Somalia Report saying that two low flying airplanes fired two missiles to an al-Shabaab base at a time the militias were present with their fighting vehicles.
"There were heavy explosion heard all over the town when al-Shabaab fighters were present in the airport. The leaders of al-Shabaab haven't been to the base in two months since heavy shelling took place there," a resident of Kismayo who requested anonymity told Somalia Report.

“After that incident al-Shabaab blocked all the transport in and outside the city patrolling the streets and refused to let people to visit Kismayo hospital since their casualties are being treated there,” he added. Mohamed Hassan Buule, a TFG military officer in Lower Juba, confirmed to Somalia Report that the shelling is part of the plan to destroy the al-Shabaab bases in the regions adding that an important base was targeted last night.

“We have already said that this is a part of a plan to eradicate the extremist from the country. Last night one of their main bases was destroyed and the airstrikes will continue until all the terrorists who occupied our land are destroyed and chased from the country,” he said.

“Last night in Kismayo we destroyed their fighting vehicles and 40 of their fighters were killed. Their strength was weakened which makes easy for them to be eradicated from the country. They had one of their largest bases in Kismayo, but it looks as if they are running from it fearing of death while we move slowly to where they vacated so that we can rescue our people,” Buule added.

The spokesman of the TFG forces in Lower Juba told the media today that some of the airplanes who fulfilled the airstrike were from IGAD countries and TFG were aware some of recent movement from al-Shabaab in southern Somalia [...]

The recently promulgated CG case [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#) finds that

Southern and central Somalia, outside Mogadishu

4) *Outside Mogadishu, the fighting in southern and central Somalia is both sporadic and localised and is not such as to place every civilian in that part of the country at real risk of Article 15(c) harm. In individual cases, it will be necessary to establish where a person comes from and what the background information says is the present position in that place. If fighting is going on, that will have to be taken into account in deciding whether Article 15(c) is applicable. There is, likewise, no generalised current risk of Article 3 harm as a result of armed conflict.*

It also states that large areas of the south were “relatively peaceful” (para. 448). Whether there was an art. 15 (c) risk would depend on the situation in the particular place to which the individual would be expected to go (para. 449). Indirect forms of harm e.g. having to become an IDP would be relevant, provided the armed conflict was ‘an operative cause’ (para. 450). See the actual paragraphs below:

The Tribunal’s findings

(a) Article 15(c)

448. On the evidence before us, we do not consider that the internal armed conflict which obtains in southern and central Somalia (outside Mogadishu) is at present at such a level as to place everyone there who is a civilian at real risk of the harm described in Article 15(c). We acknowledge that the starting point in AM & AM in effect requires us to identify a material change. The evidence of the intervening years, including large Al-Shabab territorial gains, constitutes such a change, albeit that there are areas where the organisation’s rule is being challenged. The current fighting, as that of the recent past, is both sporadic and localised. Like the ECtHR, our assessment of the evidence does not accord with what appears to be the thrust of the UNHCR Eligibility Guidelines and there is nothing in the update to those Guidelines which suggests a different stance is called for. There is copious evidence to the effect that large parts of southern and central Somalia are relatively peaceful, in the sense that there is no conflict taking place there. In Al-Shabab areas there is a dark side to that peace, as we have seen and will shortly have to address.

449. Also like the ECtHR, we stress that, in individual cases, it will be necessary to establish where a person comes from and what the background information says is the position in that place. If fighting is going on, whether symmetrically or asymmetrically, that will have to be taken into

account in deciding whether Article 15(c) is applicable. Although an armed conflict may exist across an area, without there having to be actual fighting in every part of that area, the assessment is ultimately a fact-sensitive one; and we consider the present reality to be as we have found.

450. Like the Tribunal in *AM & AM*, we take the view that indirect forms of harm, such as may be encountered by an IDP in an IDP camp, fall to be taken into account for the purposes of Article 15(c), provided that the person's circumstances (such as finding themselves in such a camp) can properly be said to have as an operative cause the armed conflict. This would be the position for those who have to flee a real risk to life and person in Mogadishu, by moving into the countryside. As can be seen from the evidence, however, the more recent picture in 2011 is of people fleeing the drought by moving into Mogadishu.

Given the above, it is imperative that individual research is conducted on the security situation in a particular region of Somalia and the following list of sources are recommended:

Source	Type of source	Website's search function
OHCHR Somalia Country page	Key documents Include: <ul style="list-style-type: none"> ○ Security Council Resolutions ○ Reports of the Secretary-General to the Security Council ○ Country visits by Special Procedures ○ News archives 	<ul style="list-style-type: none"> ● Advanced search function which allows for searches by: <ul style="list-style-type: none"> ○ Phrase; ALL words; ANY words ○ Limits search by categories and date range
UN News Centre Focus: Horn of Africa Crisis	Provides news and key UN resources: <ul style="list-style-type: none"> ○ Latest developments ○ Maps of the region ○ Statement from Secretary General; Security Council; General Assembly ○ Aid/development: UN Agencies & Programmes 	<ul style="list-style-type: none"> ● Country page does not have a search function ● UN News Centre has an advanced search function which allows for : <ul style="list-style-type: none"> ○ 3 distinct key word/set phrases ○ Searches within time frames ○ Searches limited by subject
AlertNet Somalia pages	Humanitarian news site from Thomson Reuters providing information on natural disasters, conflicts, refugees, hunger, diseases and climate change. Country pages include sections on: <ul style="list-style-type: none"> ○ At a Glance ○ In detail ○ Timeline ○ Links ○ News 	<ul style="list-style-type: none"> ● Country page ● Advanced search function which allows for: <ul style="list-style-type: none"> ○ Keyword search ○ Searches limited by source; content partner; aid agency; country; topic; sub-topic; crisis and by time frame ○ Search results can be organised by date
All Africa Somalia pages	Repository of news articles organised by country and by theme. Country pages include sections on: <ul style="list-style-type: none"> ○ Headlines ○ Topical focus 	<ul style="list-style-type: none"> ● Country page does not have a search function ● All Africa has a simple search function which allows for Keyword searches only, but does order search results in date order (recent first)
Relief Web Somalia country page	Relief Web is a database of reports from international and non-governmental organizations, governments, research institutions and the media for news, reports, press releases, appeals, policy documents, analysis and maps related to humanitarian emergencies worldwide. Provides: <ul style="list-style-type: none"> ○ In-depth profiles, updates and reports on countries and 	<ul style="list-style-type: none"> ● Country and thematic pages ● Advanced search function which allows for: <ul style="list-style-type: none"> ○ BOOLEAN searches (AND, OR, NOT)

	<ul style="list-style-type: none"> ○ disasters ○ Maps ○ Database of who's reporting 	<ul style="list-style-type: none"> ○ Searches for phrases (“...”) ➤ Limits searches by: Country; source; theme; content format; feature; disaster type; vulnerable groups; published date (by month); language
Somalia Report	Somalia Report is a privately funded, non-partisan website that hires Western editors to work with Somali journalists inside the country to cover all aspects of the region: piracy, conflict, terrorism, government, local news, culture and key issues.	<ul style="list-style-type: none"> ● Simple search function which allows for Keyword searches only, but does order search results in date order (recent first)
Shabelle News	Shabelle News is a privately owned radio and news organisation.	<ul style="list-style-type: none"> ● Under tab ‘Archive’ you can search per year, month and date

Mogadishu 3.6.8-3.6.11

Excerpt from October 2011 Somalia OGN

3.6.10 On 6 August, Al-Shabaab began moving out of the city following a series of defeats by government troops. Most of their positions have since been taken over by TFG/AMISOM troops and up to half a million people have returned to their homes in Mogadishu in recent weeks. Al-Shabaab claim the withdrawal was tactical but some analysts believe the movement is disintegrating. It has experienced a sharp drop in public support over the last two years and cannot match the military strength of pro-government forces. Al-Shabaab has not totally vacated the capital – there have been isolated reports of fighting between AMISOM and vestiges of Al-Shabaab. AMISOM now has a much larger area to cover with the same resources and risks being overstretched. There are concerns that Al-Shabaab may now focus on guerrilla rather than conventional warfare or redeploy to other regions. They still control most of the Afgoye corridor. There are also concerns that Somali warlords may be looking to move into the power vacuum left by Al-Shabaab.³⁷

The above highlighted section gives the false impression that the withdrawal of Al-Shabaab has improved the situation such that formerly displaced persons consider it safe to return to their home areas. The source referenced in this section in footnote 37 is ‘COI News Bulletin: —Al-Shabaab’s Withdrawal from Mogadishu September 2011’ which is a UKBA publication not available in the public domain. Footnote 37 goes on to cite 6 news sources, which were presumably included in this internal COI News Bulletin. Having consulted each of these 6 original sources, none of them report of an influx of returnees back to Mogadishu on account of improved security, and certainly not of the scale as documented in the OGN. Note that this paragraph also contradicts section 3.6.25 of the OGN which states that “media and other sources report that a considerable number of internally displaced persons (IDPs) are starting to return from IDP camps in the Afgoye corridor and other parts of Mogadishu to districts recently abandoned by Al-Shabaab” (see page 44 below). Furthermore, the situation reported regarding the movement of IDPs in Mogadishu since August 2011 details that new IDPs are arriving in Mogadishu due to drought related reasons, which is a very different scenario to that implied in the paragraph of the OGN above:

The UNHCR Population Movement Tracking Dashboard provides a useful overview and maps of displacement, including: sources of displacement; areas receiving IDPs; top 5 reasons for displacement; priority needs and coping mechanisms:

➤ [UNHCR Population Movement Tracking Mogadishu Dashboard October 2011, Undated 29/11/2011](#)

[...] Total Displacements from Mogadishu 16,500
Leaving Mogadishu: 2,600

To Areas Within Mogadishu: 13,900 [...]

➤ [UNHCR Population Movement Tracking Mogadishu Dashboard From 1 September to date, Updated 18/11/2011](#)

[...] Total estimate Displacements from Mogadishu: 18,100

Leaving the City: 3,800

To Areas Within Mogadishu: 14,300 [...]

➤ [UNHCR Population Movement Tracking Mogadishu Dashboard Since 1 Sep 2011, Updated 04/11/2011](#)

[...] Total estimate Displacements from Mogadishu: 17,500

Leaving the City: 3,500

To Areas Within Mogadishu: 14,000 [...]

➤ [UNHCR Population Movement Tracking Mogadishu Dashboard Since 1 Sep 2011, Updated 04/11/2011](#)

[...] Between 1 September and 04 November 2011, displacements were mainly recorded in South Central with approximately 65,000 out of 76,000 displacements recorded in all three regions. 26,000 displaced people reported drought as the major cause of displacement in South Central followed by insecurity (25,000), forced return (10,000), lack of livelihood (2,900) and clan conflict(200). The displacements originated mainly from Mogadishu (17,000), Shabelle Hoose (17,000), Bay (13,00) and Gedo (9,200) regions. The IDPs moved to Mogadishu (23,000*), Gedo (15,000), Shabelle Hoose (5,700) among other regions. [...]

➤ [UNHCR, Mogadishu IDP Influx, 04/11/2011](#)

[...] 2011 has witnessed an unprecedented arrival of IDPs into Mogadishu due to drought related reasons. While the largest influx of IDPs occurred in January 2011, trends indicate that since March, the rate of influx has been steadily increasing. Based on IASC Population Movement Tracking (PMT) data, this analysis aims to identify the key areas receiving IDPs in Mogadishu as well as the source of displacement this year.

[...] 3rd Quarter July to September 2011

Total IDP arrivals in Mogadishu 35,800

Reason for displacement

Eviction: 0 No data reported, to date. 0% of all arrivals in Mogadishu this quarter

Lack of Livelihood: 100 0% of all arrivals in Mogadishu this quarter Livelihood-related displacement to Mogadishu was reported from Kurtunwaarey district.

Insecurity: 400 Out of this 400 displacements, 300 were reported from Kurtunwaarey district in Shabelle Hoose and 100 from Galkacyo district 1% of all arrivals in Mogadishu this quarter

Drought: 35,400: Shabelle Hoose region produced 18,782; so far the highest number of drought-related displacements to Mogadishu from a single region. Its districts of Qoryooley and Kurtunwaarey were the top contributors with 6,659 and 4,524 respectively. Other top contributors are Marka (3,171), Baydhaba (2,984), Xudur (2,686) and Dinsoor (2,663), Qansax Dheere (2,177), amongst others. 98% of all arrivals in Mogadishu this quarter. [...]

1st October- 4th November total displacement: 8,900

Reason for displacement

Eviction: No data reported, to date.

Insecurity: 8,300 Out of the 8,258 insecurity-related displacements, 8,093 were from Afgooye while 107 were from Baydhaba districts. All these displaced settled in Dharkenley and Shibis districts in Mogadishu.

500. 93% of all arrivals in Mogadishu this quarter

Lack of Livelihood: 100 The Lack of Livelihood related displacements were reported from Afgooye to Boondheere and Mahaday to Shibis district in Mogadishu.

Drought: 500 The drought related displacements were reported from Afgooye to Waberi district in Mogadishu. 6% of all arrivals in Mogadishu this quarter. [...]

Excerpt from October 2011 Somalia OGN

3.6.11 The government says it intends to step up efforts to eradicate Al-Shabaab from the rest of the country and has started clearing some of the main roads which had been closed during the four year insurgency.³⁸ Following Al-Shabaab's withdrawal, the UN Joint Security Committee, which was created in 2008 under the Djibouti Agreement, met in Mogadishu for the first time since its establishment. All eight of its previous meetings were held outside Somalia. As a further indication of the improved security situation in Mogadishu, there were also several high-level visits by foreign officials, including the UK's secretary of state for international development and Turkey's prime minister. Turkey announced it would establish an embassy in Somalia.³⁹ Prior to Al-Shabaab's withdrawal, the UN had already increased the numbers of its personnel operation on the ground, due to increased security in Mogadishu.⁴⁰ AMISOM had also decided to relocate its civilian staff from Nairobi back to Mogadishu due to improved security.⁴¹ Since withdrawal AMISOM and TFG forces now control about 95% of the capital and are fully deployed in all the districts of Mogadishu, except those of Daynille and Huriwa. Plans are underway to deploy to those districts as soon as additional forces are inserted into the mission area.⁴²

The above highlighted section of the OGN further documents evidence of an improved security situation as a result of the August 2011 Al-Shabaab pull-out from Mogadishu. However, it is important to recognise announcing intentions to establish an embassy or to relocate staff are markedly different to these intentions being realised in practice. Furthermore, no information is included on security incidents in Mogadishu which post-date Al-Shabaab's withdrawal from the region, which may give the false impression that they have not taken place. Since Al-Shabaab began to withdraw from Mogadishu violence affecting civilians has nevertheless continued in the form of (a) open, armed confrontations between Al-Shabaab and TFG and AMISOM forces including exchanges of mortar and artillery fire; (b) increased use of the characteristic methods of asymmetric warfare including (i) suicide bombings, (ii) use of improvised explosive devices and (iii) grenade attacks; (c) direct attacks on civilians by Al-Shabaab, including decapitations, as part of a deliberate strategy to prevent civilian cooperation with the TFG; (d) fighting between different armed groups nominally falling under the control of the TFG; (e) robberies, rapes, shootings of civilians by TFG aligned armed groups and by armed criminals. The following examples are a non-exhaustive list of such incidents since September 2011 alone:

➤ [BBC News, Somalia fighting: New clashes in capital Mogadishu, 08/12/2011](#)

The Somali capital, Mogadishu, has been hit by some of the fiercest fighting in the city in months, in what is seen as a major setback for the government. The clashes began shortly after dawn between Islamist al-Shabab militants and government forces, backed by African Union (AU) troops. The AU forces are reported to have used tanks and heavy artillery.

[...] The fighting occurred in the northern districts of Karan and Huriwa on Thursday. There are reports of casualties but the details are not yet known. It followed an attack by al-Shabab on Wednesday on a military training camp run by AU troops in Wadajir to the south of Mogadishu. That area had previously been considered relatively safe. Since the Islamists made their "tactical withdrawal" from Mogadishu, there have been several suicide attacks in the city. The most recent happened on Tuesday in the Hodan district - at least five people were killed [...]

➤ [Shabelle News, Soldier kills two IDPs during food aid handout in Mogadishu, 07/12/2011](#)

A soldier loyal to the interim Federal government of Somalia on Wednesday has shot and killed at least two people and wounded many others- all civilians at food aid distribution centre in the capital Mogadishu, witnesses said. Witnesses said the incident occurred at Tiribunka area in Hodon district, where a government soldier opened fire at hundreds of drought hit Somali families, who were waiting at the food distribution point in Mogadishu. The soldier was reportedly opened fire as he tried to loot the aid food intended for the hungry people lined to receive it and shot dead two of the internally displaced families at the area of food distribution center inMogadishu's Hodon district. Residents confirmed Shabelle Media that hundreds of Somali government security forces with armed vehicles have reached at the scene hours later of the shooting, who arrested the soldier and taken to custody. Tens of thousands of internally displaced people are currently in the Somali capital in search of food and other assistance after fleeing from the severe famine and droughts in the southern Somalia.

➤ [Somalia Report, Suicide Bomber Kills Four in Mogadishu, 06/12/2011](#)

At least four people were killed and several others wounded in a suicide bomb attack in the Somali capital of Mogadishu at 2:00pm local time. According to the residents, a loud explosion was heard in Mogadishu's biggest junction (KM4) after Somali intelligence officials seized a car laden with explosive devices. "The security intelligence seized the car after they suspected it, but the bomber blew himself up inside the car which caused the deaths of four people, including two policemen, one civilian and the suicide bomber himself," Muuse Ahmed Nor, a TFG security official, told Somalia Report. Another report indicates that the explosion occurred when officials from the government security were taking photos of the driver after he was captured in an operation in the capital. The area is near the ministerial compound that was targeted with truck explosion on October 4th of this year, killing more 65 people, mostly students, and was under tight security in a fear of another attack.

[Somalia Report, Fierce Clashes Kill Five People in Mogadishu, 05/12/2011](#)

At least nine, mainly civilians have been killed and over dozen others injured in clashes that rocked different parts of the war-torn, Somalia. Clashes between insurgent group, al-shabaab and African Union peacekeeping forces and TFG troops on Sunday night has killed at least five civilians wounding more than six others, according to the residents and witnesses living in Suqa-Holaha, Daynile and Yaqshiid districts. Senior TFG official Col. Saney has confirmed the attacks, saying al-shabaab has claimed responsible for the attacks, which also targeted Somali government bases in Daynile and the industrial road. According to the Saney, armed fighters using with rifles and rocket-propelled grenades have attacked several bases in the capital. "The fighting was going on several hours as it was hit and run attacks and we have killed several al-Shabaab fighters. All our forces are in save from the latest attacks and they are at their barracks," he said. Two homes in Yaqshiid district were hit by a rocket-propelled grenade and mortar, killing three people including six years old child, a resident Ahmed yare told Somalia Report. "Four others were also injured and their homes were badly damaged by mortar," he said "I saw rockets hitting houses in Tiida village of Daynile districttensions are high in the area," said a resident in Daynile, Nasir Ahmed. Daynile district commissioner, Dahir Hassan Hussein told Somalia Report that al-Shabaab has been trying to recapture the district over the past hours but failed to do so. However, the spokesman of the al-Shabaab military troops, Sheik Abdi-Aziz Abu Mus'ab told pro-al-Shabaab media on Monday that a number of their fighters with machine guns, rocket launchers, assault rifles, grenades were behind the recent violence against the allied forces in Mogadishu. Somalia Report tried to contact AU forces spokesman, Paddy Ankunda but his phone remain unanswered. [...]

➤ [Somalia Report, Heavy Clashes Overnight in Mogadishu, 05/12/2011](#)

At least seven civilians, among them a mother and her four kids, were killed and more than 10 others wounded as heavy fighting erupted in the Somali capital Mogadishu late on Saturday. The heavy fighting between the Transitional Federal Government (TFG) and the African Union peacekeepers (AMISOM) occurred in Hiliwa, Karan and Yaqshid districts after the militant group al-Shabaab launched hit-and-run attacks on TFG and AMISOM bases. "It was another sad night, with a mortar killing two residents and wounding several others," one of the residents of Suka-holaha village in Hiliwa district told Somalia Report. "We haven't slept for a week now," he added. Meanwhile, a suspected grenade attack killed a mother and her four children in a house near Aden Adde airport. "We heard a loud blast and when we rushed to the scene we saw the bodies of a mother and her four children lying on the floor," an eyewitness, Abdi Bile, told Somalia Report. The deputy chairman of Banadir district Sheikh Ali Sheikh Ahmed Guure accused the militant group al-Shabaab of staging the attack and warned innocent Somalis to remain vigilant as such attacks had become a common feature. "This merciless act is common with the al-Shabaab who continue to target innocent civilians," he said. Over the last 24 hours, more than 20 people with serious wounds have been treated at Madina hospital in Mogadishu. "We received 22 injured people, including women and children," said Bashi Haji, a nurse at the hospital.

[...] In the meantime, explosive devices left in polythene bags have been found in many parts of Mogadishu, including Bangariyo, Dabakayo-madow, Afisyoni, Hamar-weyne, Unishef and other villages of the capital, sparking off fears among residents. "When I woke up to open my shop, I saw a black polythene bag lying in front of my shop. I later found out that it was a bomb. We called the security forces that at last detonated the devices," Abdukadir Kalow, a shop owner in Dharkinley district told Somalia Report. According to TFG officials, the security forces seized more than 10 explosive devices over the last 24

hours. While the TFG and AMISOM control most of Mogadishu, residents still fear the al-Shabaab militants due to recent tactics including bombings, RPG attacks, landmines & roadside IEDs and suicide bombings. "The fighting is between the government and al-Shabaab, not with us, we don't know why bombs are placed in civilian areas. We are calling upon both warring sides to respect civilians," Sheikh Abdisamad Farhan told Somalia Report. There was an RPG attack on a Turkish-run medical center in Bulahubei village on Monday night. One of the guard is dead and another sustained injuries, according to local residents. al-Shabaab militants, armed with rifles and rocket-propelled grenades, attacked a base used by African Union peacekeeping forces and the TFG in the northwest of capital. The fighting is still going several hours after it began at about 5:30PM (local time), and there are some unconfirmed reports of casualties. It affected several villages such as Karan, Huriwa, Daynile and Yaqshiid districts as the warring sides are exchanging heavy shelling. There has been a series of hit and run attacks in recent weeks on AU and TFG bases by the al-Shabaab militants.

➤ [Reuters, Bombs kill seven in Somali capital, rebels blamed, 29/11/2011](#)

A wave of roadside bombs in Somalia's capital killed seven people over two days, officials said on Tuesday, as government forces struggled to secure Mogadishu against attacks from Islamist rebels. Al Qaeda-affiliated al Shabaab militants, fighting Somalia's Western-backed government, pulled out of most of their permanent bases in Mogadishu in August, and vowed to switch to guerilla tactics and target government installations. Police and residents blamed al Shabaab fighters for the latest wave of blasts in the capital. Analysts say local clan leaders and warlords have also moved in to take advantage of a security vacuum in Mogadishu, which government troops and African Union peacekeepers have failed to fill. On Monday a roadside bomb killed two Somali soldiers and wounded three after it exploded near their car in northern Mogadishu, police officer Mohamed Abdullahi Omar told Reuters. Another three soldiers were killed when they tried to disable roadside bombs in northern Mogadishu, police said, adding that two other bombs were found and disabled. On Tuesday a bomb planted near a mosque in Bakara market killed two children, resident Mohamed Yusuf said.

[...] Al Shabaab still occupy a few zones in Mogadishu and have carried out massive attacks that have killed dozens of people, leading critics to blame government forces and AU peacekeepers for failing to capitalise on the rebels' withdrawal. "The threat of improvised explosive devices in Mogadishu remains real ... We ask people to remain vigilant in order to identify this new threat," AU peacekeeping spokesman Paddy Ankunda told Reuters.

➤ [Agence France-Presse, Explosion rocks Mogadishu hospital, 28/11/2011](#)

Three people were wounded in a suspected bomb blast inside the main hospital in the war-torn Somali capital, officials and witnesses said Monday. The explosion occurred late Sunday inside a room near one of the main meeting halls of Banadir hospital. "We were informed about a bomb explosion that occurred inside Banadir," said Dahir Adan, a government security official said. "We are still investigating the reason but the initial reports indicate that several people were injured in the explosion." The hospital in central Mogadishu provides life-saving care for severely malnourished children struggling from ongoing famine in the city's crowded camps for displaced people. "I heard a large explosion which shook the whole building, it occurred inside one of the hospital rooms in the hospital and three people were slightly injured," said Sadiq Ali, a witness. "There was nobody inside the room where the explosion occurred, this explosion has really shocked patients," said Shamsu Mumin, another witness. Many high ranking international officials have visited the hospital in recent months to draw attention to what the United Nations says is the world's worst humanitarian crisis. Several roadside bombs and grenade explosions have rocked Mogadishu since Al-Qaeda-linked Shebab rebels abandoned fixed positions there in August and switched to guerrilla attacks against the government.

➤ [Agence France-Presse, Bomb blast and airstrikes kill at least 13 Somalis, 22/11/2011](#)

Somali civilians bore the brunt of violence in the war-torn nation Tuesday, with a roadside bomb killing 10 in the capital and fighter jet strikes in the south claiming three lives. A roadside bomb exploded in a crowded area in the south of Mogadishu, where Islamist Shebab insurgents have launched repeated guerrilla attacks since pulling out of fixed positions three months ago. "There was a heavy explosion in Wadajir this afternoon, it was a roadside bomb and we are hearing that more than ten people were killed in the explosion," said Abid Omar, a Somali police officer. "We are still investigating who was the target, but all of the casualties are civilians," he said, adding that several people were also wounded. Witnesses

said children were killed in the violent blast, which took place on the busy Jayga road in the war-torn city. "It was a horrible attack, I saw the dead bodies of at least nine civilians including children, there is blood and human flesh everywhere," said Sadiq Mohamed, who witnessed the blast. [...]

➤ [Agence France-Presse, Somali Islamist rebels battle AU troops in Mogadishu, 18/11/2011](#)

Somalia's Islamist rebels attacked government and African Union troops positions in the war-torn capital, killing four civilians and wounding 12 others, officials and witnesses said Friday. Heavy fighting broke out late Thursday around four positions held by AU-backed government forces and included heavy machinegun fire and mortar rounds, with reports that civilian houses were caught in the crossfire. "Terrorists launched desperate attacks on our military positions on Thursday night, but they were repelled with heavy losses, after targeting three positions in the south and one in the northern part of the city," said Colonel Ahmed Ibrahim, a Somali government military official. "They are very weak, but are trying to pretend that they are still a fighting force by such attacks," he said, adding that two government soldiers were wounded. However, witnesses said the fighting was so intense that people in many parts of the city could hear the sound of the battle. "Four civilians were killed in the Yaqshid area last night after a mortar struck their houses, the fighting was very heavy and so everybody was worried," said Habibo Mumin, a witness. Medical sources said that at least 12 people were wounded, with six admitted to Mogadishu's Medina hospital. Despite withdrawing from fixed positions in Mogadishu in August, the hardline Shebab militia have vowed to continue waging war against the Western-backed Somali government and the AU troops protecting it. "It was like organized attack, because there was fighting around several locations including Karan, Deyniile, Huriwa and parts of the Industrial Road," Gure Yasin, another resident, said. "Some people were caught in the crossfire and others hit by mortars," said Abdirahman Mohamed, another resident close to the fighting. "Some of the victims had only recently returned home to the neighbourhood after Al-Shebab pulled out, but it now looks that the war will never end," he added.

➤ [Agence France-Presse, Six wounded in Mogadishu roadside blast, 15/11/2011](#)

A roadside bomb targeting a senior Somali police official wounded six people Tuesday in the south of Mogadishu, hours after the extremist Shebab rebels launched attacks in the city, witnesses said. Mohamed Abdirahman Qasim, the deputy police chief of Mogadishu's southern Dharkinley district, escaped unhurt from the blast aimed at his vehicle. "They wanted to get rid of me by planting a bomb by the roadside. It exploded as I was passing by the area but thank God I'm safe. Only two of my security guards were slightly injured," Qasim told reporters. He did not say who was behind the attack. Witnesses said at least six people were wounded in the explosion that came after a night of attacks in the war-torn Mogadishu by the Shebab militia, who abandoned their bases in the capital in August. "I have seen at least six injured people, some of them soldiers being taken from the scene of the explosion. Two of them had been seriously injured," said Mohamed Adan, a witness. Other residents also said around six people were wounded. [...]

➤ [Alert Net, Grenades kill two in Somali capital, MP slain, 09/11/2011](#)

[...] Gunmen shot dead a Somali lawmaker in Mogadishu on Wednesday, a day after al Qaeda-linked rebels killed at least two people in a series of grenade attacks and said they would step up assaults in the capital. It was not immediately clear who carried out the assassination of parliamentarian Aden Bule. Local residents blamed clan militia fighters. [...]

➤ [Somalia Report, Six killed in four explosions in Somali capital, 08/11/2011](#)

[...] At least six people, including three government soldiers and a child, were killed and four others were wounded in four separate explosions in Wadajir, Howlwadag, and Yaqshiid districts in the Somali capital of Mogadishu on Tuesday evening, according to witnesses. "I heard a loud explosion in Wadajir. It happened soon after evening prayers and it occurred near the residence of a lawmaker," Ahmad Arale, a resident in Wadajir, told Somalia Report. Locals said grenades were the source of the explosions. "A grenade was thrown on the Wadajir TFG commissioner's house killing three soldiers and injuring others and the attackers escaped," Halima Abukar, a resident told Somalia Report. Somali government troops cordoned the area, but no arrests were made.

Second attack in Wadajir District

Meanwhile a second explosion hit the home of a government official in Buula Huubey village, near Mogadishu's airport in Wadajir, killing a child. Unconfirmed reports indicate the home of Abdirahman

Janaqow, the former TFG's minister for religious affairs, was hit with a grenade. "A hand grenade targeted the house of a residing member of parliament in the village killing one child, but there are no other casualties," a resident confirm told Somalia Report.

Howlwadag District

In a third attack this evening, two government soldiers were killed in an explosion in Howlwadag District near Bakaaraha Market and several others were wounded. Witnesses said the explosion, believed to be a remote controlled improvised explosive device, targeted government troops at a checkpoint.

Yaqshiid District

A fourth blast hit Fagah Junction in Yaqshiid District in northwest Mogadishu, an area recently liberated from the militants. Unconfirmed reports indicate the attack targeted an African Union peacekeeping (known as Amisom) convoy. "The blast went off near the junction as the Amisom convoy passed by, but I cannot confirm the loses because people are running around and shooting," Abdisalam Ahmad Awil a local resident, told Somalia Report. [...]

➤ [UN Political Office for Somalia Press Conference with the Special Representative of UN Secretary-General for Somalia, 31/10/2011](#)

[...] UNON Press Centre--Nairobi

As we sit here, you all know that on the security front, AMISOM has virtually taken full control of Mogadishu. On the 6th of August, when Al Shabaab withdrew from Mogadishu, we were talking of five per cent still not under the control of AMISOM, but now we can safely say that up to 98 per cent of Mogadishu is under the control of the TFG forces and AMISOM.

The Al Shabaab had announced as they were withdrawing that they would resort to changed tactics and this has come to pass. Indeed, they have resorted to more asymmetrical attacks rather than the conventional war in which they had been previously engaging. In the two short months since their withdrawal, we have witnessed some of the most tragic terrorist attacks in Mogadishu, including the innocent and cold-blooded killing of over 70 young men and women who were writing exams to be recipients of scholarships to go to Turkey. And when the final tally of that incident was closed, it was found that actually 100 people died, innocent civilians, not to mention the high numbers, much higher numbers of people who were wounded.

Reports we are receiving from the Mine Action in Mogadishu show that the number of explosives and unexploded ordinances that have been defused in Mogadishu has indeed increased, compared to any previous years. The number of suicide bombs has also been on the increase and there have been quite a number of incidents of maiming and killing, all innocent civilians. But, what is important is that Mogadishu is under the control of the TFG forces and AMISOM. Four months ago, this was unthinkable, but now it is the reality.

➤ [Agence France Presse, Somali families flee capital in lull between clashes, 22/10/2011](#)

[...] Civilians trapped by fighting in Mogadishu made the most of a lull on Saturday to flee, even as Kenyan forces in southern Somalia continued their slow advance and Shebab Islamists vowed retaliation. [...]

The Somali capital was quiet Saturday after two days of intense clashes pitting African Union forces supporting the Somali government against Shebab fighters. "There is no fighting in Mogadishu. It is quiet," Ali Muse, the head of the city's ambulance service told AFP.

"Deynile district is empty. There is no fighting but you can still hear random machine gun fire and hundreds of people are streaming out of town with their children on their backs," Ibrahim Deynile, a witness told AFP.

Adan Mohamed, a father of three, said he had fled Deynile overnight. "I walked for several hours with my wife and children last night. I'm in Seypiano now," he said, referring to a building in another part of the capital. Most of Deynile's residents have fled in the past two days," he said.

"There was heavy fighting last night but the situation is calm this morning," confirmed Ahmed Soyale, a Somali government security official.

Military sources close to the African Union's AMISOM force in Mogadishu said Al Qaeda-inspired Shebab rebels had launched several attacks on their positions in Deynile overnight. "The Shebab attacked our men several times during the night but were pushed back," a senior officer told AFP Saturday, adding that his men had found the bodies of five Shebab fighters killed overnight.

A Burundian officer within the AMISOM force confirmed the clashes overnight. The latest fighting in Deynile started before dawn on Thursday when AMISOM troops tried to flush out pockets of Shebab

fighters. Late Thursday the Shebab said they had killed "more than 70" Burundian soldiers. The Burundian army Friday officially admitted it had lost six men, but the Burundian officer in AMISOM said the truth lay somewhere between the two figures, confirming that "some 30" men had been lost Thursday in Deynile. "Our men wanted to occupy a zone the Shebab had pulled out of. They advanced without cover and fell into a trap," he told AFP, asking not to be named. The Shebab, who had "undertaken a tactical withdrawal" cut off their rear "and massacred them." Shebab leader Godane in his recorded message congratulated his fighters for inflicting such heavy losses on the Burundians. [...]

➤ [Alert Net, At least 10 peacekeepers killed in Somalia battle, 21/10/2011](#)

[...] The African force protecting Somalia's government acknowledged on Friday at least 10 of its troops had been killed in battle in Mogadishu and said the true toll could still climb, after rebels showed dozens of bodies. [...] Somalia's Western-backed government has claimed victories this year in the capital against al-Shabaab, the al Qaeda-linked rebel movement fighting to impose a strict form of Islamic law. But Shabaab fighters still hold some districts of the capital. Thursday saw a heavy battle in the capital's Daynile district. [...]

Al Shabaab displayed dozens of bodies in army fatigues to journalists late on Thursday, saying they were AU soldiers killed in the latest fighting in the capital. Reuters television filmed militants tossing some bodies out of a truck.

A Reuters photographer counted 76 bodies, some of whom had helmets and flak jackets laid out nearby. The African Union peace force, made up mainly of 9,000 troops from Burundi and Uganda that defend the Mogadishu government, initially called the claims that large numbers of its troops were killed "propaganda". However, it acknowledged on Friday taking casualties. [...]

Al Shabaab forces were driven out of most of Mogadishu in August under sustained pressure from the government and the AU troops as well as internal rifts and funding shortages.

However, the militants have still managed to carry out deadly attacks against government institutions. Earlier this month they carried out the worst attack on Somali soil since 2007 -- a suicide truck bombing that killed more than 70 people. [...]

➤ [Islamic Republic News Agency, Iran's Red Crescent Society camp in Somalia attacked, 20/10/2011](#)

[...] Iran's Red Crescent Society in Mogadishu was attacked by suicide bombers last night. The terrorist operation had no casualties but the blast broke down the camp's windows and doors. A terrorist bomber was shot dead in fire exchange with the Camp's guards. The bombers were two and one of them managed to escape from the scene. [...]

➤ [Agence France Presse, Mogadishu roadside bomb injures two: witness, 19/10/2011](#)

[...] A roadside bomb in Somalia's capital slightly injured two civilians Wednesday, a day after a suicide car bomb killed at least five in the war-ravaged city, a resident said.

"There was a roadside bomb near the sea port, two people were slightly hurt," said Ali Said. The bombing is the latest in a string of explosions to rock Somalia's violent capital, which officials blame on the Al-Qaeda linked Shebab rebels.

The Shebab withdrew from most key positions in Mogadishu in August after battling against African Union-backed government forces, but vowed instead to launch bomb attacks against the weak Western-supported government.

On Tuesday, a suicide bomber exploded a car near the foreign ministry where Kenya's Defence Minister Yusuf Haji and Foreign Minister Moses Wetangula were meeting officials.

At least five civilians died in that blast, in addition to the suicide bomber, while nine others were wounded, according to witnesses and hospital sources.

Earlier this month, a Shebab suicide bomber detonated an explosives-laden truck killing at least 82 and wounding many more, the worst attack by the group in the city. [...]

➤ [Somalia Report, Latest Battle Over Checkpoint Claims Civilians, 12/10/2011](#)

The Transitional Federal Government's ill-disciplined forces were at it again Wednesday, exchanging gunfire over control of a checkpoint and claiming six lives, including two civilians, in the process. There have been many examples of such battles in recent months, many of them sparked by attempts to seize control of lucrative checkpoints in areas vacated by militant Islamist group al-Shabaab. The latest gun

battle came in Hamar Weyne, when one group of TFG soldiers attempted to seize the checkpoint from another group. "The inflight began after forces exchanged fire during a dispute over control of the checkpoint," Abdullahi Sahal Gardob, Hamar Weyne commissioner, told Somalia Report. Four combatants and two female passers-by were killed before other security forces arrived to break up the fight. Businesses in Hamar Weyne closed as mop-up operations took place. The TFG recently shut down checkpoints, where forces charge people to pass, in some districts, but plenty more remain active to extort money from trader and commuters.

➤ [Agence France Presse, Somalis flee Mogadishu district ahead of feared assault, 12/10/2011](#)

[...] Hundreds of residents in the war-torn Somali capital were fleeing Wednesday ahead of expected fresh assaults against final pockets of Islamist Shebab rebels, officials and witnesses said. "We have stopped our military advancement for a few days, in order to give residents trapped in the neighbourhoods the chance to evacuate," Somali Lieutenant Colonel Abdullahi Ali Anod told reporters. "People are now fleeing the area to avoid injury," he added.

African Union and Somali government forces launched assaults on Saturday in northeast Mogadishu, seizing strategic positions from the Al-Qaeda linked insurgents. Witnesses said residents were packing belongings onto trucks and donkey carts in northern Mogadishu's Suqaholaha district. "Hundreds of civilians are fleeing -- the situation is calm today so people are getting out during the lull in the fighting," said Abdirisak Mohamud, a resident. "People are evacuating before it's too late," said Gure Ali, another resident. The AU-led assault followed the Shebab's worst ever suicide bomb attack last week in Mogadishu, killing at least 82 people and demonstrating they are still able to wreak havoc deep inside the city. Shebab officials said they were sending fighters from outside Mogadishu to reinforce remaining gunmen still inside the capital. "Units of the mujahidin fighters are coming towards Mogadishu now to reinforce the war in the city," Shebab spokesman Sheikh Abdulaziz Abu Musab said.

"The war will continue, and with God's will, the enemy will fail in their bid to take control of Mogadishu," he added. [...]

➤ [Medicins Sans Frontiers, Somalia: Aid to displaced persons still insufficient in Mogadishu, 11/10/2011](#)

[...] Ravaged by 20 years of civil war, the Somali capital has experienced an influx of displaced persons in the last three months. Providing aid to people who have fled hunger and fighting is a constant challenge in this chaotic urban setting.

Since July, more than 150,000 Somalis have left the provinces of the country's central region—Bay, Bakool, Hiran, Lower and Middle Shabelle—seeking refuge in Mogadishu. This large-scale population displacement is the result of poor agricultural production, loss of livestock because of drought, increasing prices, and perpetual insecurity. [...]

Like Deka, most of the new arrivals move into existing camps, swelling their already sizable populations. Others have settled in the few unoccupied spots remaining in the city. Their makeshift housing, assembled from bits of wood and plastic, is scattered among the ruins of the capital. More than 200 sites of varying size have been identified.

Deploying aid in this patchwork of shantytowns is particularly complicated. The camps empty out during the day as residents leave in search of food. "Food distributions are still irregular and inadequate," says MSF program coordinator Eymeric Laurent-Gascon. "Some of the displaced persons have not received any food since they arrived and are relying on help from those around them. Several NGOs have set up feeding centres with food purchased on local markets, but this has led to significant inflation. If prices continue to rise, the entire population of the city will soon be unable to feed itself without external assistance."

The percentage of children suffering from malnutrition may vary from 5% to 50% across displaced persons' camps, depending on how long ago they arrived and their access to distributions of food and water. The most recent arrivals are generally in the worst shape. In Mogadishu, MSF is managing four therapeutic feeding centres where the most serious cases are hospitalized.

In September, nearly 500 children were treated there. In addition, mothers who come to any of the dozen MSF outpatient treatment centres receive a weekly supply of ready-to-use therapeutic foods, composed of peanut butter enriched with essential nutrients, for their young children. To date, more than 5,000 children have benefited from these products.

Mogadishu's population is currently estimated at more than 1 million, half being displaced persons. Medical needs far exceed available health services and more people continue arriving daily. The displaced

populations are living in precarious health conditions, their immune systems already weakened by poor nutrition. Many have never been vaccinated. Infectious diseases – including cholera, pneumonia, dengue fever and malaria – are common in the city and the rainy season, which will begin in October, could increase their spread.

Though a massive truck bomb killed dozens of people in the capital on October 4, the situation there, relative to times past, has been fairly stable of late. "That could change, so it's ever more urgent to provide as much assistance as possible in the near term," says MSF head of mission Thierry Goffeau. "New humanitarian actors have arrived. It is now critical that everyone work together to identify and meet the population's needs, while remaining very watchful. The deadly attack reminded us that periods of calm are often temporary in Mogadishu." [...]

➤ [BBC News, Somalia clashes force Mogadishu hospital to close, 11/10/2011](#)

[...] Heavy fighting between government forces and militant Islamists in Somalia's capital, Mogadishu, has forced the closure of a hospital, an aid group says.

Dr Ahmed Mohamed said the shelling of a maternity unit run by SOS Children on Monday killed one staff member and forced patients and staff to flee.

This was the first time in 25 years that the hospital had closed, he said. [...]

➤ [IRIN News, Thousands displaced as fighting flares in Mogadishu, 11/10/2011](#)

[...] Hundreds of families are on the move in the Somali capital, Mogadishu, after three days of fighting between government troops supported by African Union peacekeeping troops (AMISOM) and Islamist insurgents, local sources told IRIN.

"We don't have exact numbers but hundreds of families are on the move, particularly from Heliwa, Suuqa Xolaha, Karan [north Mogadishu] and Dayniile [northwest]," Abdullahi Shirwa, head of Somalia's National Disaster Management Agency (NDMA), told IRIN.

He said many of the families fled their homes after fighting broke out between government forces and Al-Shabab. NDMA was worried about those that were in areas where water and other basic necessities were not available, he added. "There are some who are in areas where there is little or no water and access is not easy."

Shirwa said some of the displaced were joining thousands of other internally displaced persons (IDPs) in the Afgoye Corridor (25km west of Mogadishu) already hosting at least 400,000 IDPs - while others are moving to safer neighbourhoods in the city.

"If the situation improves in the next week, many, if not most, will return to their homes," he said. "I hope it is temporary." [...]

➤ [Agence France Presse, AU, Somali forces seize Mogadishu rebel bases, 10/10/2011](#)

[...] African Union and Somali government forces on Monday seized strategic positions from Islamist insurgents in an offensive to flush out the last pockets of rebellion in Mogadishu.

The drive came nearly a week after the insurgents carried out their worst ever suicide attack in the Somali capital, killing at least 82 people and demonstrating they were still able to wreak havoc deep inside the city.

The AU and government forces took a former pasta factory building, two key junctions and two districts in the northeast of the city, giving them control of movement into Mogadishu from the northern front.

One AU soldier was killed and six were wounded in Monday's fighting, said force spokesman Paddy Ankunda. "The outer north and eastern fringes of the city must still be cleared, but key ground and buildings are no longer under the control of the extremists," Ankunda said. "The challenge is now to protect civilians from the sort of terror attack we saw last week," he added.

"The pasta factory compound was an operational hub for the extremists from which they shell civilian targets. This operation is intended to save the lives of the people who have returned to their homes," a government statement said.

The AU and Somali government forces began the offensive on Saturday to expel remnants left in Mogadishu after Shebab fighters abandoned most of their positions there in August.

However, a Shebab official who did not want to be named said they allowed the African Union Mission for Somalia (AMISOM) troops to take the pasta factory to ensnare them. "Allowing the AMISOM troops to come to the pasta factory was just a trap planned earlier so that they spread out their troops," the official

told AFP. "The idea of the Shebab was not to defend any positions, but to do as much damage to AMISOM."

The devastating suicide bombing was the Shebab's first attack since their surprise withdrawal and spokesman Ali Mohamud Rage vowed more violence against the government and the AU troops.

AU force commander Major General Fred Mugisha last week called for stronger world action against the Shebab.

Although the 9,000-strong AU force controls 95 percent of Mogadishu, according to Mugisha, it remains overstretched and unable to ensure effective security of the war-ravaged city.

The rebels still control Dayniile district in southern Mogadishu and the main road linking the city to the western regions after their northern bases were captured in Monday's operation. [...]

➤ [IRIN News, Hospitals overwhelmed as bombing death toll rises, 05/10/2011](#)

[...] Hospitals in the Somali capital, Mogadishu, are overwhelmed by the number of injured people seeking treatment following a suicide bombing on 4 October, health officials told IRIN.

Local sources said the death toll from the explosion, caused by an Al-Shabab suicide bomber, who drove a truck loaded with explosives into a government compound in the built-up K4 area, had risen from an estimated 70 to more than 100.

Most of the injured were taken to Medina and Benadir hospitals, the two largest medical facilities in the city.

"We have 167 injured people, some very serious; there are people with 60-70 percent burns on their bodies," Dunio Ali Mohamed, head of the medical department at Medina Hospital, said on 5 October.

She said the hospital's main problem was finding bed space. "We had to move other in-patients to make space for the blast victims.

"Most of the injured who were brought in needed oxygen but we only have four supply sources. Every ward should have the ability to hook them [oxygen bottles] up but unfortunately we don't have enough."

She said the hospital had all other medications and drugs, "thanks to the ICRC [International Committee of the Red Cross]". A tipper truck loaded with explosives was driven into the gate of the compound housing government ministries and detonated. A spokesman for the insurgent Islamist group Al-Shabab later claimed responsibility. The exact number of dead has not been determined but witnesses and health workers estimate more than 100 people may have died, most of them students who were checking examination results posted by the Ministry of Education. [...]

➤ [Amnesty International, Somalia: Civilians pay the price of bomb attack in Mogadishu, 05/10/2011](#)

[...] Amnesty International condemns the armed group al-Shabab's bomb attack which occurred yesterday in Mogadishu, Somalia's capital city, killing between 68 and 82 persons and injuring over 90 others, many of them civilians. There was no effort made to distinguish civilians from military targets in the attack, nor to minimize its effects on civilians, as required from all parties to an armed conflict under international humanitarian law. [...]

The bomb explosion is a stark reminder that civilians in South and Central Somalia remain at serious risk of being killed and injured in attacks that are prohibited under international humanitarian law. [...]

➤ [Amnesty International, Somalia: a humanitarian and human rights catastrophe, 26/09/2011](#)

[...] II – Other human rights concerns

1. in Mogadishu

On 6 August 2011, al-Shabab fighters withdrew from most of Mogadishu. Amnesty International is concerned that, as local sources have indicated, al-Shabab elements may remain in Mogadishu. Several observers, including the UN Special Representative of the Secretary-General, have pointed to the likelihood that al-Shabab will increasingly resort to asymmetric warfare, including hit and run attacks, suicide bombings and the detonation of explosives in civilian-populated areas of Mogadishu. Observers also expressed concern that a security vacuum will be filled by militia under the control of warlords. In any event, on 13 August the TFG President imposed a state of emergency on all areas of Mogadishu vacated by al-Shabab.

Both sides to the conflict have made declarations that fighting will restart further underscoring the extreme volatility and unpredictability of the situation. For instance, al-Shabab leader Sheikh Muktar Abu Zubeir (Godane) reportedly said that his fighters would continue attacks against the TFG and AMISOM in

Mogadishu, and in areas of southern Somalia currently controlled by TFG militia.¹¹ Despite the announced withdrawal of al-Shabab, insecurity remains high for civilians. According to the World Health Organisation, 570 casualties from weapon-related injuries were treated in the three hospitals in Mogadishu during the month of August 2011, with six related deaths.¹² These statistics are only indicative, as the number of deaths on site is not known. While indiscriminate artillery attacks have reduced, pockets of fighting between al-Shabab fighters and the TFG and its allies still remain, notably in Darkhenley and Karan districts. On 8 August, one person was reportedly killed in clashes between TFG and AMISOM forces and al-Shabab, which reportedly involved mortar shelling.¹³

On 15 August, four people were reportedly killed and several others injured in clashes between TFG and AMISOM forces and al-Shabab in Yaqshid and Karan districts.¹⁴ On 28 August, al-Shabab reportedly attacked TFG and AMISOM forces in Dharkenley and Karan districts. Six civilians were reportedly killed and 15 others injured by mortar landing in Dharkenley district.¹⁵

Armed clashes between al-Shabab and TFG allied forces were also reported in Dayniile on 5 September and in Dharkenley on 7 September. On 4 September, mortars were fired near the Presidential Palace, where the Consultative Meeting between Somali political actors and the international community was taking place, though no casualties were reported. On 7 September, mortar fire was also reported in Mogadishu. On 21 September, al-Shabab reportedly shot at TFG soldiers in Darkhenley.

Since the withdrawal of al-Shabab, several incidents involving hand grenades have also been reported, including one on 22 August in Darkhenley district which reportedly injured four people.¹⁶

Increasing incidents related to improvised explosive devices (IEDs) were also reported, particularly in the last week of August. On 11 August, four children aged between nine and eleven were injured in Shibis district by an IED.¹⁷

On 27 August, an eight year old boy was reportedly killed and two others aged 11 and 12 were injured when an IED detonated in Karan market in Mogadishu.¹⁸ Some IEDs in areas vacated by al-Shabab were found by TFG forces. Incidents of fighting between different TFG units, or between TFG security forces and militia loosely affiliated to the TFG continue. On 30 August, TFG units and militia reportedly clashed in Howl-Wadag, killing at least seven people, including a civilian and injuring seven others. On 4 September, four people were reportedly killed and six others injured as TFG forces and militias clashed in Wadajir district over the dismantlement of checkpoints.¹⁹

Shooting incidents between TFG forces and militia also occurred in Dharkenley district in September, apparently over the dismantlement of checkpoints. Targeted killings have continued to be reported in Mogadishu. On 31 July, a Somali MP was reportedly killed in Hamarweyne district.²⁰

Three young men were publicly killed by al-Shabab in the Dayniile district, after being reportedly accused of spying for the TFG.²¹ In early September, a TFG district commissioner in Mogadishu stated that 10 decapitated bodies were found in Huriwa and Dayniile districts, including that of a woman.²² On 4 September, the decapitated bodies of two young men were reportedly found in Huriwa district.²³ On 17 September, a man and his mother were reportedly killed in Karan district; the man was reportedly a TFG civil servant. Killings as a result of indiscriminate shooting continue to be reported. On 6 August, two persons were reportedly killed in Hodan district. On 2 September, a Malaysian journalist reporting on the operations of a Malaysian aid organisation in Mogadishu was shot dead and his colleague injured in the area of Km4. Following allegations that he had been shot at by AMISOM soldiers, AMISOM announced it had opened an investigation. [...]

➤ [Somalia Report, Fierce Fighting Leaves 3 Dead, 17/09/2011](#)

At least three people were killed and six others injured when the militant group al-Shabaab fought against the African Union-backed Transitional Federal Government (TFG) forces in Dharkenley district of Mogadishu late on Friday, security officials said. The fierce fighting erupted after al-Shabaab fighters launched hit-and-run attacks on TFG and AMISOM bases in the district. Local residents told Somalia Report that both sides used heavy gunfire, including machineguns and mortars. "A mortar hit on an IDP camp killing two civilians, including a child, and injuring four others," Mohamed Ali Nor, a resident in Dharkenley told Somalia Report, adding that village residents were fleeing the area in fear of further attacks.

[...] Meanwhile, reports from Warshadaha (Industrial) street of Mogadishu indicate that the insurgent group launched attacks on TFG and AMISOM bases, including a building that formerly housed the defense ministry, Gullwadaayaaha military camp and Jaale Siyad building. In a separate incident, eyewitnesses said a mortar attack hit Dayniile district, killing one civilian and injuring two others. But locals have blamed the AMISOM forces of allegedly being behind the shelling. However, AMISOM spokespeople were not immediately available to comment.

[...] Meanwhile suspected al-Shabaab fighters have shot and killed a top government official, witnesses said on Saturday. Abdiiaziz Mohamed Nor, a finance ministry official in tax department, was shot on Friday night. His 74-year-old mother, Isnino Warsame, was also killed in the attack that occurred in Karan district of Mogadishu. Locals told Somalia Report that the assassination took place after at least ten al-Shabaab fighters forcefully entered into the official's residence and tried to whisk him away. It was after he attempted to fight back that the attackers shot him at point blank. "I think they were about ten men, they knocked the door and the family refused to open, the gunmen fired bullets and opened the door forcefully," an eye witness who requested to be called Kudufofow told Somalia Report. He said the official's elderly mother was killed minutes later after she attempted shielding her son from the attackers. This is the first TFG official to be murdered by the insurgents in Karan district, since the TFG seized the district last month following the massive withdrawal of the al-Shabaab from the capital.

➤ [Somalia Report, Suspected IED Kills 3 in Mogadishu, 17/09/2011](#)

At least two civilians were killed and one other person was injured after a suspected remote controlled improvised explosive device was detonated near Africa Union peacekeepers (known as AMISOM) in Dharkinley district of Mogadishu on Saturday. An eyewitness told Somalia Report that the blast was meant to hit a large number of AMISOM vehicles which left Abagao village and were heading to their main base in Hosh junction of Dharkinley. "I was near where the blast took place. I saw two civilian bodies and one injured person. Nothing hit AMISOM forces or their vehicles," Osman Haji, an eyewitness. Somalia Report contacted AMISOM spokesman Paddy Ankunda and TFG military officers but all refused to comment this issue. Although al-Shabaab militias has not claimed responsibility for the attack, many residents believe that the insurgents were the blast.

➤ [Somalia Report, TFG Soldier Fires on Minibus, Killing 3, 16/09/2011](#)

At least three civilians were killed and three others were wounded after a government soldier opened fire on a minibus with passengers at Ex-Control Afgoi checkpoint on the outskirts of Mogadishu, witnesses said on Friday. The soldier aimed his AK47 assault rifle at the minibus and fired after he had an argument with the bus driver," Mohamed Abdi, an eyewitness told Somalia Report. "I saw some of the passenger, including women, rushing out of the car trying to escape the shoot out, but they fell on the ground." The wounded were rushed into the hospital, but their conditions are unknown. Security forces said that the soldier who fired the passengers was arrested, but would not provide further details. Earlier this month, a government soldier fired on an IDP in camp in Waberi district of Mogadishu killing at least ten people and wounding others during food distribution for drought-stricken people. On Thursday, Somali President Sheikh Sharif Ahmed urged government soldiers to protect civilians and not to steal food aid destined for internally displaced people. "The responsibility of government forces is to protect the civilians and give special consideration to the drought-stricken people," the president said to new recruits at a ceremony in Mogadishu. The government's military courts have taken tough action against government soldiers found guilty of killing civilians or stealing property.

➤ [Shabelle News, Four killed, 10 injured in Mogadishu bomb blast, 09/09/2011](#)

At least four people have been killed and ten others in a bomb blast that took place in Al shabaab abandoned Yaqashid district of Mogadishu, witnesses said Friday. Eyewitnesses in the area of market of Suq Ba'ad say the explosive device exploded while the people have been playing with it. Women were among those injured in the fatal explosion. The incident comes as people started returning to the Al shabaab fled areas in the capital where explosives are believed to be full of. Officials of Somali government arrived at the scene and picked the wounded ones to medical facilities in Mogadishu.

➤ [Shabelle News, Somali soldier kills six civilians in Mogadishu shooting spree, 08/09/2011](#)

A Somali government soldier on Wednesday murdered at least six famine displaced people in a shooting spree that took place in strife torn Mogadishu. Eyewitnesses told Shabelle Radio that the incident occurred in Mogadishu's Waberi district where food aid distributions were continuing. He said another internally displaced person was also injured in the shootout. Witnesses added that the soldier was among government forces guarding the aid convoys and food distributions there. However, what has impelled him to fire the famine hit people lining up to receive aid is still unknown. According to the latest reports from the incident, Somali government forces captured the murderer and took into custody.

➤ [IRIN, Mogadishu after Al-Shabab, 07/09/2011](#)

After the Al-Shabab insurgency announced on 6 August that it was pulling out of Mogadishu, the hope was that the Transitional Federal Government (TFG) would fill the vacuum, but doubts are emerging about its capacity to stamp its authority on the capital.

[...] Ambassador Abdullahi Sheikh Isma'il, a member of parliament and the parliamentary committee on reconciliation, warned the government not to create a false sense of optimism: "It is too early to say Al-Shabab is defeated and declare victory. They still pose a very serious danger and have not left the city completely." He cautioned that Al-Shabab could try to start a guerilla war. "There is the real danger of increased targeted assassinations and remote-controlled explosions."

[...] An aid worker, who requested anonymity, told IRIN that immediately after the insurgents pulled out, roadblocks emerged in parts of the city. "We saw roadblocks around Bakara market, Hawl-Wadag district and Boondheere." He said there was also fear that warlords - who controlled parts of the city from the 1990s to 2006 - or people associated with them, were trying to take control of the areas formerly occupied by Al-Shabab. He said most of the roadblocks were manned by militias under the control of district commissioners. "The government must unify control of the various armed groups under one command," he said. Otherwise, "we will have serious problems delivering aid to those most in need". They are definitely still in control of Huriwa and Suuqa Hoolaha [north of the city]," said a local journalist, adding that on 5 September, the group attacked units of government forces in the city. "They may have been weakened considerably but they are still here." Another problem hampering government control was the fear of landmines in the vacated areas. "I think they want to make sure that the area is free of mines before sending anyone there." Abdi Yasin, a resident of Hamar Jadid area of Wardhigley district, however, told IRIN that residents were not waiting for the all-clear. He said in the past two weeks many former residents had started returning to their homes and started repairing them. "There is no doubt as to who is in control; government forces are here and they are in control," Yasin said. "There is hope and life is returning to the area. People are very optimistic but how long that will last is anyone's guess." The area has been one of the most contested in the city [...]

➤ [Hiiraan Online, Mortar attacks cause civilian fatalities in Mogadishu, 07/09/2011](#)

At least six civilians were reported to have died in Karan district of Mogadishu last night from mortar attacks that dashed the little hope for returning residents after Shabaab militia retreated from the area nearly a month ago. Witnesses reported that the shelling blasted on residential areas, causing both deaths and casualties. The attack induced a widespread fear for those who recently repatriated from the outskirts of Mogadishu soon after they heard Shabaab had desolated Karan neighborhood.

[...] Artillery and mortar strikes remain the deadliest cause of civilian casualties in Mogadishu.

➤ [Somalia Report, TFG and AMISOM Battle Al-Shabaab in Mogadishu, 06/09/2011](#)

At least three people were killed and more than five were injured, as Transitional Federal Government (TFG) and African Union peacekeepers (known as AMISOM) fought against the al-Shabaab insurgent group in Mogadishu late on Monday night. Fighting broke out in the Somali capital after al-Shabaab fighters attacked TFG and AMISOM bases in the former defense ministry, Gulwadaayaasha military camp, Jale Siyad faculty and Ex-control Afgoye junction.

[...] Meanwhile, at least 45 people have been killed during hit and run attacks in Mogadishu since al-Shabaab vacated the capital. On August 7th, nine people were killed and 13 others were injured as the insurgents launched attacks on TFG bases in Dayniile district. On August 8th, at least two TFG soldiers were killed and two others were injured as al-Shabaab launched hit and run attacks on TFG bases in Yaqshid district of Mogadishu. Also on that day, 14 people were killed and more than 20 were injured after heavy fighting and shelling erupted in Yaqshid district of Mogadishu. Later that day, an attempted suicide attack failed when a vehicle full of explosive devices blew up on the outskirts of Mogadishu during his way to Ex-control junction, where TFG troops based. On August 9th, four people were killed and five others were injured as al-Shabaab attacked AMISOM bases in Abdiaziz district of Mogadishu. After one week of stability, on August 16th, six people were killed and ten others were injured as al-Shabaab fighters and TFG troops clashed in Yaqshid and Karan districts. On August 17th, seven people were killed and more than 15 were injured as clashes broke out between AMISOM-TFG forces against al-Shabaab. On August 21, at least three civilians were injured as al-Shabaab attacked TFG base in Dharkinley district with hand grenades. On August 23th, three people were killed and ten others were injured as the insurgents launched hit and run attacks on TFG bases in Yaqshid district. On August 24th TFG police in Dharkinley

district foiled a suicide attack after they captured three men and their explosives trying to attack TFG base in that district. On August 27th, at least ten people were killed and 15 others were injured as the insurgents attacked AMISOM and TFG bases in Mogadishu. Also that day TFG security forces foiled an attempted suicide attack after they captured a vehicle full of explosive device in KM4 junction. Also al-Shabaab attacked the TFG police stations with grenades in Waberi, Dharkinley and Hamar-weyne districts, but no casualties were reported [...]

- [Shabelle News, Two beheaded bodies discovered in war torn Mogadishu, 06/09/2011](#)

At least two bodies whose heads cut off on Monday were found in an Al shabaab controlled district in the war shattered Mogadishu. Local residents say that the beheaded ones were young Somalis as it's their corpses were put in neighborhood of Mogadishu's Hiliwaa district. The district commissioner of Hiliwaa for the transitional federal government Omar Abullahi told Shabelle Radio that the ages of decapitated young people ranging between 25 and 30 years old. The district commissioner has accused Al shabaab of murdering the young boys. He urged the government of Somalia to liberate the district and save the lives of civilians there. In the same district, decapitated bodies were seen last week. Also, one beheaded man was found in the village of Arbiska, about 25 kilometers south of the capital.
- [Shabelle News, Armed men force 300 families to flee from IDPs camp in Mogadishu, 05/09/2011](#)

Armed men dressed in Somali government military uniforms have forced some 300 famine displaced people to flee from IDPs camps in Mogadishu's Hodan district. Witnesses said the internationally displaced people at Tarbunka area in Mogadishu were bullied and intimidated by armed men. The witnesses said the armed assailants also destroyed and tore down IDPs makeshift settlements and huts. Mohamed Ali, one of the people forced to flee, told Shabelle that there are no any casualties during the incident. Ali asked Somali government to save them from the armed men who accustomed to bother the IDPs.
- [Somalia Report, 4 Killed in Military Clashes in Mogadishu, 03/09/2011](#)

At least four people, including two government soldiers, were killed and six others wounded in Wadajir district of Mogadishu after infighting broke out between rival government forces, eyewitnesses said on Saturday. "The TFG forces were clearing out security checkpoints in the area, when the government forces clashed with soldiers loyal to the Wadajir district commissioner," Mohamed Shidane, a resident in Wadajir district told Somalia Report. "The fighting went on for at least an hour with the soldiers using heavy weapons," he added. Following the clashes, most of the roads leading to the district were closed to traffic. Shortly afterwards, the African Union Peacekeeping (AMISOM) troops arrived at the scene to restore order and ease the tensions among the rival soldiers. "The aim of removing checkpoints was to improve security but was hindered by soldiers loyal to Ahmed Da'i, district commissioner of Wadajir and his deputy," Abdi-aziz Nor, a government official in Wadajir district told Somalia Report. Last week, infighting between government forces in Dharkenley claimed at least five people after soldiers fought over sharing taxes from checkpoint taxation resources. In Wadajir, there are security checkpoints scattered all over where government troops and clan militias alike collect taxes from the public and trucks carrying goods, including aid supplies [...]
- [Somalia Report, Another Ten Beheaded Bodies Found, 02/09/2011](#)

Militant Islamist group al-Shabaab has beheaded ten people in Mogadishu's Huriwa and Daynile districts over the last few days, an official said Friday. As reported on Wednesday, al-Shabaab – worried about spying ruining plans to launch hit-and-run attacks - has ramped up executions in the wake of a move away from conventional warfare in the capital. Omer Ja'fan Abdulle, Commissioner of Huriwa district, said those beheaded were mainly young men. "They (al-Shabaab) have transformed Huriwa and Daynile districts into butcheries," he told Somalia Report. "Some of the victims were arrested in the Elasha-Biyaha neighborhood and Suqa Holaha; it was tragic to see their heads and the rest of their body separately displayed in parts of Huriwa and Daynile districts." A woman accused of spying for the Transitional Federal Government was among six people beheaded in Huriwa district, while the remaining four were students aged 15-18, residents and officials said. Government and African Union peacekeeping forces have not fully taken over Huriwa and Daynile since al-Shabaab pulled out most its forces, and pockets of fighters have remained behind. Suqa Holaha, Maslah compound, former Pasta Factory and Daynile were among the main strongholds where al-Shabaab fighters interrogated and executed people. Seven elders were also arrested by al-Shabaab for having alleged links with the TFG, Osman Ja'fan said.

➤ [Garowe Online, Food Aid Looting Kills 15, 31/08/2011](#)

At least fifteen people have been killed and several others wounded after a gunfight broke out between Somali government forces in southern Mogadishu, Press TV reports. Somalia's Transitional Federal Government (TFG) troops turned on each other in Maka al- Mukarama Road of Mogadishu's Kilometer 4 district on Tuesday evening as some TFG soldiers tried to steal aid portions for famine-hit Somali families, a Press TV correspondent reported on Wednesday. The two sides exchanged heavy gunfire during the fighting. Nine government soldiers and six civilians were killed as a result. Nineteen people were also injured in the skirmishes. Somali ambulance workers transported the injured to Medina and other hospitals in Mogadishu.

➤ [Somalia Report, Paranoid Insurgents Ramp Up Beheadings, 31/08/2011](#)

Residents in Mogadishu's Daynile and Suqa-Holaha areas are living in fear after a spate of executions by militant Islamist group al-Shabaab, which has grown increasingly paranoid about spying since it moved most of its forces out of the capital. Al-Shabaab left Mogadishu early this month, saying the move signaled a switch from conventional to traditional insurgent tactics, and has left many fighters behind to spring attacks. However, the strategy relies on the backing of residents and secrecy, and the group is concerned that residents could listen to government calls to give up the locations of insurgents. The militants' response has been to embark on a campaign of beheadings to terrorize locals into silence. In the past weeks, at least nine people have been confirmed killed separately in Daynile and Suqa-Holaha areas. Four of those executed were said to be former members of al-Shabaab who had decided to leave the group, residents in Daynile told Somalia Report. Some of the bodies were simply hurled into the streets. "Last week I saw the bodies of two young boys whose corpses had been put near the Pasta Factory," Laborer Farah Wehliye, who fled Suqa-Holaha, told Somalia Report. "Their heads were cut off and had been put in their laps." "Many were killed by al-Shabaab, falsely accused of espionage," he added. Al-Shabaab blames residents for directing and supporting government offensives. Its fighters operate several checkpoints in Daynile district, and check everyone coming in from other areas of the city. "They will ask you how things are going in their abandoned former strongholds, like Bakara Market," Marwan, a minibus driver who operates between Mogadishu and the insurgent stronghold of Elasha Biyaha, told Somalia Report. "If you insist you know nothing, they will point you as a felon and I guess many of the residents would be killed for such reasons." A junior al-Shabaab officer, who was a member of Hizbul Islam until the groups merged, said the orders to execute anyone suspected of spying came from the top. "Some al-Shabaab leaders are instinctive and do whatever they think is right for the Mujahideen by ordering forces to behead anyone suspected of working for the government, though I personally am against it," said the officer who spoke to Somalia Report on condition of anonymity. He said that many of the senior Hizbul Islam figures were opposed to the actions, but had no power to influence policy. Many believe that al-Shabaab is jumpy as reports persist that security forces dressed as civilians – many of them former insurgents who switched sides - have been sent into the areas to keep tabs on the remaining insurgent forces. Mogadishu-based political analyst Jama Mohamed Mire said that the executions were a show of strength that could backfire by making residents more likely to inform in face of growing danger. "Al-Shabaab abandoned their strongholds for lack of capacity, so they want to terrorize the residents to show they are still powerful," he said. "The government seems to be increasing its intelligence services in the capital, especially in areas abandoned by al-Shabaab. I think this may also put ordinary residents more at risk."

➤ [Somalia Report, Checkpoints Source of Extortion, Kickbacks, 29/08/2011](#)

Official government military, freelance clan militia, and insurgent checkpoints are scattered throughout the Somali capital of Mogadishu and can often times be more dangerous than war itself. Bile Ahmed, a young man and a former freelance militia who later became a government soldier, learned this first hand when lost his left at Siliga checkpoint near the former US embassy compound in Dharkenley district of Mogadishu. His severe injury occurred when in-fighting broke out between government soldiers and the local clan militia over 'taxes' taken from travelers at the checkpoint. Since he worked as both a government soldier and clan affiliate militia at the time, he was caught in the middle.

[...] Checkpoints have often change hands and the Ex-control checkpoint on the outskirts of Mogadishu is a good case in point. Years ago it was taken over by freelance militias from Duduble, a Hawiya subclan, then it was overtaken by militias from Sa'd, a sub-clan of Habar Gidir. This was followed by the Union of Islamic Courts which took control and finally, today, it is controlled by Somalia's TFG security forces. Other

checkpoints that have changed hands include Siliga checkpoint where Hawadle clan militia were charging fees on vehicles passing the checkpoint in Dharckenley district until clashes between Habargidir and Hawadle clans broke out. After that militias from Sa'ad sub clan of Habargidir took control. This was followed by militias from Abgaal, a sub clan of Hawiya, and in 2007 the checkpoint was taken over by a mixed of clan militias from Hawadle and Abgal under the cover of the Transitional Federal Government security forces that continues today. The checkpoints that have changed hands are the most are: the Ex-control Afgoi, Sarkuusta and Afgoi-Bar Ismail. The main checkpoints in Mogadishu include:

- Ex-Control Afgoi checkpoint is located on the outskirts of Mogadishu near the Burundian African Union peacekeeping base. The checkpoint is under the control of TFG security forces with a mix of clan militias mostly from Habar Gidir, clan of Hawiya assisting with security.
- The Sarkuusta checkpoint, not far from Ex-control, is near KM13 on the Afgoi road. It is under the control of TFG security forces but has a mix of clan militia also there.

- Ex-control Balad checkpoint is in the northern part of Mogadishu and is under control of al-Shabaab.

- Hosh checkpoint in Madina district of northwest Mogadishu is under the control of TFG security forces with clan militia from Abgal, a sub clan of Hawiya.

- Afgoi-Bar Ismail checkpoint is under the control of al-Shabaab.

- Siinka Dheer checkpoint in the Elasha neighborhood is under the control of Al-Shabaab.

[...] The soldiers and militias at the checkpoint gave our correspondent a wide range on the amount of money extorted from each location. Mohamed Elmi, a cashier at Sarkuusta checkpoint, told Somalia Report that they make US\$400 to US\$700 daily and sometimes more. "It depends on the traffic and load being transported. During the transfer of goods such as food assistance, income is doubled," he said. Al-Shabaab is charging less than the government security forces at checkpoints, Mohamed Elmi told Somalia Report. The income from the checkpoints largely goes to the militias in direct control although kickbacks to the TFG, especially the local administrations in the districts, are regular and expected. "Sometimes more than 60% of the income goes to the militia or the government soldiers in place and 40% goes as kickbacks to the TFG. The problem starts when new officers are deployed to an area and they try changing the pre-arranged split among the militia or the soldiers," Abdifitah Omer, government officer at the Ex-Control Afgoi told Somalia Report. Less infighting tends to occur at checkpoints controlled by the al-Shabaab insurgents who recently vacated the capital but maintain checkpoints on the outskirts of the city. "Even taxes in the al-Shabaab are far less below than the other checkpoints in the government-held areas," said Halima Abdikadir, a resident in Elasha neighborhood. "At the Sarkuusta checkpoint held by the TFG security forces, the public mini-buses from Afgoi to Mogadishu pay 50,000 Somali Shillings on the first trip and never pay again as it shuttles throughout the day in contrast with the al-Shabaab checkpoint at Elasha where mini-bus public transport pay 30,000 to 20,000," Halima explained to Somalia Report. The highest tax revenue comes from the large trucks carrying goods and passengers traveling between the capital and the rest of the country. These trucks pay 3 to 10 million Somali Shillings during travel between Mogadishu and Garowe. Sometimes checkpoints are located in residential areas belonging to the families of the soldiers and militia who work at that checkpoint and can even stimulate local businesses as the clans donate extorted money to their families and friends.

Excerpt from October 2011 Somalia OGN

3.6.11 The government says it intends to step up efforts to eradicate Al-Shabaab from the rest of the country and has started clearing some of the main roads which had been closed during the four year insurgency.³⁸ Following Al-Shabaab's withdrawal, the UN Joint Security Committee, which was created in 2008 under the Djibouti Agreement, met in Mogadishu for the first time since its establishment. All eight of its previous meetings were held outside Somalia. As a further indication of the improved security situation in Mogadishu, there were also several high-level visits by foreign officials, including the UK's secretary of state for international development and Turkey's prime minister. Turkey announced it would establish an embassy in Somalia.³⁹ Prior to Al-Shabaab's withdrawal, the UN had already increased the numbers of its personnel operation on the ground, due to increased security in Mogadishu.⁴⁰ AMISOM had also decided to relocate its civilian staff from Nairobi back to Mogadishu due to improved security.⁴¹ Since withdrawal AMISOM and TFG forces now control about 95% of the capital and are fully deployed in all the districts of Mogadishu, except those of Daynille and Huriwa. Plans are underway to deploy to those districts as soon as additional forces are inserted into the mission area.⁴²

It also appears that the OGN inaccurately represents the UN source cited as 40 in the above highlighted paragraph 3.6.11. The original source in fact again only expresses an intention to increase personnel on the ground, and that staff had only been increased at Mogadishu airport (emphasis added):

➤ [UN Security Council, Report of the Secretary-General on Somalia, 28/04/2011](#)

[...] 50. On 4 April 2011, Prime Minister Mohamed addressed a letter to me concerning the United Nations presence in Somalia. He urged United Nations offices, agencies and funds to relocate to Somalia within 90 days to help support the Transitional Federal Government. In response to his call, **my Special Representative met the Prime Minister and expressed the commitment of the United Nations to increase its presence in the country, particularly in Mogadishu, as soon as security and safety conditions allow.** Currently, 850 United Nations staff are stationed in Somalia, including in the capital.

51. At the same time, the establishment of a “light footprint” in Mogadishu has progressed significantly since December 2010. The Department of Safety and Security has approved additional security compliant accommodations within the AMISOM protected area at the Aden Adde International Airport. **In January, the authorized United Nations international staff ceiling for Mogadishu was increased from 14 to a maximum of 52 staff.** The United Nations Mine Action Service, the World Food Programme (WFP), the United Nations Support Office for the African Union Mission in Somalia (UNSOA), the Department of Safety and Security and UNPOS currently maintain a presence of international staff members on a rotational basis, normally averaging 24 to 28 staff per day. [...] **[Emphasis added]**

In addition to continued security incidents taking place in Mogadishu, additional information available in the public domain continues to document the limited resources and the continued inadequacy of the security forces in Mogadishu – see also the sources included above from page 14 onwards documenting fighting between different armed groups nominally falling under the control of the TFG, as well as robberies, rapes, and shootings of civilians by TFG aligned armed groups:

➤ [UN Political Office for Somalia Press Conference with the Special Representative of UN Secretary-General for Somalia, 31/10/2011](#)

[...] In this last effort to clear Al Shabaab in the northeastern corner of the city, we are witnessing a combination of conventional warfare as well as terrorist attacks warfare. And it is, of course, quite a challenge and in a sense an important reminder to the troop-contributing countries and to the international community that we must expedite the deployment of the remaining 3,000 troops which have authorized by the Security Council. The renewal of AMISOM’s mandate on 30 September did, indeed, underscore the need for getting this deployment as quickly as possible and we do hope that the African countries will deploy these troops soon, and, of course, we continue to call on the international community to provide the necessary equipment the mission needs, especially what are called enablers, like helicopters and engineering teams to confront these new challenges. Simply put, there is the need for a reorientation of the fighting forces of AMISOM to deal with these unconventional methods of warfare. [...]

➤ [Agence France Presse, Somalis flee Mogadishu district ahead of feared assault, 12/10/2011](#)

[...] Although AU-force commanders say their 9,000-strong force control 95 percent of Mogadishu, it remains overstretched and unable to ensure effective security of the war-ravaged city. [...]

➤ [OHCHR, Somalia / Suicide attack: UN expert calls for an international protection force to shield civilians, 05/10/2011](#)

[...] The Independent Expert on the situation of human rights in Somalia, Shamsul Bari, condemned in the strongest terms Tuesday’s suicide attack in Mogadishu, and called on the international community to deploy an international protection force to support the African Union Mission in Somalia (AMISOM) “to protect innocent civilians from these unacceptable crimes and contribute to the stabilization of the country.”

“I am shocked and appalled by the clearly deliberate murder of a significant number of innocent Somali citizens, most of them students and devoted civil servants,” Mr. Bari said. “It was with great sadness that I

learned that at least 65 people lost their lives in this suicide attack, many of them students standing waiting for their exam results, and hoping for scholarships to Turkey and Sudan.”

One of the greatest tragedies of the prolonged crisis in Somalia has been that several generations have been deprived of education, Bari said recalling a very similar attack at a graduation ceremony in December 2009. “These attacks, which targeted some of the country's very few university-level students, as well as the dedicated civil servants working to enhance Somali public institutions and social services under extremely difficult circumstances, are a direct blow to the fabric -- and future -- of the nation.”

The UN rights expert said he had hoped that the recent withdrawal of Al-Shabaab from Mogadishu would open up a new era of peace and stability, and urged the international community “to step up and consider deploying an international protection force to complement the work of AMISOM to stabilize the capital and protect innocent civilians.”

Mr. Bari also called on the international community “to strengthen the capacity of the Somali Government to investigate this appalling crime and to prosecute the perpetrators to the fullest extent of the law.” [...]

➤ [UN News Centre, Security Council calls for increase in African peace force in Somalia to 12,000, 30/09/2011](#)

[...] The Security Council today called on the African Union (AU) to urgently increase the strength of its peacekeeping force in Somalia (AMISOM) to its mandated level of 12,000 to enable it to better carry out its United Nations-authorized mandate to stabilize the war-torn country.

In a unanimously adopted resolution, the 15-member body extended AMISOM’s authorization until 31 October 2012, and called on Member States and regional and international organizations to provide additional equipment, technical aid and funding to the enlarged force, which since 2007 has been trying to bring peace to a country that has had no functioning central government for the past 20 years, during which it has been torn apart by factional fighting.

AMISOM currently has some 8,000 troops on the ground and early last month Al-Shabaab Islamist militants withdrew from Mogadishu, the capital, under pressure from the force in what UN officials have called an “extraordinary moment” of opportunity for progress to strengthen the transitional authorities as they prepare to set up a permanent democratic government by next August.

The Council called for a more permanent and increasing UN presence in Somalia, particularly Mogadishu, noted that this placed additional security pressure on AMISOM, and urged collaboration with the AU to develop an appropriate guard force within AMISOM’s mandated levels to provide security, escort and protection services to personnel from the UN and the international community.

With regard to launching a UN peacekeeping operation it noted that any such decision would have to take into account conditions set out by Secretary-General Ban Ki-moon in a report in April 2009, which include assurances of security for UN personnel and a political process that has gelled enough to permit the diverse political actors to agree on such a force. [...]

➤ [United Nations Security Council, Report of the Secretary-General on Somalia, 30/08/2011](#)

[...] B. Security situation

[...] 17. Al-Shabaab’s withdrawal from Mogadishu has compelled AMISOM and Transitional Federal Government troops to become overextended. The Transitional Federal Government has imposed martial law on the newly vacated areas and created a “Mogadishu Security Plan”, which calls for the Somali Police Force to occupy the vacated areas. [...]

D. Progress towards full deployment and strengthening of the African Union Mission in Somalia

56. The force strength of AMISOM has remained at approximately 9,300 since the deployment of 1,000 Burundian troops in March. The African Union has received firm offers of additional troops from Burundi, Djibouti, Sierra Leone and Uganda to enable AMISOM to reach its authorized force strength of 12,000 in line with Security Council resolution 1964 (2010).

57. UNSOA continues to provide logistical support to AMISOM comprising essential supplies and equipment, engineering and construction, medical equipment, supplies and services, aviation and transportation, strategic telecommunications capability, public information support and training. The United Nations Office to the African Union continued to assist the African Union Commission in finalizing the force generation and participated in three predeployment inspections and visits.

58. Resource gaps continue to adversely affect the effectiveness of AMISOM. Essential self-sustainment requirements that go beyond the logistical support package have fallen short of fulfilling its requirements. AMISOM lacks the most basic and essential supplies and services, such as catering, communications and

information technology, cleaning and sanitary supplies, and welfare, which would be integral to the support provided or reimbursed to a troop contributor in a United Nations peacekeeping mission. Reimbursement to troop contributors for contingent owned equipment is now five months in arrears owing to insufficient resources in the trust fund. [...]

The CG case [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#), which was promulgated after the publication of the OGN, finds that “there remains in general a real risk of Article 15(c) harm for the majority of those returning” to Mogadishu. The Court specifically rejected the Secretary of State’s case that in TFG controlled areas of the city there was no such risk. The judgement specifically states:

Country guidance

Mogadishu

- 1) *Despite the withdrawal in early August 2011 of Al-Shabab conventional forces from at least most of Mogadishu, there remains in general a real risk of Article 15(c) harm for the majority of those returning to that city after a significant period of time abroad. Such a risk does not arise in the case of a person connected with powerful actors or belonging to a category of middle class or professional persons, who can live to a reasonable standard in circumstances where the Article 15(c) risk, which exists for the great majority of the population, does not apply. The significance of this category should not, however, be overstated and, in particular, is not automatically to be assumed to exist, merely because a person has told lies.*

[...] The Tribunal’s findings

[...] (a) Article 15(c)

- [...] 340. Although we accept the respondent’s evidence regarding the battle lines that had formed in Mogadishu, prior to Al-Shabab’s withdrawal, as a result of which TFG-controlled areas in the south of the city were not part of the main conflict zone, the appellants’ evidence, which we have cited above, indicated not only that – immediately before that withdrawal - such areas were not “safe” (a standard far lower than that required for Article 15(c)) but that they remained places where civilians could properly be said to run Article 15(c) risks, both from the asymmetrical warfare which Al-Shabab was even then tending to use in those areas but also from undisciplined elements of the TFG’s forces.

However, the Court found that the armed conflict in Mogadishu does not pose “a real risk of Article 3 harm in respect of any person in that city”, but Article 3 could be invoked depending on the individual’s particular circumstances: “a returnee could face a real risk of a violation of art. 3 by reason of his or her vulnerability” in the context of the humanitarian situation in Mogadishu, e.g. a woman and children without family or social support may be at risk owing to increased susceptibility to opportunistic attack (para. 369).

Country guidance

Mogadishu

- 2) *The armed conflict in Mogadishu does not, however, pose a real risk of Article 3 harm in respect of any person in that city, regardless of circumstances. The humanitarian crisis in southern and central Somalia has led to a declaration of famine in IDP camps in Mogadishu; but a returnee from the United Kingdom who is fit for work or has family connections may be able to avoid having to live in such a camp. A returnee may, nevertheless, face a real risk of Article 3 harm, by reason of his or her vulnerability.*

[...] **The Tribunal's findings**

[...] **(b) Article 3**

[...] *Humanitarian situation*

[...] 369. Conversely, a returnee could face real risk of a violation of Article 3, by reason of his or her vulnerability. For example, a woman with children returned without any family and without family support in Mogadishu from those already there, may well suffer treatment proscribed by Article 3, regardless of any financial assistance provided by the United Kingdom Government, given her increased susceptibility to opportunistic attack.

Human rights violations: Al-Shabaab/other armed groups 3.6.14-3.6.19

It is considered that it is misleading to include this sub-section within the main category of claim 3.6 *General country situation in southern and central regions* and that it should rather form a distinct category of claim, as was the case for the previous OGN of July 2010. This is especially the case given that the current *Actors of Protection* section does not specifically address the fact that it is not possible to access effective state protection for persons fearing persecution from Al-Shabaab. See [page 81](#) below for COI on this point. Moreover, COI included in this section both inaccurately represents the original sources cited and is not fully representative of the situation as reported in the public domain and as found in the most recent CG case promulgated since the publication of the OGN.

Excerpt from October 2011 Somalia OGN

3.6.14 Human Rights Watch reported in January 2011 that in many areas Al-Shabaab rule brought relative stability and order. Residents from some of these areas credit Al-Shabaab with ending a constant menace of extortion, robbery, and murder from bandits and freelance militias. Many local administrations have sought to implement harsh and intolerant measures in the name of Sharia law including the way people dress and work. The punishments for even minor offences are often summary, arbitrary and cruel. A climate of fear prevents most people from speaking out against abuses of power. In many areas women have been barred from engaging in any activity that leads them to mix with men, even small-scale commercial enterprises on which many of them depend for a living.⁴

It is considered that the first highlighted sentence above portrays an overly positive view of the situation in Al-Shabaab controlled areas. Note the difference between this and the original source (emphasis added):

➤ [Human Rights Watch, World Report 2011: Somalia, 24/01/2011](#)

[...] Abuses in Opposition-Controlled Areas

South-central Somalia was under the control of local administrations linked to armed opposition groups throughout 2010. In many areas al-Shabaab rule brought relative stability and order, **which contrasts dramatically with the chaos in Mogadishu**. Residents from some of these areas credit al-Shabaab with ending a constant menace of extortion, robbery, and murder from bandits and freelance militias. **But even where this holds true, security has come at a steep price, especially for women.**

Grinding repression characterizes daily life in communities controlled by al-Shabaab, and many local administrations have sought to implement harsh and intolerant measures in the name of Sharia law. These measures control minute details of personal lives, including the way people dress and work. The punishments for even minor offenses are often summary, arbitrary, and cruel. A climate of fear prevents most people from speaking out against abuses of power. As one resident of the southern town of El Wak said, "We just stay quiet. If they tell us to follow a certain path, we follow it."

Freedoms women took for granted in traditional Somali culture have been dramatically rolled back. In many areas women have been barred from engaging in any activity that leads them to mix with men, even small-scale commercial enterprises on which many of them depend for a living. Al-Shabaab authorities

have arrested, threatened, or whipped countless women for trying to support their families by selling cups of tea.

Al-Shabaab and other opposition forces often threaten to kill people they suspect of harboring sympathies for their opponents or who resist recruitment. These are not empty threats; opposition groups have murdered civilians regularly and with complete impunity. [...]

Excerpt from October 2011 Somalia OGN

3.6.15 In its August 2011 report, Human Rights Watch stated that Somalis fleeing from Al-Shabaab-controlled areas continued to report widespread human rights abuses including public beheadings and floggings; forcible recruitment of both adults and children into its forces; **the imposition of onerous regulations on nearly every aspect of human behaviour and social life** and deprivation of badly needed humanitarian assistance, including food and water. Al-Shabaab's strict interpretation of Sharia is the basis for much mistreatment. Women are caned or arbitrarily detained for greeting men, including relatives, in public. **Al-Shabaab bans most recreational activities, including watching and playing football, and singing. Those who violate these prohibitions also risk beatings.** Both women and men are subjected to conservative dress codes (such as covering of female heads and limbs, wearing black) and are punished if they do not comply. During recent military operations, particularly the —Ramadan offensive,^{ll} (an offensive launched by Al-Shabaab in Mogadishu against TFG and AMISOM which triggered intense fighting late August/early September 2010) reports of recruitment of children by Al-Shabaab increased dramatically.⁴⁹

In addition to persons who violate Al-Shabaab prohibitions being at risk of beatings, additional COI further corroborates that “punishments for even minor offences are often summary, arbitrary and cruel” as detailed above by Human Rights Watch in paragraph 3.6.14 of the OGN above:

➤ [Somalia Report, Selling Music Costs Lives in Mogadishu, 23/11/2011](#)

Two young men in a music store were killed Tuesday night in the Somali capital Mogadishu, as violence against places of entertainment grows. One of the killed, Mahad, was the store owner while the other, Abdifitah Ramoole, was collecting some music, witnesses said. “One masked man shot the two men in the head several times in close range,” Ahmed Hussein, a shopkeeper, told Somalia Report. “The owner died instantly but the other man later succumbed to his wounds.” The assassin escaped, but residents say they believe the men were targeted by militant Islamist group al-Shabaab, which also carried out a grenade attack on a cinema last week. The hardline insurgent group has instituted bans on a variety of pursuits, including listening to music, watching movies and playing football. “Regarding the way they were killed, I think al-Shabaab is responsible,” Kulane Warsame, a resident in the Labodhagah neighborhood where the killings took place, told Somalia Report. “They shoot people in the head and ... al-Shabaab does not like music or films.” [...]

➤ [Amnesty International, Human rights concerns in southern and central Somalia, 18/10/2011](#)

[...] 3. Targeted human rights abuses

[...] Persons linked with the TFG are at high risk of being killed, abducted, tortured and otherwise threatened by armed Islamist groups; they include members of the government, parliamentarians, judges, district officers or former officials. But the perception of being linked or sympathizing with the TFG, is sometimes considered enough reason to be targeted: women selling tea to TFG soldiers have been flogged or otherwise punished by al-Shabab members, and persons coming from TFG areas in Mogadishu are sometimes suspected by the armed groups of being spies. [...]

Throughout 2009 and 2010, reports of incidents of torture and unlawful killings carried out by armed opposition groups have increased. There has been a worrying trend of individuals stoned to death, publicly shot dead, amputated and flogged on the orders of quasi-judicial bodies operated by local leaders linked to armed groups. There is little information about the way the “courts” of armed opposition groups operate, but individuals “tried” under these bodies do not appear to benefit from any due process guarantees, including legal representation or possibility of appeal. These acts violate international humanitarian law, which armed opposition groups are obliged to respect. Declarations attributed to al-Shabab local leaders ostensibly claim that such acts are carried out to impose conformity with their interpretation of Islamic law.

However, several testimonies gathered by Amnesty International show that many such abuses target persons suspected of opposing al-Shabab or who refuse to comply with an al-Shabab order. Many of these acts are carried out in public. Amnesty International believes that armed groups aim, under the pretext of maintaining law and order, at intimidating and instilling fear in the civilian population, through public displays of cruelty and violence, in order to assert their control over territory. [...]

➤ [Observatory For the Protection of Human Rights Defenders FIDH/OMCT, Steadfast in Protest, October 2011](#)

[...] Somalia

[...] Political context

[...] In areas under control of Al-Shabab, execution for alleged spies, amputation of suspected thieves, beating or other types of extrajudicial punishment for breaching orders on social behaviour or dress codes such as bans on playing music, were among the violations reported5. [...]

➤ [U.S. Department of State, July-December, 2010 International Religious Freedom Report, 13/09/2011](#)

[...] Abuses by Rebel or Foreign Forces or Terrorist Organizations

Violent conflict between jihadist groups and the TFG continued during the reporting period. These groups were aligned with al-Shabaab, which the U.S. Secretary of State designated as an FTO in 2008.

In the areas it controlled, al-Shabaab systematically enforced bans on cinemas and forbade watching the World Cup on television. It also prohibited the sale of khat (a narcotic) in towns, smoking, music, and any behavior it deemed un-Islamic such as shaving beards and inappropriate haircuts. Al Shabaab also enforced a strict requirement that women be fully veiled.

[...] In early June Hisbul Islam militia issued a prohibition on watching World Cup games. On June 12, Hisbul Islam militia stormed a structure where youth were watching a game. The militia reportedly shot two boys as they fled to avoid arrest. Some World Cup fans abandoned their homes in Hisbul Islam-controlled areas in Mogadishu to watch the games in TFG-controlled areas of the city.

[...] On July 25, al-Shabaab banned persons from keeping television sets and satellite dishes in their homes and ordered them to surrender their equipment.

On August 21, al-Shabaab arrested an estimated 20 men in Kismayu for chewing khat, smoking cigarettes, or eating before sunset during the month of Ramadan. Al-Shabaab made similar arrests in Dinsoor, Bay Region; those arrested were each given 25 strokes with a cane for nonobservance of the fasting period.

On August 22, in Galgaduud Region, in a rare incident for ASWJ, the group ordered women to wear the hijab and banned residents from viewing films in public video parlors and from using mobile phones. These bans were only in effect during the month of Ramadan.

On November 1, al-Shabaab militia in Jowhar arrested an estimated 20 men for refusing al-Shabaab orders to grow beards, trim moustaches, and shorten pants.

On November 10, al-Shabaab militia beheaded four persons in Waradhumale in Galgaduud Region for their association with ASWJ.

On November 16, al-Shabaab militias kidnapped Sheikh Abdirahman Ahmed Roble, a prominent imam, shortly after he led Eid prayers in Mogadishu's Livestock Market neighborhood. It is not clear why Roble was kidnapped. On the same day in a separate incident, al-Shabaab militia attacked worshippers in Baidoa mosques for disobeying al-Shabaab orders to conduct Eid-al-Adha prayers only at the main Baidoa football stadium.

On November 22, al-Shabaab flogged a young woman and man in the central Somali town of Jalalqsi allegedly for eloping.

On November 28, al-Shabaab arrested an estimated 30 women khat traders for selling khat inside Kismayu Town. In 2009 al-Shabaab gave orders that khat can only be sold in designated areas outside the towns they control. [...]

➤ [Society for Threatened Peoples, Written statement * submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status, 12/09/2011](#)

[...] The strict application of Muslim Sharia law in areas controlled by Al Shabaab and other Islamist groups has raised many concerns about the respect of basic human rights. Civilians fleeing from Al Shabaab controlled areas are reporting widespread human rights violations: Public beheadings and floggings,

deliberate arrests of women for not wearing special veils or of teenagers who watched films on their mobile phones. [...]

- [IASC Somalia, Protection Cluser Update, 09/09/2011](#)
[...] A 28 year old IDP woman who was celebrating the end of Ramadhan was shot by Al Shabaab militia in Lafole IDP camp in the town of Kismaayo, Lower Juba on the Eid day. The woman was allegedly shot for wearing clothes classified as prohibited by the Al Shabaab authorities. The woman was rushed to the Kismaayo hospital, but died on the way.³⁷ (30 August) [...]
- [United Nations, Report of the Secretary-General on Somalia, 30/08/2011](#)
[...] 29. Non-State armed actors continue to perpetrate serious human rights violations, including summary executions of civilians associated with parties to the conflict. Unlawful arrest and detention and acts amounting to torture and other inhumane, cruel and degrading practices, such as flogging, amputations and stoning, also took place during the reporting period. [...]
- [United Nations, Report of the independent expert on the situation of human rights in Somalia, Shamsul Bari, 29/08/2011](#)
[...] V. Developments relating to human rights in South-Central Somalia
A. Protection of civilians
[...] 31. [...] Al-Shabaab, on the other hand, continues to perpetrate serious violations of humanitarian and human rights law, including summary executions of civilians associated with the Government, unlawful arrest and detention and acts amounting to torture and other inhumane, cruel and degrading practices, such as flogging, amputation and stoning.
[...] D. Freedom of expression and opinion
35. [...] Al-Shabaab reportedly continues to place unlawful and arbitrary limits on freedom of opinion and expression, including by blocking radio signals and prohibiting listening to certain radio stations and news. Failure to obey these orders has been met with punishments to both media house staff and individuals caught listening to banned stations. [...]
- [Human Rights Watch, "You Don't Know Who to Blame?; War Crimes in Somalia", 14/08/2011](#)
[...] Al-Shabaab
Al-Shabaab continues to carry out executions as punishment for alleged crimes, often with little or no legal process. In many cases, the executions take place in public. In Afmadow district in early April al-Shabaab executed two mentally ill people whom the group suspected of being spies. According to O.L., an asylum seeker from the area, the two may have come under suspicion because they were among the only people who had not fled the town after al-Shabaab stopped allowing humanitarian agencies to provide food aid. O.L. told Human Rights Watch, "Everyone knows those two are mentally ill... [but] alShabaab thinks they are giving reports to people outside, and only pretending to be mad people... They were showered with bullets."⁶⁷ In Bula Hawo several people suspected by al-Shabaab of working with the TFG were executed.⁶⁸ One such case involved a man named Hassan Gase, who was executed in Bula Hawo in January on suspicion of working for the TFG.⁶⁹The public nature of many of the executions subjects the populace to an extraordinary level of violence. One woman from Jilb told Human Rights Watch, "I've witnessed this with my own eyes—people being beheaded, hands chopped off. They're put on a chair and their heads are chopped off, in public. If they refuse to join jihad they are killed."⁷⁰ [...]
- [Amnesty International, In the line of fire: Somalia's children under attack, 20/07/2011](#)
[...] 6. OTHER TARGETED HUMAN RIGHTS ABUSES AGAINST CHILDREN
[...] "PUNISHMENT" KILLINGS CARRIED OUT IN PUBLIC IN AREAS UNDER AL-SHABAB CONTROL
Armed Islamist groups, particularly al-Shabab, have become known for calling on the local population, including children, in areas they control to watch public killings of persons they accuse of being spies or opponents or those they say have committed offences deemed punishable by death under their interpretation of Shari'a. Amnesty International believes that al-Shabab militias intend to instil fear and ensure submission among the local population through public displays of cruelty and thus to assert their control over territory and prevent any possibility of dissent.⁹⁵ Al-Shabab often announces to local media that people they publicly kill have been "tried" and "convicted" by local Shari'a courts or judges. From the

available information about the way al-Shabab-operated “courts” function, people accused by al-Shabab do not seem to benefit from any due process guarantees, including legal representation or possibility of appeal. Such acts contravene international humanitarian law, which al-Shabab, as an armed group party to an internal armed conflict, is obliged to respect and which prohibits, inter alia, “violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture” and “the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court” (Common Article 3 to the Geneva Conventions). Although such killings appear to have mainly targeted adults, in a few cases children have also been victims of such acts. On 27 October 2010, the media reported that al-Shabab shot dead two teenage girls they accused of spying in Beletweyne. Town residents were reportedly forced to come and watch the killings.⁹⁶ The girls were reportedly 18 year old Ayan Mohamed Jama and 15 year old Huriyo Ibrahim. There had been fighting between al-Shabab and pro-TFG militia near Beletweyne in the days preceding the killings. Local sources told Amnesty International that they believed the killings were committed to show to the population that al-Shabab was firmly back in control of the town. In October 2008, al-Shabab members in Kismayo stoned to death a 13-year-old girl, Asho Ibrahim Duhulow, who was previously raped by three men, in front of a crowd of residents they had called to watch the killing. Al-Shabab claimed that she was in her twenties and had committed “adultery”.⁹⁷ Amnesty International met the parents of the girl, who confirmed that she was 13 when she was killed and that she had travelled to Kismayo from the Dadaab refugee camps in Kenya, possibly lured by the men who raped her.

TORTURE AND OTHER ILL-TREATMENT OF CHILDREN UNDER AL-SHABAB RULE

As described above, when taking over villages and cities, al-Shabab factions impose strict rules on residents in order to enforce the group’s control through fear and violence. Children have described suffering floggings by al-Shabab members, often because they did not conform to specific dress codes and rules imposed by al-Shabab. In most areas under al-Shabab control, women and girls have been forced to wear the hijab (Islamic headscarf), or the abaya (a traditional Islamic over-gown). Women and girls found not wearing such clothing have been punished with flogging, often on the spot. A 14 year-old girl who fled Baidoa in January 2010 said: “I was beaten up by al-Shabab when I was in Somalia because of the way I dressed. They wanted me to wear “heavy clothing” and so they beat me with a cane. There were two men who beat me and it happened as I was coming from the market. They beat me four times and then I was able to run away.” A 19 year-old girl who left Mogadishu in December 2009, described how she was flogged in public for not wearing a veil: “If you don’t dress the way al-Shabab wants you to, then they will threaten you and will carry you in front of people and will beat you with sticks. Once they threatened to beat me for not wearing the right clothes. I was beaten in front of people. They tied my hands together and they beat me on the back. I was struck once with a kind of whip made out of 35 straps. This happened in 2009. I was beaten in a place where people gather – al-Shabab tells them to gather and people give their money and valuables to al-Shabab as donations.” A 13 year-old girl who left Baidoa in early 2010 told Amnesty International that al-Shabab even beat her up for not wearing the hijab at home: “I was living in Baidoa. Al-Shabab were beating people up. They tell you that you have to wear heavy clothes. Al-Shabab came to my house and beat me up. There were five men who beat me. Even inside the house I was told that I had to wear a hijab. They were carrying a cane called a kalabash. I was caned twice and they also caned my mother.” Such rules have particularly affected women and girls. In some areas al-Shabab local leaders have also ordered men and boys to wear trousers that end just above the ankle. Children have also been flogged after being accused of not praying at the right time. A 15 year-old boy who fled Baidoa in late 2009 said: “Al-Shabab were beating people up. They would ask you ‘why aren’t you praying?’ Two men beat me up as they were telling me to pray outside my house. They beat me on my back with a cane.” Other children described being flogged for reasons other than not conforming to the strict dress codes and rules imposed by the armed group. According to a 17 year-old girl from Mogadishu: “Once I was with some girls on the way to school and we were asked by al-Shabab which group we supported. We kept silent. They beat us with some canes and then we were able to continue. This happened in January 2010. Several times they chased us but we ran away.” A 13 year-old girl who fled Somalia in January 2010 said: “It was because of the fear of al-Shabab that we decided to come here. It took us 10 days to get here. We were stopped by al-Shabab on the road and they asked us where we were going. We told them that we were going to Dadaab and they caned everyone who was in the lorry we came in. I was beaten with a cane three times. After we were beaten, they let us go. They wanted to know why we wanted to leave the country but after they beat us, they let us go.” [...]

➤ [Minority Rights Group International, State of the World's Minorities and Indigenous Peoples 2011, 06/07/2011](#)

[...] Somalia

[...] The version of Shari'a law that al-Shabaab enforces severely breaches international standards and includes a number of 'morality laws', such as dress codes for women, the systematic closure of cinemas, and bans on smoking, *khat*, music, television and sport. Both Amnesty International and HRW reported that girls in Mogadishu and other al-Shabaab-controlled regions, as well as in IDP camps and refugee camps in Kenya, were being forced to cook and clean for al-Shabaab soldiers, and were also forced to marry them in some instances. MRG and Al Arabiya also reported that al-Shabaab conscripted Bantu and Madhiban children into their militia.

[...] A 2010 HRW report also revealed severe restrictions placed upon women by al-Shabaab, including the continued obligation to wear the abaya, a garment supplied by al-Shabaab, which covers the entire body. Due to its expense, families can often only afford one per household, which in turn limits freedom of movement, as only one woman can leave the house at a time. [...]

➤ [U.S. Department of State, Country Report on Human Rights Practices 2010: Somalia, 08/04/2011](#)

[...] e. Denial of Fair Public Trial

[...] In areas that al-Shabaab controlled, Sharia was enforced; however, there were no trained Sharia judges to preside over cases. Al-Shabaab's interpretation of Sharia law resulted in uneven and at times draconian sentencing. For example, on July 26, al-Shabaab militia publicly flogged a young man and woman in Mogadishu's Livestock Market in the Huriwaa district for allegedly having sexual intercourse outside of wedlock. An al-Shabaab "judge" announced that the young woman confessed to the relationship, and she was consequently whipped 100 lashes. The young man denied the charges and was subsequently whipped 30 lashes.

[...] g. Use of Excessive Force and Other Abuses in Internal Conflicts

[...] Al-Shabaab and other extremist groups summarily executed an unknown number of persons whom they accused of spying for the "enemy"—the TFG and AMISOM—and other specious charges in Somalia's South and Central regions. On May 26, for example, an al-Shabaab firing squad executed Mohamed Gaboobe, whom al-Shabaab had accused of murder. On July 1, Al-Shabaab militia executed 20-year-old Mohamed Guleid Hosh, who was accused of insulting the Prophet Muhammad. In January 2009 al-Shabaab publicly executed by firing squad Abdirahaman Haji Mohamed "Waldire" after an al-Shabaab court convicted him of espionage and apostasy; Ahmed was a prominent Juba Region politician and militia leader. On September 28, al-Shabaab publicly executed two young men in Mogadishu after an al-Shabaab court convicted them of espionage. On July 9, al-Shabaab publicly executed 38-year-old former TFG military trainer Ibrahim Abdikadir Hasan by firing squad in Baidoa. Hassan was arrested in March on charges of being a spy for Ethiopia. Similarly, extremist armed groups in the Juba, Bay, and Bakol regions arrested and beheaded several persons they accused of spying. For example, on November 10, al-Shabaab militia beheaded four people in Waradhumale in Galgaduud Region for their association with ASWJ, a group they perceived as having strong ties with the TFG. In addition, on October 27, al-Shabaab executed two teenage girls, Ayan Mohamed Jama, 18, and Huriyo Ibrahim, 15, in the al-Shabaab-controlled town of Belet Weyne after an al-Shabaab "judge" sentenced the girls to death for spying. They were executed while blindfolded and handcuffed after a hearing in which no evidence was presented nor was legal representation allowed. In July 2009 al-Shabaab from Bay and Bakol regions beheaded an elderly disabled man after removing his eyes. In a move to frighten and intimidate the citizenry, al-Shabaab reportedly fitted the man's spectacles on his dismembered head and publicly displayed it. On July 26, Hisbul Islam militia in Afgoe, Lower Shabelle, executed a man accused of defiling a 12-year-old girl. The man was buried waist-deep and pelted with stones until he died. As was common in public executions, the militia rounded up members of the community to compel them to witness the execution.

[...] Physical Abuse, Punishment, and Torture

On April 26, in Mogadishu's Deyniile District, al-Shabaab chopped off the right hand of an alleged thief and executed an accused murderer. An al-Shabaab "Sharia" judge claimed Shiine Abukar Hersi, whose right hand was amputated, was charged with stealing used bedding. An al-Shabaab firing squad executed Mohamed Ahmed Qasim, whom the al-Shabaab judge accused of murder. On July 16, al-Shabaab militia amputated the right hands of two young men in Balad. The al-Shabaab court convicted the two, Murshid Ahmed Adan and Hassan Omar Mohamed, of robbery. The al-Shabaab judge claimed Aden and Mohamed confessed to stealing 45 million Somali shillings (\$1,400) and two million Somali shillings (\$60)

respectively. As in previous years, Al-Shabaab carried out these amputations and other violent physical punishment in front of community members whom they forced to attend. Al-Shabaab carried out numerous other crude punishments on specious grounds in areas under their control in South and Central Somalia. Al-Shabaab used torture on TFG members and individuals suspected to be sympathetic to the government.

[...] On August 16, a passerby rescued an unconscious man who was dumped in Dayniile. The man indicated that al-Shabaab militia members had abducted him and two others from their workplace in the Bakara market and cut out their tongues; the two other men had already bled to death. Al-Shabaab targeted them on suspicion that they were spies. On April 24, five headless bodies were found in Mogadishu; residents identified the victims as construction workers who participated in the renovation of Somalia's former parliament building. Observers believed that al-Shabaab targeted these men for "aiding the enemy."

[...] Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

[...] Academic Freedom and Cultural Events

[...] There were no official restrictions on attending cultural events, playing music, or going to the cinema outside of al-Shabaab controlled areas.

[...] d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

[...] However, ad hoc checkpoints operated by armed militias, clan factions, TFG-allied groups, and al-Shabaab and its affiliates inhibited passage and exposed travelers to looting, extortion, and harassment, particularly civilians fleeing conflict. [...]

➤ [BBC News, Somalia's al-Shabab bans mixed-sex handshakes, 07/01/2011](#)

[...] Men and women have been banned from shaking hands in a district of Somalia controlled by the Islamist group al-Shabab. Under the ban imposed in the southern town of Jowhar, men and women who are not related are also barred from walking together or chatting in public. It is the first time such social restrictions have been introduced. The al-Shabab administration said those who disobeyed the new rules would be punished according to Sharia law. The BBC's Mohamed Moalimuu in Mogadishu says the penalty would probably be a public flogging. The militant group has already banned music in areas that it controls, which include most of central and southern Somalia. [...]

See also [pages 125](#) onwards for information on the forced recruitment of minors by Al-Shabaab.

Excerpt from October 2011 Somalia OGN

3.6.16 Recently arrived asylum seekers in Kenya told Human Rights Watch that Al-Shabaab attempted to prevent some Somalis from fleeing the country, including by blocking roads primarily around Dhobley, stopping buses, arresting and detaining some individuals—although generally temporarily. In July, the UN Office for the Coordination of Humanitarian Affairs (OCHA) was still reporting Al-Shabaab prohibitions on people leaving areas under their control. Al-Shabaab has set up predatory —taxingll structures claimed to be on the basis of the Quran. The group demands zakah—a Muslim religious duty to purify the soul through giving alms—from families. Many asylum seekers told Human Rights Watch that in the name of zakah, Al-Shabaab confiscated so much money and livestock that they were no longer able to survive. Those who expressly support political groups other than Al-Shabaab do so at grave risk. Both TFG and opposition forces have harassed the dwindling number of journalists still struggling to operate in Somalia.⁵⁰

The above highlighted sentence could be read to imply that Al-Shabaab has not been successful in attempting to prevent Somalis from fleeing areas under their control, and that the only punishment awarded to persons trying to flee is temporary detention. As the following non-exhaustive COI demonstrates, this is not consistent with other COI in the public domain which documents that punishments also include beatings, extra-judicial killings and sexual violence:

➤ [Amnesty International, Somalia: a humanitarian and human rights catastrophe, 26/09/2011](#)

[...] 2. in the rest of southern and central Somalia

[...] Human rights abuses against persons fleeing from one place to other other continue. Although the large-scale movement of Somali civilians across the Ethiopian and Kenyan borders have reduced since June and July 2011, many people continue to seek refuge in countries neighbouring Somalia. Those displaced to other countries have reported many instances of human rights abuses against people in flight, such as looting, extortion, and sexual violence. [...]

➤ [IRIN, Insurgents divert famine IDPs from aid, 06/09/2011](#)

[...] Al-Shabab insurgents have prevented thousands of people fleeing famine-struck parts of Somalia from reaching humanitarian assistance in Mogadishu, trucking them instead to a makeshift camp 50km south of the capital, where aid is severely limited.

"These were people who were going to Mogadishu in search of help. Instead they were brought here," said a Mogadishu-based journalist, who visited the K50 camp, where some 45,000 people now live in inadequate shelters amid the rising threat of disease and hunger.

"They have become pawns. I don't think they understand why they are not getting the same attention as those in Mogadishu," he said, requesting, like almost everyone who talks about Al-Shabab, not be identified by name.

While hundreds of thousands of people in Mogadishu have access to food and other humanitarian assistance – despite a rise in militia-manned checkpoints – insecurity prevents many international aid agencies from reaching places outside the capital, even those as close as K50.

One aid worker in the city told IRIN that Al-Shabab was stopping the displaced from reaching the city "for two reasons. One, they don't want people to abandon their area of control. Two, they don't want to be seen as unable to help the needy and their leaving is a vote of no-confidence in the group."

Inside K50 camp, "there are roughly 7,500 families [45,000 people]. They have many problems, including hunger, shortage of water, lack of shelter and very poor sanitation," a Somali aid worker there told IRIN.

"Their health is deteriorating by the day," he added. [...]

➤ [CNN Wire, Somalis fear tyranny of al-Shabaab as they flee drought-stricken areas, 05/09/2011](#)

[...] A few weeks ago, Sengaba Ibrahim began her march through the arid wasteland of Somalia's famine zones, an arduous trek not just for this 60-year-old woman, but for thousands of others who chance their lives in search of food and water in the drought-stricken region.

Traveling by foot at night, Ibrahim managed to escape an ominous threat: all along the road, Al-Shabaab gunmen manned checkpoints, targeting civilians trying to escape.

"They blocked the road for anyone coming here," Ibrahim said. "And whoever got caught, they took them to the bush and killed them." [...]

➤ [OCHA, Somalia Famine & Drought Situation Report No. 11, 30/08/2011](#)

This report is produced by OCHA Somalia in collaboration with humanitarian partners. It was issued by OCHA in New York. It covers the period from 24 to 30 August 2011. The next report will be issued on 6 September 2011.

[...] According to UNHCR, the number of people fleeing their homes in Somalia is decreasing. There has been a significant drop in the number of people arriving in Mogadishu. Between 1 and 26 August, just over 5,000 displacements were recorded into the city, compared to nearly 28,000 in July, indicating a daily average decrease from 1,000 in July to 200 in August. A decrease has also been noted in the number of daily arrivals of Somali refugees at Kenya's Dadaab camps (from 1,500 to between 1,000 and 1,200), as well as Ethiopia's Dollo Ado camps (from 1,000 to 250). The reason for this decrease appears two-fold. First, donations from the Somali diaspora and mobilisation by local and host communities in July and August to assist the affected populations during the month of Ramadan may have enabled people to remain where they were. Added to this, international and local humanitarian organisations are now better placed to deliver aid to famine affected populations in the regions of Bay, Gedo, south Bakool and Hiraan, particularly in areas along the Kenyan and Ethiopian borders. This has helped to reduce pressure on Mogadishu as a destination to seek aid. Second, UNCHR is receiving reports that Al Shabaab is continuing to place restrictions on the movement of people in areas under its control, particularly the movements of men, most notably in the Lower Shabelle and Bay regions. This has prevented large population movements, especially from Lower Shabelle, into Mogadishu. [...]

➤ [IRIN News, The nitty gritty of flight, 23/08/2011](#)

[...] IRIN recently discussed the details of their flight with several families on the Kenya-Somalia border. [...] Buni Ali Borow and family, whom IRIN met in the Ethiopian town of Doloow after their 18km trek, decided to begin their journey at night, so as to set off unnoticed. "Al-Shabab caught people leaving for the government-controlled areas in our village. They were beaten up." [...]

➤ [Human Rights Watch, "You Don't Know Who to Blame?; War Crimes in Somalia", 14/08/2011](#)

[...] Al-Shabaab Attempts to Halt Emigration

International law protects the right to freedom of movement, including the right to leave one's country.¹¹⁶ Civilians during wartime are similarly protected against arbitrary restraints on their liberty.¹¹⁷ Any prohibitions on movement imposed by a party to the conflict should be short-term measures for specified reasons to protect civilians from the effects of attack.¹¹⁸

Recently arrived asylum seekers in Kenya told Human Rights Watch that al-Shabaab attempted to prevent some Somalis from fleeing the country, including by blocking roads primarily around Dhobley, stopping buses, arresting and detaining some individuals—although generally temporarily.¹¹⁹

In July the UN Office for the Coordination of Humanitarian Affairs (OCHA) was still reporting al-Shabaab prohibitions on people leaving areas under their control.¹²⁰

K.F., 20, told Human Rights Watch that he was in a group that fled from Bula Hawo to Dhobley and then to Kenya in April 2011:

On the way we were arrested several times by al-Shabaab and they were refusing that we cross into Kenya. They told us 'As teenagers you cannot leave the country. Who is going to defend the country?' We pretended we were going back to Bula Hawo, and then took panya [back] routes.¹²¹

According to J.K., "Al-Shabaab was preventing people from leaving, so we came through hiding. Any vehicle that they see carrying people, they'll arrest."¹²²

Some who attempted to flee did not make it past al-Shabaab forces. U.W. fled Dinsor for Bula Hawo in September 2010 because of drought and al-Shabaab demands for money. He then crossed into Kenya when fighting started in Bula Hawo in January. According to U.W., "I asked my family to come from Dinsor but they were returned to Dinsor by al-Shabaab on the way. They were told 'We know you're going to Kenya,' and were forcibly returned. They were forced to return home by al-Shabaab three times. They have not arrived [in Kenya] up to now."¹²³

Apparently, to frighten those who had fled its areas into returning, al-Shabaab threatened to attack Kenya if asylum seekers who had fled from Bula Hawo to Mandera in Kenya remained abroad. The group posted tracts throughout Mandera advertising this threat. Several asylum seekers returned to Somalia out of fear of an attack on Mandera.¹²⁴ [...]

➤ [U.S. Department of State, County Reports on Human Rights Practices, 08/04/2011](#)

[...] There was a general reduction of checkpoints prevalent in South and Central regions in Somalia since 2009, and Puntland security forces dismantled ad hoc checkpoints run by armed clan militias. However, ad hoc checkpoints operated by armed militias, clan factions, TFG-allied groups, and al-Shabaab and its affiliates inhibited passage and exposed travelers to looting, extortion, and harassment, particularly civilians fleeing conflict. Few citizens possessed or had the means to obtain documents needed for international travel. [...]

The CG case [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#), which was promulgated after the publication of the OGN, finds that "a person from an Al-Shabab area who can show they do not genuinely adhere to Al-Shabab's ethos will have a good claim to Refugee Convention protection" as follows:

Law

[...] 9) *On the assumption that Al-Shabab's likely behaviour towards those who transgress its rules is as found in this determination, the position is as "extreme" as the factual basis in RT (Zimbabwe)[2010] EWCA Civ 1285. In the light of RT, a person from an Al-Shabab area who can show they do not genuinely adhere to Al-Shabab's ethos will have a good claim to Refugee Convention protection, once outside Somalia (subject to internal relocation and exclusion clause issues), regardless of whether the person could and would "play the game", by adhering to Al-Shabab's rules. As can be*

seen from a comparison with Sufi & Elmi, the effect of RT is, accordingly, to take the Refugee Convention beyond the comparable ambit of Article 3 ECHR protection.

Country guidance

[...] Southern and central Somalia, outside Mogadishu

[...] 5) In general, a returnee with no recent experience of living in Somalia will be at real risk of being subjected to treatment proscribed by Article 3 in an Al-Shabab controlled area. “No recent experience” means that the person concerned left Somalia before the rise of Al-Shabab in 2008. Even if a person has such experience, however, he or she will still be returning from the United Kingdom, with all that is likely to entail, so far as Al-Shabab perceptions are concerned, but he or she will be less likely to be readily identifiable as a returnee. Even if he or she were to be so identified, the evidence may point to the person having struck up some form of accommodation with Al-Shabab, whilst living under their rule. On the other hand, although having family in the Al-Shabab area of return may alleviate the risk, the rotating nature of Al-Shabab leadership and the fact that punishments are meted out in apparent disregard of local sensibilities mean that, in general, it cannot be said that the presence of family is likely to mean the risk ceases to be a real one.

6) Al-Shabab’s reasons for imposing its requirements and restrictions, such as regarding manner of dress and spending of leisure time, are religious and those who transgress are regarded as demonstrating that they remain in a state of kufr (apostasy). The same is true of those returnees who are identified as coming from the West. Accordingly, those at real risk of such Article 3 ill-treatment from Al-Shabab will in general be refugees, since the persecutory harm is likely to be inflicted on the basis of imputed religious opinion.

7) Although those with recent experience of living under Al-Shabab may be able to “play the game”, in the sense of conforming with Al-Shabab’s requirements and avoiding suspicion of apostasy, the extreme nature of the consequences facing anyone who might wish to refuse to conform (despite an ability to do so) is such as to attract the principle in RT (Zimbabwe). The result is that such people will also in general be at real risk of persecution by Al-Shabab for a Refugee Convention reason.

The Court in *AMM and Others* further found that those travelling through, as well as those going to settle in Al Shabab areas would be exposed to these risks and the judgements specifically states:

Country guidance

[...] Southern and central Somalia, outside Mogadishu

[...] 8) The same considerations apply to those who are reasonably likely to have to pass through Al-Shabab areas.

[...] 10) Internal relocation to an area controlled by Al-Shabab is not feasible for a person who has had no history of living under Al-Shabab in that area (and is in general unlikely to be a reasonable proposition for someone who has had such a history - see above). Internal relocation to an area not controlled by Al-Shabab is in general unlikely to be an option, if the place of proposed relocation is stricken by famine or near famine.

[...] The Tribunal’s findings

(b) Article 3

[...] Living under Al-Shabab

[...] 473. We consider that the general findings we have just made encompass those who are reasonably likely to have to pass through Al-Shabab areas. Although the evidence regarding behaviour at checkpoints was mixed, and we accept that in some areas, such as the Afgoye Corridor, there has been (at least until very recently) considerable traffic to and from the Al-Shabab-controlled area, the unpredictability of Al-Shabab behaviour, the extremely grave and immediate likely consequences of being categorised as a spy and the assumption that one of the functions of checkpoints is to serve what

Al-Shabab regards as its security concerns, point clearly towards including travellers within the general finding, just as the ECtHR did at [277] of Sufi & Elmi.

(3) Internal relocation

[...] (c) To an area controlled by Al-Shabab

502. For the reasons we have already given, a returnee from the United Kingdom to an Al-Shabab area, certainly if he or she had no history of having lived under Al-Shabab in that area, faces at the present time a real risk of serious harm. Internal relocation to such an area is, accordingly, out of the question. Although Al-Shabab appears to be losing ground outside Mogadishu to the TFG, it still remains dominant in large parts of southern and central Somalia.

[...] (4) Travelling home or to another place of safety

[...]517. We do not consider that the risks to travellers, particularly women, are likely to be materially alleviated by travelling in a minibus or other form of transport, operated by a person who has never been away and “knows the ropes”. Using such a form of transport may, we accept, be of assistance; but the combination of the unpredictability of Al-Shabab behaviour and the evidence of their brutality, when they take against an individual, is such as to constitute a real risk.

Humanitarian situation 3.6.20-3.6.26

Excerpt from October 2011 Somalia OGN

3.6.24 Médecine Sans Frontières (MSF) has begun reinforcing its operations in Mogadishu. It was reported on 14 August that areas which were under the control of Al-Shabaab in Mogadishu can now be reached by aid workers and there is hope that this access will be expanded in the coming weeks. More food is being delivered to rural areas where Al-Shabaab has been pushed back in recent fighting. The regional director East and Central Africa for the UN’s World Food Programme said —There are areas where a month ago we did not have access that we are already beginning distributions....we are expanding our activities in Mogadishu and we are looking to dramatically increase those activities over the coming days and weeks as the security situation in the city permits.⁶⁰ OCHA reports an outpouring of assistance from donors. Food assistance cluster agencies reached 1.2 million people with food assistance throughout Somalia in August and are scaling up to try to reach 4 million in September. Assistance has been directed to urban and rural populations who have remained in their communities, but also to a growing number of IDPs and those on the move towards countries of asylum. Organisations have worked hard to scale up operations in Mogadishu to respond to the IDP crisis.⁶¹

It is considered that the above highlighted sentence is speculative and is not accurate of the humanitarian access situation in Mogadishu as the following sources demonstrate:

- [Shabelle News, Soldier kills two IDPs during food aid handout in Mogadishu, 07/12/2011](#)
A soldier loyal to the interim Federal government of Somalia on Wednesday has shot and killed at least two people and wounded many others- all civilians at food aid distribution centre in the capital Mogadishu, witnesses said. Witnesses said the incident occurred at Tiribunka area in Hodon district, where a government soldier opened fire at hundreds of drought hit Somali families, who were waiting at the food distribution point in Mogadishu. The soldier was reportedly opened fire as he tried to loot the aid food intended for the hungry people lined to receive it and shot dead two of the internally displaced families at the area of food distribution center inMogadishu's Hodon district. Residents confirmed Shabelle Media that hundreds of Somali government security forces with armed vehicles have reached at the scene hours later of the shooting, who arrested the soldier and taken to custody. Tens of thousands of internally displaced people are currently in the Somali capital in search of food and other assistance after fleeing from the severe famine and droughts in the southern Somalia.
- [IRIN, Looters sabotage aid efforts in Mogadishu, 17/11/2011](#)
The frequent looting of relief aid at distribution centres in Mogadishu by local or state security agents seriously undermines efforts to help hundreds of thousands of people, many of whom have fled areas of

Somalia in a state of famine, according to officials and aid workers. "Looting of aid is a major problem, especially as it affects the most vulnerable families in Mogadishu, who rely on humanitarian support to survive," said Marcel Stoessel, head of the UN Office for the Coordination of Humanitarian Affairs (OCHA) in Mogadishu. "We have been working with the authorities in Mogadishu to improve the overall security situation in the capital. This is the best way to facilitate the safe delivery of humanitarian assistance to the most vulnerable," Stoessel said. "Obviously, we still need to do more." Stoessel did not discuss who was behind the looting but the government has acknowledged the involvement of its own agents. Earlier this month, Transitional Federal Government (TFG) President Sheikh Sharif Sheikh Ahmed warned that "soldiers and armed militia" would be dealt with severely if found to be responsible for looting food aid. Security agents deployed in Mogadishu include TFG soldiers, poorly paid police and militias under the authority of the city's district commissioners. After the August withdrawal from Mogadishu of the Al-Shabab insurgency, such militia groups have grown in importance.

[...] Looting "is becoming a daily occurrence and it is mainly done by people wearing government security force uniforms", said Mohamed Ilmi, a human rights activist in Mogadishu. In one of the latest incidents [14 November] in the Tribunka camp for internally displaced persons (IDPs), Ilmi said, government forces who were supposed to protect aid distribution fired into the crowd, forcing them to run for cover, "they then took the food; fortunately there was only one injury". Ilmi said on many occasions IDPs had been killed, "as happened in Badbaado camp a few days ago, where at least five were killed". Halima*, an IDP, had just received her food rations on 14 November, along with hundreds of other families, when armed men started firing into the crowd, scattering the displaced. "We had just got our food and it was still on the ground when they opened fire. We ran for our lives. Then they calmly took our food and put it on trucks that just showed up." She said the incident was not the first time they had been robbed of their food. "It happens but we cannot do anything. We cannot even complain or we will suffer even more."

[...] He said the attacks bore the hallmark of an organized enterprise. "As soon as they chase the people, trucks come in to carry the loot and the food immediately ends up in the markets. It is as if they were hired to do it." He said looting of aid meant for the displaced was becoming a "big business". A civil society source, who requested anonymity, told IRIN the problem was that the government did not have much control over the "so-called security forces". The source said since Al-Shabab's withdrawal, "young men with guns are roaming the streets. No one knows who they are or under whose control. "Until the government removes the weapons from the hands of these young gangs, the situation will only get worse," the source said. "Unfortunately they seem busy with other things, but if they don't get the security situation right, it won't be the IDPs alone who will suffer but all of us, including them." [...]

➤ [Council of the European Union, Council conclusions on Somalia, 14/11/2011](#)

The Council adopted the following conclusions:

1. "The EU remains concerned about the situation in Somalia and its regional implications and is actively engaged in alleviating the consequences of the worsening humanitarian situation, restoring security and contributing to peace, development and internal reconciliation in the country. The famine has expanded to six regions of southern Somalia, including Mogadishu, and threatens to further expand across the south affecting nearly half of the population. [...]

➤ [Amnesty International, Somalia: a humanitarian and human rights catastrophe, 26/09/2011](#)

[...] I – Humanitarian situation

1. in Mogadishu

Since the beginning of the year, civilians' lives in Mogadishu have been threatened by a combination of fighting, obstacles to the delivery of humanitarian aid and a deterioration of the humanitarian situation. The much-publicised withdrawal of al-Shabab armed factions from Mogadishu on 6 August 2011 has raised hopes that a wider humanitarian access to populations in need in the Somali capital would materialise. However, the humanitarian situation in Mogadishu remains dire. Humanitarian operations are being scaled up in Mogadishu but aid does not reach all those in need. According to Somalia's National Disaster Management Agency, the country still receives only 30 to 40% of the food aid needed.¹ The World Health Organisation (WHO) has confirmed cholera outbreaks in Mogadishu and says that acute watery diarrhoea/cholera are expected to increase due to poor sanitation conditions, a shortage of safe drinking water, the use of contaminated water for domestic purposes, overcrowding in settlements for displaced persons and high malnutrition rates.

During August 2011, out of 7109 cases of acute watery diarrhoea in South and Central Somalia, 3092 were in the Banadir region (Mogadishu).² For instance, between 3 and 9 September, the Banadir Hospital in Mogadishu reported 296 cases of acute watery diarrhoea, 60% of which were children under five years. They also recorded nine related deaths. Between 10 and 16 September, the same hospital reported 274 cases of acute watery diarrhoea, 196 (72%) of which were children under five years. There were eight related deaths that week.³ Humanitarian access in Mogadishu is being hampered by several factors, including insecurity, which hampers aid operations, concerns for the safety of international humanitarian workers who are not able to move freely within the capital, the sheer number of people in need of assistance; and regular movement of populations in need within the city. Humanitarian actors also cite the lack of capacity of the Transitional Federal Government in supporting a major aid operation, the lack of adequate aid delivery mechanisms, and the lack of sufficient coordination among agencies.⁴ In addition, humanitarian organisations have to engage in long negotiations to hire local staff and secure means of transport.⁵ [...]

➤ [UNOCHA, Somalia Famine & Drought Situation Report No. 19, 25/10/2011](#)

[...] Somalia continues to receive heavy rains, increasing the risk of flooding and waterborne diseases like Acute Watery Diarrhea (AWD) and affecting the delivery of humanitarian assistance. The worst affected areas are Bay, Gedo, Lower and Middle Juba and parts of Mogadishu in Banadir region. Forecasts by the Somali Water and Land Information Management Unit indicate that heavy rains will continue in most parts of the country in the coming weeks. [...]

Excerpt from October 2011 Somalia OGN

3.6.25 In Mogadishu, media and other sources report that a considerable number of internally displaced persons (IDPs) are starting to return from IDP camps in the Afgoye corridor and other parts of Mogadishu to districts recently abandoned by Al-Shabaab, specifically Boondheere, Abdulaziz, Hodan and Karaan. The exact number of those returning is unknown. This movement is expected to continue as long as the capital continues to be the major distribution point for humanitarian aid. Displacement from other parts of Somalia to Mogadishu is also continuing. On 13 August, the TFG declared a state of emergency in parts of the capital formerly controlled by Al-Shabaab, as well as in the city's IDP camps, aimed at ensuring the security of the displaced people. This will be effective for three months starting from the date of issuance.⁶²

Similar to the assessment of paragraph 3.6.10 of the OGN above, it is unclear what the above highlighted sentence is based on, as reference 62, the 17 August 2011 OCHA Somalia, Famine and Drought Situation Report No. 10 does not document the return of IDPs to Mogadishu. See page 12 above for COI which accurately documents the number and motivation of new IDP arrivals to Mogadishu.

The CG case [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#), which was promulgated after the publication of the OGN found that expecting a person to relocate to Mogadishu would “plainly be unreasonable” in the light of the findings about art. 15(c) risk (para. 499). The declared famine for IDPs would also make it unreasonable to expect a person to relocate there unless he or she had sufficient contacts to avoid having to be an IDP (para. 500). It would, “as a general matter” be further unreasonable to expect a returnee to live in an IDP camp “unless there was evidence that he or she would be able to achieve the lifestyle of those better-off inhabitants of the Afgoye Corridor settlements” which would depend on the returnee “having family or other significant connections with such better off elements”. In their absence “the risks inherent in IDP camps, including threats against the person”, particularly for women, could not be eliminated (para. 501). The specific paragraphs referred to here, as well as others that support the points made above are as follows:

Country guidance

[...] **Southern and central Somalia, outside Mogadishu**

[...] 9) *For someone at real risk in a home area in southern or central Somalia, an internal relocation alternative to Mogadishu is in general unlikely to be available, given the risk of indiscriminate violence in the city, together with the present humanitarian situation. Relocation to an IDP camp in the Afgoye Corridor will, as a general matter, likewise be unreasonable, unless there is evidence that the person concerned would be able to achieve the lifestyle of those better-off inhabitants of the Afgoye Corridor settlements.*

10) *Internal relocation to an area controlled by Al-Shabab is not feasible for a person who has had no history of living under Al-Shabab in that area (and is in general unlikely to be a reasonable proposition for someone who has had such a history - see above). Internal relocation to an area not controlled by Al-Shabab is in general unlikely to be an option, if the place of proposed relocation is stricken by famine or near famine.*

[...] **The Tribunal's findings**

[...] **(b) Article 3**

[...] **Humanitarian situation**

[...] 482. The contrast between such cases and that of southern and central Somalia is stark, as the evidence shows. A test founded on exceptionality must still be capable of being met; otherwise it is bogus. We consider that the widespread famine, unique to our planet at the present time, coupled with the exacerbating factors we have described, discloses a situation of sufficient exceptionality to cross the threshold set in N. It is this mix of factors that makes the situation exceptional, not the predominance of the parties' actions that causes the threshold to be lowered.

[...] **(3) Internal relocation**

[...] **(a) To Mogadishu**

499. In the light of our earlier findings regarding Mogadishu, that persons currently there are, as a general matter, running an Article 15(c) risk, it would plainly be unreasonable to expect a person whose home is elsewhere in southern and central Somalia to relocate to Mogadishu. The limited qualification we have made to the assessment of Article 15(c) risk is highly unlikely to have application to a person whose home area is not Mogadishu because the necessary accommodation and social support to alleviate the risk of indiscriminate violence are unlikely to be available.

500. Another factor in assessing the reasonableness of relocation to Mogadishu is the present humanitarian situation in the city, including the state of famine that has been declared in the IDP camps. A person with significant contacts may be able (absent Article 15(c) issues) to avoid having to live in such a camp and thus have a viable relocation alternative.

(b) To an IDP camp in the Afgoye Corridor

501. On the basis of our earlier findings, it would, as a general matter, be unreasonable/unduly harsh to expect a returnee to live in an IDP camp, unless there was evidence that he or she would be able to achieve the lifestyle of those better-off inhabitants of the Afgoye Corridor settlements. That would depend, we consider, on the returnee having family or other significant connections with such better-off elements. In the absence of these, we do not consider that even the likelihood of United Kingdom money for the returnee would be enough to eliminate the risks inherent in IDP camps, including threats against the person. This is, of course, particularly relevant in the case of a female returnee.

The COI cited in the *Humanitarian situation* sub-section mainly dates from August 2011 with the most recent source published on 6 September 2011. Given that the humanitarian crisis is such a fast-moving situation, especially in light of Kenya's military invasion, it means that the COI contained in the OGN is already out of date. The following sources are recommended to consult when researching the humanitarian situation in a particular region, especially with regards to the prevalence and level of famine and living conditions for people not living in IDP camps following the *AMM and Others* judgement:

Source	Type of source	Website's search function
Internal Displacement Monitoring Centre (IDMC) Somalia country page	<p>The IDMC is an international body which monitors conflict-induced internal displacement worldwide. Its country pages include:</p> <ul style="list-style-type: none"> ○ Statistics ○ Maps ○ Internal Displacement Profile ○ IDP News alert ○ Key documents; news and reports from other organisations on the situation and treatment of IDPs and returnees. 	<ul style="list-style-type: none"> ● Country and thematic pages ● Advanced search function which allows for: <ul style="list-style-type: none"> ○ BOOLEAN searches (AND, OR, NOT) ○ Searches for phrases (“...”) ○ It is not possible to search within particular time frames
Relief Web Somalia country page	<p>Relief Web is a database of reports from international and non-governmental organizations, governments, research institutions and the media for news, reports, press releases, appeals, policy documents, analysis and maps related to humanitarian emergencies worldwide. It provides:</p> <ul style="list-style-type: none"> ○ In-depth profiles, updates and reports on countries and disasters ○ Maps ○ Database of who's reporting 	<ul style="list-style-type: none"> ● Country and thematic pages ● Advanced search function which allows for: <ul style="list-style-type: none"> ○ BOOLEAN searches (AND, OR, NOT) ○ Searches for phrases (“...”) ➤ Limits searches by: Country; source; theme; content format; feature; disaster type; vulnerable groups; published date (by month); language
IRIN News Somalia Country page	<p>A service of the UN Office for the Coordination of Humanitarian Affairs. It provides:</p> <ul style="list-style-type: none"> ➤ Humanitarian news and analysis by country and theme. 	<ul style="list-style-type: none"> ● Country and thematic pages ● Advanced search function which allows for <ul style="list-style-type: none"> ○ Keyword searches (Exact Wording; All the Words; Any Words) ○ Limits searches by Services; Country; Theme; Report Type ○ Searches within time frames (From: To)
UN Office for the Coordination of Humanitarian Affairs (OCHA) Somalia pages	<p>Provides the latest news, studies, reports and assessments relevant to humanitarian and development issues in Somalia. It includes information on:</p> <ul style="list-style-type: none"> ○ Weekly Situation reports ○ Humanitarian monthly overviews ○ Monthly access reports ○ Thematic and reference maps ○ Clusters on: Agriculture & Livelihood; Health; Education; Food Aid; Protection; Water & Sanitation; Nutrition; Logistics; Shelter 	<ul style="list-style-type: none"> ● Country pages ● Simple search function which allows for keyword searches only
International Committee of the Red Cross (ICRC) Somalia news	<ul style="list-style-type: none"> ○ The ICRC focus in Somalia is on providing emergency aid and relief operations, concentrating its operational presence where armed clashes are recurrent and essential services are non-existent. It provides information on: <ul style="list-style-type: none"> ○ Reference Documents ○ Latest News ○ Annual report 	<ul style="list-style-type: none"> ● Country pages ● Simple search function which allows for: <ul style="list-style-type: none"> ○ keyword searches ○ organises search results by relevance and date
AlertNet Somalia pages	<p>Humanitarian news site from Thomson Reuters providing information on natural disasters, conflicts, refugees, hunger, diseases and climate change. Country pages include sections on:</p> <ul style="list-style-type: none"> ○ At a Glance 	<ul style="list-style-type: none"> ● Country page ● Advanced search function which allows for: <ul style="list-style-type: none"> ○ Keyword search ○ Searches limited by source;

	<ul style="list-style-type: none"> ○ In detail ○ Timeline ○ Links ○ News 	<p>content partner; aid agency; country; topic; sub-topic; crisis and by time frame</p> <ul style="list-style-type: none"> ○ Search results can be organised by date
UNHCR Somalia country page	<p>UNHCR country pages provide:</p> <ul style="list-style-type: none"> ○ Statistical snapshot ○ Latest news ○ UNHCR fundraising reports ○ Background, analysis and policy ○ Statistics ○ Maps, including Population Movement Tracking Dashboards and an interactive map of UNHCR's operations in Somalia 	<ul style="list-style-type: none"> • Country page does not have a search function • UNHCR home page has an advanced search function which allows for : <ul style="list-style-type: none"> ○ BOOLEAN searches (AND, OR, NOT, ALL) ○ Keyword by title ○ Limits searches by category, country of origin, country of asylum ○ Searches within time frames
Oxfam, Somalia/Somaliland pages	<p>Oxfam is an international NGO. Its country pages provides information on:</p> <ul style="list-style-type: none"> ○ Conflict ○ Drought ○ Oxfam's work in Somalia/Somaliland in depth 	<ul style="list-style-type: none"> • Search Oxfam publications by country • searches can be limited by subject, publication type and date

Conclusion 3.6.27-3.6.34

Preceding the *Conclusion* section, the OGN directs readers to the following sections which should be read with the accompanying analysis in this Commentary:

[2.3 Actors of protection](#)

[2.4 Internal relocation](#)

[2.5 Case law](#)

It is considered that the guidance given in the conclusion of this section is inconsistent with both the case law on Somalia and the COI contained in the public domain. Each section of the conclusion will be addressed in turn:

Excerpt from October 2011 Somalia OGN

3.6.27 Conclusion. A state of civil instability and/or where law and order has sometimes broken down does not of itself give rise to a well-founded fear of persecution for a Convention reason. The claimant can only demonstrate a well-founded claim for asylum where they can demonstrate they are at risk of adverse treatment on Convention grounds over and above the risk to life and liberty, which occurs during such instability/insecurity.

This section of the conclusion is misleading and falsely gives the impression that applicants cannot succeed in claims for international protection owing to the security situation in Somalia. However, since the publication of the OGN, the CG case [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#) was promulgated which found, as detailed already further above on page 40, that “a person from an Al-Shabab area who can show they do not genuinely adhere to Al-Shabab’s ethos will have a good claim to Refugee Convention protection” as follows:

Law

[...] 9) On the assumption that Al-Shabab's likely behaviour towards those who transgress its rules is as found in this determination, the position is as "extreme" as the factual basis in RT (Zimbabwe)[2010] EWCA Civ 1285. In the light of RT, a person from an Al-Shabab area who can show they do not genuinely adhere to Al-Shabab's ethos will have a good claim to Refugee Convention protection, once outside Somalia (subject to internal relocation and exclusion clause issues), regardless of whether the person could and would "play the game", by adhering to Al-Shabab's rules. As can be seen from a comparison with Sufi & Elmi, the effect of RT is, accordingly, to take the Refugee Convention beyond the comparable ambit of Article 3 ECHR protection.

Country guidance

[...] Southern and central Somalia, outside Mogadishu

[...] 5) In general, a returnee with no recent experience of living in Somalia will be at real risk of being subjected to treatment proscribed by Article 3 in an Al-Shabab controlled area. "No recent experience" means that the person concerned left Somalia before the rise of Al-Shabab in 2008. Even if a person has such experience, however, he or she will still be returning from the United Kingdom, with all that is likely to entail, so far as Al-Shabab perceptions are concerned, but he or she will be less likely to be readily identifiable as a returnee. Even if he or she were to be so identified, the evidence may point to the person having struck up some form of accommodation with Al-Shabab, whilst living under their rule. On the other hand, although having family in the Al-Shabab area of return may alleviate the risk, the rotating nature of Al-Shabab leadership and the fact that punishments are meted out in apparent disregard of local sensibilities mean that, in general, it cannot be said that the presence of family is likely to mean the risk ceases to be a real one.

6) Al-Shabab's reasons for imposing its requirements and restrictions, such as regarding manner of dress and spending of leisure time, are religious and those who transgress are regarded as demonstrating that they remain in a state of kufr (apostasy). The same is true of those returnees who are identified as coming from the West. Accordingly, those at real risk of such Article 3 ill-treatment from Al-Shabab will in general be refugees, since the persecutory harm is likely to be inflicted on the basis of imputed religious opinion.

7) Although those with recent experience of living under Al-Shabab may be able to "play the game", in the sense of conforming with Al-Shabab's requirements and avoiding suspicion of apostasy, the extreme nature of the consequences facing anyone who might wish to refuse to conform (despite an ability to do so) is such as to attract the principle in RT (Zimbabwe). The result is that such people will also in general be at real risk of persecution by Al-Shabab for a Refugee Convention reason.

The following section of the OGN does at least set out that protection is available under Article 15(c) of the EU Qualification Directive, but fails to include that claims may also succeed under Article 3 of the ECHR:

Excerpt from October 2011 Somalia OGN

3.6.28 In its position paper of 5 May 2010, UNHCR considers that conditions in southern and central Somalia constitute indiscriminate violence in a situation of internal armed conflict within the meaning of Article 15(c) of the EU Qualification Directive in that any individual present would be at risk of serious harm. In addition UNHCR considers that no reliable safety zones exist in southern and central Somalia given the unpredictable evolution of the conflict. No internal flight alternative is available in any part of southern and central Somalia.⁶⁵

3.6.29 However, the UK courts have found that although there is internal armed conflict in southern and central Somalia, it is only in Mogadishu that the level of indiscriminate violence arising from the conflict reaches a level of severity which would place most individuals at risk (with the exception of those with close connections with powerful actors in the city – such as prominent businessmen or senior figures in the insurgency or in powerful criminal gangs) if they stayed in Mogadishu for any

length of time. Each case must be considered under Article 15c of the EU Qualification Directive/Immigration Rule 339C to ascertain whether the individual claimant would personally be at risk of indiscriminate violence. However for a claim to succeed on Article 15c grounds, applicants would need to show that there is no internal relocation option open to them outside of Mogadishu.

3.6.30 On 28 June 2011, the European Court of Human Rights (ECtHR) gave judgment in the Somali lead cases of *Sufi & Elmi v United Kingdom* (see case law section at 2.5 above) which concerned risk on return to south central Somalia. **Case owners should note that we are seeking a referral to the Grand Chamber of the European Court and this judgment is not currently to be relied upon.**

Whilst the CG case *AMM and Others* continues to find that “there remains in general a real risk of Article 15(c) harm for the majority of those returning” to Mogadishu, it does find that “Outside Mogadishu, the fighting in southern and central Somalia is both sporadic and localised and is not such as to place every civilian in that part of the country at real risk of Article 15(c) harm” and “There is, likewise, no generalised current risk of Article 3 harm as a result of armed conflict”. However, importantly, the court further finds that the current prevailing humanitarian situation in southern and central Somalia would place a returnee to face Article 3 violations:

The Tribunal’s findings

[...] **(b) Article 3**

[...] **Humanitarian situation**

[...] 480. This does not, however, mean that, because they are not a predominant cause, the direct and indirect actions of the parties to the conflict fall to be left out of account in deciding whether the humanitarian conditions in southern and central Somalia are such as to bring Article 3 into play. On the contrary, as we have already indicated, it seems to us that those actions have a very real role in the assessment of whether, in terms of the law as set out in *N v United Kingdom*, the present situation is one of those “very exceptional cases” in which humanitarian conditions trigger Article 3. **Looking at the evidence in this holistic way, we find that the present situation in southern and central Somalia is, indeed, one of those “very exceptional cases”.**

[...] 487. However, we go further. Given the severe nature of the humanitarian crisis, worse even than when the ECtHR considered the position, a person who would in normal conditions have had the ability to go to his or her home village, which is unaffected by the fighting but which is within an area in which there has been a declaration of famine, should at present and as a general matter be assumed to face in that village the kind of desperate situation as is disclosed in the background evidence, with the result that, lacking means of sustenance, he or she would have to try to take refuge somewhere else, such as many thousands of others are doing. Leaving aside for this purpose the issue of Al-Shabab, we do not consider that even the possible availability of the United Kingdom Government money for return (as to which there is an evidential dispute) is likely materially to affect the position in this regard. In areas where there simply is no food, having money is unlikely to put a person in a better position; everyone in such areas is reasonably likely to be reliant on international aid. (We note Professor Menkhaus’ comment that “there is food on the market in much of Somalia”, but we are here considering a rural person, where the only food was from the land and that land is now barren.) **Thus, although we have, like the Strasbourg Court, used the likelihood of ending up in an IDP camp as a general touchstone for Article 3 harm, the basic position is, rather, that the generality of those hypothetically removed to southern and central Somalia at the present time will face Article 3 violations by reason of the humanitarian conditions prevailing in the region. [Emphasis added]**

In addition, as detailed above in the [Case law](#) section, whilst the referral request to the Grand Chamber remains pending, the judgment of *Sufi & Elmi v UK* remains good law as it has an analogous status to a Court of Appeal judgment where a permission application is pending to the UK Supreme Court. The following summary of *Sufi & Elmi v UK* is therefore relevant to this main category of claim of the OGN:

➤ [Case of Sufi & Elmi v. The United Kingdom \(Applications nos. 8319/07 and 11449/07\)](#)

6. Summary of the Court's conclusions

293. In conclusion, the Court considers that the situation of general violence in Mogadishu is sufficiently intense to enable it to conclude that any returnee would be at real risk of Article 3 ill-treatment solely on account of his presence there, unless it could be demonstrated that he was sufficiently well connected to powerful actors in the city to enable him to obtain protection (see paragraph 249, above).

294. Nevertheless, Article 3 does not preclude the Contracting States from placing reliance on the internal flight alternative provided that the returnee could travel to, gain admittance to and settle in the area in question without being exposed to a real risk of Article 3 ill-treatment. In this regard, the Court accepts that there may be parts of southern and central Somalia where a returnee would not necessarily be at real risk of Article 3 ill-treatment solely on account of the situation of general violence (see paragraph 270, above). However, in the context of Somalia, the Court considers that this could only apply if the applicant had close family connections in the area concerned, where he could effectively seek refuge. If he has no such connections, or if those connections are in an area which he could not safely reach, the Court considers that there is a likelihood that he would have to have recourse to either an IDP or refugee camp (see paragraph 266, above).

295. If the returnee's family connections are in a region which is under the control of al-Shabaab, or if it could not be accessed except through an al-Shabaab controlled area, the Court does not consider that he could relocate to this region without being exposed to a risk of ill-treatment unless it could be demonstrated that he had recent experience of living in Somalia and could therefore avoid coming to the attention of al-Shabaab (see paragraph 276, above).

296. Where it is reasonably likely that a returnee would find himself in an IDP camp, such as those in the Afgooye Corridor, or in a refugee camp, such as the Dadaab camps in Kenya, the Court considers that there would be a real risk that he would be exposed to treatment in breach of Article 3 on account of the humanitarian conditions there (see paragraph 295, above).

Excerpt from October 2011 Somalia OGN

3.6.31 On 6 August 2011, Al-Shabaab pulled out of Mogadishu following a series of defeats by government troops. Most of their positions have since been taken over by TFG/AMISOM troops and up to half a million people have subsequently returned to their homes. This is a significant development in the conflict which is likely to reduce the overall risk of indiscriminate violence to residents of Mogadishu. Notwithstanding the courts' earlier findings on the level of conflict in Mogadishu, the present level of conflict is unlikely to meet the Article 15c threshold in individual cases. Further, the court's position on the need for —close connections with powerful actors in the city (see 3.6.32) is also likely to be of less relevance. Case owners should contact Country of Origin Service to ascertain the most up-to-date country situation and consider the security risk on return on a case by case basis in light of the latest information at the date of decision.

With regards to the first highlighted sentence, as detailed above on page 12, it is unclear what this assertion is based on, as no corroborative COI was found on this in the public domain. In addition, it is considered highly speculative that the withdrawal of Al-Shabaab from Mogadishu would be 'likely' to reduce the overall risk of indiscriminate violence. It should be noted that this assertion is made without any regard to the security incidents in Mogadishu which post-date the August 2011 withdrawal of Al-Shabaab and which have caused civilian casualties as documented above on page 14 onwards. Moreover, [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#), promulgated on 28th November, finds that "there remains in general a real risk of Article 15(c) harm for the majority of those returning" to Mogadishu, which clearly contradicts the current guidance provided in the OGN (see analysis on page 40 above).

It is considered that the subsequent highlighted sentences are also highly speculative and a departure from both *Sufi & Elmi v UK* and current UK Country Guidance case law which the OGN does not have the authority to make.

Excerpt from October 2011 Somalia OGN

3.6.32 Although, the general humanitarian situation in southern and central Somalia is very poor, it will not in general breach Article 3 of the ECHR. Aid agencies are subject to obstructions and dangers in delivering aid to IDPs but most of those in need continue to be reached and efforts are being strengthened to sustain critical food aid operations in southern and central Somalia. **Following the recent withdrawal of Al-Shabaab from Mogadishu, aid agencies are now able to reach previously inaccessible areas and are planning to increase provision substantially.** However, each case must be considered on its individual merits and case owners will need to consider whether the particular circumstances of the individual are such that the Article 3 threshold is met.

3.6.33 In relation to humanitarian conditions, the ECtHR in Sufi & Elmi considered that its approach should be that adopted in the case of M.S.S. v Belgium and Greece and not the previously articulated approach in N v UK: that humanitarian conditions would only breach Article 3 in very exceptional cases where the grounds were compelling (see case law section at 2.5 above). Case owners should note that as we are seeking a referral of Sufi & Elmi cases should continue to be assessed in line with N v UK.

As detailed above on [page 42](#) onwards, it is not fully accurate that aid agencies are now able to reach all previously inaccessible areas. Moreover, it is considered that ‘plans to increase provision’ should be seen as markedly different to successfully distributing assistance.

Moreover, since the publication of the OGN, the CG case [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#) was promulgated which found, as detailed already further above on page 31, that although the armed conflict in Mogadishu does not pose “a real risk of Article 3 harm in respect of any person in that city”, Article 3 could be invoked depending on the individual’s particular circumstances: “a returnee could face a real risk of a violation of art. 3 by reason of his or her vulnerability” in the context of the humanitarian situation in Mogadishu, e.g. a woman and children without family or social support may be at risk owing to increased susceptibility to opportunistic attack (para. 369). See the specific articles of the judgement below:

Country guidance

Mogadishu

- 2) *The armed conflict in Mogadishu does not, however, pose a real risk of Article 3 harm in respect of any person in that city, regardless of circumstances. The humanitarian crisis in southern and central Somalia has led to a declaration of famine in IDP camps in Mogadishu; but a returnee from the United Kingdom who is fit for work or has family connections may be able to avoid having to live in such a camp. A returnee may, nevertheless, face a real risk of Article 3 harm, by reason of his or her vulnerability.*

[...] **The Tribunal’s findings**

[...] **(b) Article 3**

[...] *Humanitarian situation*

[...] 369. Conversely, a returnee could face real risk of a violation of Article 3, by reason of his or her vulnerability. For example, a woman with children returned without any family and without family support in Mogadishu from those already there, may well suffer treatment proscribed by Article 3, regardless of any financial assistance provided by the United Kingdom Government, given her increased susceptibility to opportunistic attack.

In addition, as detailed above in the [Case law](#) section, whilst the referral request to the Grand Chamber remains pending, the judgment of *Sufi & Elmi v UK* remains good law as it has an analogous status to a Court of Appeal judgment where a permission application is pending to the UK Supreme Court. The following summary of *Sufi & Elmi v UK* is therefore relevant to this main category of claim of the OGN (emphasis added):

➤ [Case of Sufi & Elmi v. The United Kingdom \(Applications nos. 8319/07 and 11449/07\)](#)

[...] 279. In the recent case of *M.S.S. v. Belgium and Greece* [GC], no. 30696/09, 21 January 2011, BAIIII: [2011] ECHR 108; the Court stated that it had not excluded the possibility that the responsibility of the State under Article 3 might be engaged in respect of treatment where an applicant, who was wholly dependent on State support, found himself faced with official indifference in a situation of serious deprivation or want incompatible with human dignity (§ 253). In that case, the applicant had spent months living in a state of the most extreme poverty, unable to cater for his most basic needs: food, hygiene and a place to live. Added to that, the Court noted the applicant's ever-present fear of being attacked and robbed and the total lack of any likelihood of his situation improving (§ 254). It held that the conditions in which the applicant was living reached the Article 3 threshold and found Greece in breach of that Article as it was the State directly responsible for the applicant's living conditions (§ 264). It also found Belgium to be in breach of Article 3 because, inter alia, it had transferred the applicant to Greece and thus knowingly exposed him to living conditions which amounted to degrading treatment (§ 367).

280. In the present case the Government submitted, albeit prior to the publication of the Court's decision in *M.S.S. v. Belgium and Greece*, that the appropriate test for assessing whether dire humanitarian conditions reached the Article 3 threshold was that set out in *N. v. the United Kingdom*. Humanitarian conditions would therefore only reach the Article 3 threshold in very exceptional cases where the grounds against removal were "compelling".

281. The Court recalls that *N. v. the United Kingdom* concerned the removal of an HIV-positive applicant to Uganda, where her lifespan was likely to be reduced on account of the fact that the treatment facilities there were inferior to those available in the United Kingdom. In reaching its conclusions, the Court noted that the alleged future harm would emanate not from the intentional acts or omission of public authorities or non-State bodies but from a naturally occurring illness and the lack of sufficient resources to deal with it in the receiving country. The Court therefore relied on the fact that neither the applicant's illness nor the inferior medical facilities were caused by any act or omission of the receiving State or of any non-State actors within the receiving State.

282. If the dire humanitarian conditions in Somalia were solely or even predominantly attributable to poverty or to the State's lack of resources to deal with a naturally occurring phenomenon, such as a drought, the test in *N. v. the United Kingdom* may well have been considered to be the appropriate one. However, it is clear that while drought has contributed to the humanitarian crisis, that crisis is predominantly due to the direct and indirect actions of the parties to the conflict. The reports indicate that all parties to the conflict have employed indiscriminate methods of warfare in densely populated urban areas with no regard to the safety of the civilian population (see paragraphs 82, 123, 127, 132, 137, 139-140 and 160, above). This fact alone has resulted in widespread displacement and the breakdown of social, political and economic infrastructures. **Moreover, the situation has been greatly exacerbated by al-Shabaab's refusal to permit international aid agencies to operate in the areas under its control, despite the fact that between a third and a half of all Somalis are living in a situation of serious deprivation** (see paragraphs 125, 131, 169, 187 and 193, above).

283. Consequently, the Court does not consider the approach adopted in *N. v. the United Kingdom* to be appropriate in the circumstances of the present case. Rather, it prefers the approach adopted in *M.S.S. v. Belgium and Greece*, which requires it to have regard to an applicant's ability to cater for his most basic needs, such as food, hygiene and shelter, his vulnerability to ill-treatment and the prospect of his situation improving within a reasonable time-frame (see *M.S.S. v. Belgium and Greece*, cited above, § 254). [...]

291. In light of the above, the Court considers that the conditions both in the Afgooye Corridor and in the Dadaab camps are sufficiently dire to amount to treatment reaching the threshold of Article 3 of the Convention. IDPs in the Afgooye Corridor have very limited access to food and water, and shelter appears to be an emerging problem as landlords seek to exploit their predicament for profit. Although humanitarian assistance is available in the Dadaab camps, due to extreme overcrowding access to shelter, water and sanitation facilities is extremely limited. The inhabitants of both camps are vulnerable to violent crime, exploitation, abuse and forcible recruitment. Moreover, the refugees living in – or, indeed, trying to get to – the Dadaab camps are also at real risk of refoulement by the Kenyan authorities. Finally, the Court notes that the inhabitants of both camps have very little prospect of their situation improving within a reasonable timeframe. The refugees in the Dadaab camps are not permitted to leave and would therefore appear to be trapped in the camps until the conflict in Somalia comes to an end. In the meantime, the

camps are becoming increasingly overcrowded as refugees continue to flee the situation in Somalia. Although the IDPs in the Afgooye Corridor are permitted to leave, in reality the only place they are able to return to is Mogadishu, which the Court has found not to be a safe place for the vast majority of civilians. Consequently, there is also little prospect of their situation improving while the conflict continues.

292. Accordingly, the Court finds that any returnee forced to seek refuge in either camp would be at real risk of Article 3 ill-treatment on account of the dire humanitarian conditions. Although there is little information regarding the situation in other IDP settlements in Somalia, from the information that is available the Court sees little reason to believe that the conditions there would be any better than those in the Afgooye Corridor or in the Dadaab camps. If anything, the situation in those settlements is likely to be worse as there has been less publicity concerning the plight of their inhabitants and there is therefore even less chance that they might receive humanitarian assistance. [...]

Excerpt from October 2011 Somalia OGN

3.6.34 In cases where the applicant's home is situated in an area controlled by Al-Shabaab, case owners should consider each claim on its facts and, in particular, whether the applicant is likely to be known to and/or of serious ongoing adverse interest to Al-Shabaab locally or more widely depending on the level or type of alleged misdemeanour or ideological differences. For a claim to succeed on this basis applicants who are only of local interest would need to demonstrate why they are unable to relocate internally elsewhere in Somalia.

This section of the conclusion of the OGN wrongly identifies that an applicant must be known to or of 'serious ongoing adverse interest to Al-Shabaab' more widely throughout Somalia for internal relocation to not be possible. As *AMM & Others* and *Sufi & Elmi v UK* finds, in the context of Al-Shabaab, persons come to the adverse attention of Al-Shabaab for failing to comply with their rules, not necessarily because they are widely known by the organisation to be of general adverse interest. *AMM & Others* specifically finds that "a person from an Al-Shabab area who can show they do not genuinely adhere to Al-Shabab's ethos will have a good claim to Refugee Convention protection" (see also page 40 above):

- [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#)

Law

[...] 9) *On the assumption that Al-Shabab's likely behaviour towards those who transgress its rules is as found in this determination, the position is as "extreme" as the factual basis in [RT \(Zimbabwe\)\[2010\] EWCA Civ 1285](#). In the light of [RT](#), a person from an Al-Shabab area who can show they do not genuinely adhere to Al-Shabab's ethos will have a good claim to Refugee Convention protection, once outside Somalia (subject to internal relocation and exclusion clause issues), regardless of whether the person could and would "play the game", by adhering to Al-Shabab's rules. As can be seen from a comparison with [Sufi & Elmi](#), the effect of [RT](#) is, accordingly, to take the Refugee Convention beyond the comparable ambit of Article 3 ECHR protection.*

Country guidance

[...] Southern and central Somalia, outside Mogadishu

[...] 5) *In general, a returnee with no recent experience of living in Somalia will be at real risk of being subjected to treatment proscribed by Article 3 in an Al-Shabab controlled area. "No recent experience" means that the person concerned left Somalia before the rise of Al-Shabab in 2008. Even if a person has such experience, however, he or she will still be returning from the United Kingdom, with all that is likely to entail, so far as Al-Shabab perceptions are concerned, but he or she will be less likely to be readily identifiable as a returnee. Even if he or she were to be so identified, the evidence may point to the person having struck up some form of accommodation with Al-Shabab, whilst living under their rule. On the other hand, although having family in the Al-Shabab area of return may alleviate the risk, the rotating nature of Al-Shabab leadership and the fact that punishments are meted out in apparent disregard of local sensibilities mean that, in general, it cannot be said that the presence of family is likely to mean the risk ceases to be a real one.*

- 6) *Al-Shabab's reasons for imposing its requirements and restrictions, such as regarding manner of dress and spending of leisure time, are religious and those who transgress are regarded as demonstrating*

that they remain in a state of *kufr* (apostasy). The same is true of those returnees who are identified as coming from the West. Accordingly, those at real risk of such Article 3 ill-treatment from Al-Shabab will in general be refugees, since the persecutory harm is likely to be inflicted on the basis of imputed religious opinion.

- 7) Although those with recent experience of living under Al-Shabab may be able to “play the game”, in the sense of conforming with Al-Shabab’s requirements and avoiding suspicion of apostasy, the extreme nature of the consequences facing anyone who might wish to refuse to conform (despite an ability to do so) is such as to attract the principle in *RT (Zimbabwe)*. The result is that such people will also in general be at real risk of persecution by Al-Shabab for a Refugee Convention reason.

The Court in *AMM and Others* further found that those travelling through, as well as those going to settle in Al Shabab areas would be exposed to these risks and the judgements specifically states:

Country guidance

[...] Southern and central Somalia, outside Mogadishu

[...] 8) The same considerations apply to those who are reasonably likely to have to pass through Al-Shabab areas.

[...] 10) Internal relocation to an area controlled by Al-Shabab is not feasible for a person who has had no history of living under Al-Shabab in that area (and is in general unlikely to be a reasonable proposition for someone who has had such a history - see above). Internal relocation to an area not controlled by Al-Shabab is in general unlikely to be an option, if the place of proposed relocation is stricken by famine or near famine.

[...] The Tribunal’s findings

(b) Article 3

[...] Living under Al-Shabab

[...] 473. We consider that the general findings we have just made encompass those who are reasonably likely to have to pass through Al-Shabab areas. Although the evidence regarding behaviour at checkpoints was mixed, and we accept that in some areas, such as the Afgoye Corridor, there has been (at least until very recently) considerable traffic to and from the Al-Shabab-controlled area, the unpredictability of Al-Shabab behaviour, the extremely grave and immediate likely consequences of being categorised as a spy and the assumption that one of the functions of checkpoints is to serve what Al-Shabab regards as its security concerns, point clearly towards including travellers within the general finding, just as the ECtHR did at [277] of *Sufi & Elmi*.

(3) Internal relocation

[...] (c) To an area controlled by Al-Shabab

502. For the reasons we have already given, a returnee from the United Kingdom to an Al-Shabab area, certainly if he or she had no history of having lived under Al-Shabab in that area, faces at the present time a real risk of serious harm. Internal relocation to such an area is, accordingly, out of the question. Although Al-Shabab appears to be losing ground outside Mogadishu to the TFG, it still remains dominant in large parts of southern and central Somalia.

[...] (4) Travelling home or to another place of safety

[...]517. We do not consider that the risks to travellers, particularly women, are likely to be materially alleviated by travelling in a minibus or other form of transport, operated by a person who has never been away and “knows the ropes”. Using such a form of transport may, we accept, be of assistance; but the combination of the unpredictability of Al-Shabab behaviour and the evidence of their brutality, when they take against an individual, is such as to constitute a real risk.

➤ [Case of Sufi & Elmi v. The United Kingdom \(Applications nos. 8319/07 and 11449/07\)](#)

[...] 295. If the returnee’s family connections are in a region which is under the control of al-Shabaab, or if it could not be accessed except through an al-Shabaab controlled area, the Court does not consider that he could relocate to this region without being exposed to a risk of ill-treatment unless it could be demonstrated that he had recent experience of living in Somalia and could therefore avoid coming to the attention of al-Shabaab (see paragraph 276, above). [...]

274. **Al-Shabaab's strict interpretation of Sharia law does not apply only to those living in areas under its control, but also to those travelling through these areas.** According to the country reports, al-Shabaab has established checkpoints at the exit/entry routes to towns under its control, where goods and people are searched to ensure that its strict Islamic codes are complied with (see paragraphs 87, 90 and 101 above). Persons not obeying al-Shabaab's rules could experience difficulties at these checkpoints. For example, there were reports of women being flogged at checkpoints because they had been sitting beside a man in a vehicle (see paragraph 167, above). Moreover, there were also reports of young men and children being forcibly recruited at checkpoints (see paragraphs 91, above).

[...] 276. **It is not possible to predict with any certainty the fate of a returnee who came to the attention of al-Shabaab for failing to comply with their rules. The reports suggest that punishments inflicted by al-Shabaab can include stoning, amputation, flogging and corporal punishment (see paragraphs 104 and 164 – 168, above), all of which would attain the minimum level of severity required to fall within the scope of Article 3** (see, for example, *Jabari v. Turkey*, no. 40035/98, § 41, ECHR 2000 VII, BAILII: [2000] ECHR 369 and *A. v. the United Kingdom*, 23 September 1998, § 22, Reports of Judgments and Decisions 1998 VI, BAILII: [1998] ECHR 85). The Court accepts that in all likelihood, the punishment would depend on the gravity of the infringement but the Court cannot ignore reports that Somalis have been beaten or flogged for relatively minor infringements, such as playing scrabble (see paragraph 164, above), watching World Cup matches (see paragraph 164, above), and wearing "inappropriate" clothing (see paragraphs 165 – 166, above). [...]

See page 33 onwards for COI which continues to document that persons who violate Al-Shabaab prohibitions are at risk of summary, arbitrary and cruel treatment. This is particularly relevant as Al-Shabaab continue to control checkpoints. See below [Internal Relocation](#) section for a more detailed discussion of the possibility of internal relocation outside of Al-Shabaab controlled areas.

3.7 Members of major clans or their sub-clans

Excerpt from October 2011 Somalia OGN

3.7.8 Conclusion. Large parts of northern Somalia, namely Somaliland and Puntland, are in general relatively safe regardless of clan membership. In other parts of Somalia it is unlikely than any Somali belonging to one of the major clan-families – their immediate clan groups or associated sub clans - would be able to demonstrate that they have a well-founded fear of ill-treatment on return on the basis of their clan affiliation alone.

3.7.9 With regard to southern Somalia, the courts have found that clan support networks are still in existence and can be relied upon for support and assistance. Where the claimant, male or female, from southern Somalia, is not found to be a minority clan member, there is likely to be a location in southern Somalia in which the majority clan is able to afford protection sufficiently for neither the Refugee Convention nor the ECHR to apply on the basis of the claimant's clan affiliation alone.

It is considered that most of the COI in the *Treatment* section for this main category of claim relates to the situation for minority, not majority clan members. Furthermore, it is considered that the *Conclusion* for this main category of claim is not consistent with COI both included in the OGN and elsewhere in the public domain.

The first highlighted sentence gives the false impression that internal relocation to Somaliland and Puntland is both relevant and reasonable, regardless of clan membership. See below [Internal Relocation](#) section for an analysis of the possibility of internal relocation in Somalia, including the findings of *Sufi & Elmi v UK* and now also *AMM and Others*. In particular, note the COI presented on [page 102](#) onwards which addresses the restrictions on entry to Somaliland and Puntland; the security situation; the humanitarian situation for IDPs, the risk of sexual violence and risk of deportation of IDPs. Furthermore the second highlighted sentence of the *Conclusion* fails to take account of the impact that the influence of Al-Shabaab has on the ability of majority clans to provide protection as is presented in the *Treatment* section of the OGN (emphasis added):

Excerpt from October 2011 Somalia OGN

3.7.6 Individual security has traditionally been dependent on the clan. This situation has not changed significantly in modern times and the clan remains the safety net of the Somali population. Vulnerability and protection are closely linked to a clan's strength. However weak clans or groups have traditionally been able to seek protection from and affiliation with the dominant clans in a specific area. **Although clans are still important, affiliation to a dominant clan does not necessarily provide protection.** Clan loyalty is superseded by political, ideological and international conditions. A clan's ability to provide protection is contingent on the clan's military strength. **In the current situation, in which Al-Shabaab and other groups control large parts of southern Somalia, protection from one's own clan in, for example, an Al-Shabaab controlled area is not realistic.** Al-Shabaab has the support of various clans and minority groups in the areas it controls. Numerous dominant clans in many districts are therefore currently subordinate to Al-Shabaab and must, among other things, abide by Al-Shabaab's enforcement of Sharia law.⁷²

3.7.7 Recent reports suggest that clan structures are beginning to fracture and that the situation is complicated and unclear with regard to whether a person will find safety or protection in a clan's traditional home area. However, clan protection is still relevant but mainly in relation to ordinary crime. Clans continue to be important in relation to where a person flees. Those leaving conflict areas still tend to go to their clan areas and the protection issue nowadays is primarily linked to the situation in the arrival areas. With regard to minorities, the UN's Independent Expert has stated that conditions for minorities are difficult. However, since clan affiliation is not a criterion for social status and protection in the view of the Islamist groups, Al-Shabaab in particular represents something positive to minorities. Strict law enforcement in areas controlled by this group also prevents the crime that for years has affected these groups in particular. Consequently in some regions the minorities support Al-Shabaab. Some minorities who are forced to leave their homes will endeavour to establish a client relationship to a host clan in their new place of residence.⁷³

This is particularly relevant given that Al-Shabaab continues to control large regions of Somalia (see sources on page 94 for further information). Additional COI which demonstrates that clan identity has been undermined as a protection mechanism by the on-going conflict and the implementation of Shari'a law by Al-Shabaab is provided in the [Actors of Protection](#) section of this Commentary. This COI should also be viewed in light of the most recent CG case [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#), which found that “family and/or clan connections may have an important part to play in determining the reasonableness of a proposed place of relocation”, but “in the light of the present humanitarian crisis, the cogency of the indicators pointing to such a position would need to be powerful” (see from page 87 onwards). Furthermore, this *Conclusion* also implies that internal relocation within South and Central Somalia to areas where majority clans can provide effective protection will always be reasonable. See below [Internal Relocation](#) for an analysis of the possibility of relocation within this region.

3.8 Bajunis

Excerpt from October 2011 Somalia OGN

3.8.6 The UN's Independent Expert has stated that conditions for minorities are difficult. However, since clan affiliation is not a criterion for social status and protection in the view of the Islamist groups, Al-Shabaab in particular represents something positive to minorities. Strict law enforcement in areas controlled by this group also prevents the crime that for years has affected these groups in particular. Consequently in some regions the minorities support Al-Shabaab.⁷⁹

It is considered that this paragraph of the OGN is not fully consistent with the original source of COI, nor with other COI available in the public domain regarding the treatment of minorities by Al-Shabaab. It should also be noted that the original source of information is an out-dated 2 June 2009 Response from Land Info (emphasis added):

➤ [Landinfo, Somalia: Vulnerability – minority groups, weak clans and vulnerable individuals, 02/06/2009](#)

[...] In his report from February 2009, the UN's Independent Expert on the human rights situation in Somalia underlines that conditions for minorities are difficult (UN Human Rights Council 2009). A lack of understanding and, to some extent, racist attitudes characterise many people's views of these groups, who have traditionally had low status in Somali society. The Islamist groups, including al-Shabaab, therefore represent something positive to people who belong to a minority, since clan affiliation is not a criterion for social status and protection. Moreover, the strict law enforcement in areas controlled by the Islamists prevents the crime that for years has affected these groups in particular (interviews in Nairobi, March 2009). **Consequently, in regions such as the Lower Shabelle, we note that the minorities support al-Shabaab.** [...]

It is considered that this original source misleadingly equates Al-Shabaab's strict law enforcement with affording protection to minority groups. As the COI presented from page 33 demonstrates, Al-Shabaab imposes arbitrary, summary and cruel punishments for minor transgressions and for attempts to flee Al-Shabaab controlled areas. There is also evidence that Al-Shabaab particularly targets members of minority clans for forced recruitment (see [page 125](#) onwards) and that Al-Shabaab has negatively impacted on clan protection mechanisms (see pages 56 and 86 onwards).

Excerpt from October 2011 Somalia OGN

3.8.7 Conclusion. The Bajuni do not only originate from Somalia but also other countries along the Indian Ocean coast, notably Kenya.⁸⁰ Case owners should therefore pay particular attention to establish both the claimant's nationality as well as ethnicity.

3.8.9 Members of minority groups are able in some circumstances to secure protection from major or sub related clans in some areas. Clan support networks in Somalia are still in existence and can be relied upon for support and assistance. While the Bajuni have historically been vulnerable to discrimination and social exclusion, the courts have found that it may not be appropriate to assume that a finding of minority group status in southern Somalia is itself sufficient to entitle a person to international protection, particularly where a person's credibility is otherwise lacking. Each case should be given careful and detailed consideration on its individual circumstances. For those Bajuni claimants who have demonstrated a reasonable likelihood that they have encountered or will encounter on return ill treatment amounting to persecution a grant of asylum will be appropriate.

It is considered that the conclusion for this category of claim is inconsistent with the Country Guidance case law, with the COI contained in this section of the OGN and with COI available elsewhere in the public domain. Compare the above highlighted section of the *Conclusion* with

findings of the Country Guidance case *AJH (Minority group- Swahili speakers)* as is cited in section 2.5 Case Law of the OGN:

- [AJH \(Minority group - Swahili speakers\) Somalia CG \[2003\] UKIAT 00094](#)
[...] Persons of Bajuni or Bravanese ethnicity are likely to face persecution and cannot reasonably relocate, particularly if they are female. [...]

Furthermore, the first highlighted sentence in the conclusion above suggests that effective protection from major clans is available for members of the Bajuni clan. In addition to the COI presented in the [Actors of Protection](#) section which details the issues in securing protection from majority clans in general, the following COI addresses the specific protection concerns for Bajuni clan members (emphasis added):

- [United Nations High Commissioner for Refugees \(UNHCR\), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Somalia, 05/05/2010](#),
[...] B. Main Groups at Risk on the on the Basis of Article 1(a) of the 1951 Convention and/or Article I(1) of the OAU Convention,
d) Members of Minority Clans
Members of minority clans in southern and central Somalia include the Ashraf,¹¹⁴ Midgan, Bantu,¹¹⁵ Bravanese,¹¹⁶ **Bajuni**,¹¹⁷ Rerhamar, Eyle, Galgala, Tumul, Yibir, Gaboye,¹¹⁸ Hamar Hindi and Oromos.¹¹⁹
These minority clans are vulnerable as they lack the military capabilities to defend themselves and do generally not benefit from the protection of war-lords and militias of the large clans. They are therefore exposed to an increased risk of rape, attack, abduction and having their real and personal property confiscated in southern and central Somalia's lawless atmosphere. Inter-marriage between members of minority and majority clans is reportedly restricted. It is further reported that those representing minority clans, such as human rights activists, have received threats.
IDPs from minority clans in all parts of Somalia face daily abuses such as killings, physical assault, theft and rape, without legal recourse either through formal justice or the customary legal system – the result being that they can be abused with impunity. [...]
UNHCR considers that members of minority clans in southern and central Somalia are at risk on the ground of their ethnicity/race (especially the out-caste clans). [...]

In addition to noting the findings of [AJH \(Minority group- Swahili speakers\)](#) in relation to the possibility of internal relocation for Bajuni women, see the [Internal Relocation](#) section for an analysis of the possibility of internal relocation in Somalia, including the findings of *Sufi & Elmi v UK*. Note in particular the COI presented on page 60 which addresses the risks specific to minority clan IDPs and the risk to women during flight on page 68 onwards.

3.9 Benadiri (Rer Hamar) or Bravanese

Excerpt from October 2011 Somalia OGN

3.9.4 A December 2009 report states that the Rer Hamar are ‘not without power’ and manage to play a part in the political game with the major clans. They are no longer subject to the kind of targeted violence committed with impunity by the major warring clans that was the case during the early civil war years when they were targeted partly due to their influence and positions in the past Somali government and because they lost any protection with the collapse of rule of law in 1990. **This does not mean that they are no longer subject to discrimination but rather that there are now mitigating factors to their benefit.** For example, they now hold political positions within the transitional government and a number of key positions with the regional administration of Benadir and local government of Mogadishu.⁸³

It is considered that the information presented in this paragraph presents an overly positive situation of the treatment of Benadiri clan members to that which is reported in the public domain. As the following COI illustrates, members of the Benadiri are subject to more severe treatment than ‘discrimination’:

- [Minority Rights Group, Annual report on current situation of minorities, 06/07/2011](#)
[...] Somalia
South-central Somalia
South-central Somalia is populated by a number of different minority groups, who face considerable discrimination. These include Bantu, Benadiri and Bajuni fishing people. All these minority groups are diminishing in size, as thousands move to camps for internally displaced people’s (IDPs) camps in Somaliland and Puntland and refugee camps in Kenya, where they face renewed discrimination. Victims of multiple discrimination, minority women across south-central Somalia encounter barriers in every aspect of life, including access to education, health care and employment. One Bantu woman living in south-central Somalia told MRG: ‘Ethnic minority women don’t play a significant role on the social, [economic] and political platforms in mainstream communities. Most are illiterate and have no capability to improve their quality of livelihoods; most do household chores and other domestic errands mainly in the major clans’ homes. Due to high poverty [levels] and discrimination against ethnic minority women, they do not have access to quality health care as compared to women from major clans who usurp all relief or other medical facilities.’ [...] Several minority groups, including Bantu, Benadiri and Christians, have been targeted by al-Shabaab for practising their own religions. MRG’s 2010 report on Somalia revealed that Bantu women have been forced to wear the hijab, and that some have faced attacks from al-Shabaab members. [...]
- [UN Human Rights Council, Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(b\) of the annex to Human Rights Council resolution 5/1, 21/02/2011](#)
[...] 8. Minorities and indigenous peoples
59. UNHCR stated that clan identity continued to permeate Somali culture and often resulted in extreme social, economic, political and cultural discrimination for minority clans. Most IDPs were of minority clan extraction and therefore faced a barrage of discriminatory indignities and generally suffered human rights violations perpetrated with impunity by host communities.¹²⁷ The independent expert made similar remarks.¹²⁸
[...] 60. The independent expert stated that discrimination and abuses against minorities and vulnerable groups continued unabated. Somali minorities such as the Benadir/Rer Hamar, Midgan (Gadoye) and Tomal, in particular the African Bantu/Jarir population, who had been traditionally discriminated against in Somali society, continued to face abuses and human rights violations.¹²⁹ [...]
- [Immigration and Refugee Board of Canada, Somalia: Information on the Ashraf clan, including the location of their traditional homeland, affiliated clans, risks they face from other tribes; whether the name Sharif is given to a male at birth, 23/11/2010](#)

[...] According to the Independent Scholar, the Ashraf living with the Benadiri have, like the Benadiri, "been subject to brutality and persecution by the militias since the breakdown of government" (23 Oct. 2010). The Independent Scholar further clarified that, while the "situation of the Benadiri is certainly not as bad as it was, relative to the rest of the population ... they are still especially vulnerable" (26 Oct. 2010). [...]

➤ [Minority Rights Group, No redress: Somalia's forgotten minorities, 23/11/2010](#)

[...] Somalia's minorities: a legacy of institutional exclusion and discrimination

[...] Minorities comprise mainly three distinct unarmed social groups – Bantu, Benadiri and the 'occupational groups'. All the minorities are Somali too, sharing language and many cultural characteristics with the majorities. [...]

All three minority groups are marginalized, discriminated against,²⁴ and generally prohibited from inter-marriage with the clans, a factor that has maintained their broad separation from the majorities over centuries. [...]

During the post-1991 civil wars, the formerly privileged status of Benadiri, many of them wealthy merchants, was reversed, as they did not form an armed militia for protection. Rer Hamar suffered heavily from warlord militia attacks; looting of their properties and businesses; theft of women's jewellery; and rape of girls and women. Most Benadiri fled to Kenya as refugees. A few thousand still remain with their businesses in Mogadishu, Brava and Merca, paying clan militias or privately-employed gunmen for armed protection.⁴⁵ Bajuni fishing people remain in the port city of Kismayu and the Bajuni Islands, although civil war has subjected them to attacks and looting by armed factions in Kismayu, which has seen chronic fighting between rival clan militias since 1991. [...]

Ashraf and Shekhal [...]

Both Ashraf and Shekhal have achieved political influence and success in education and commerce with Arab countries, yet they can still face discrimination and human rights abuses on account of their non-clan origins and lack of an armed militia. In 2006, for example, OCHA highlighted the case of several hundred displaced Shekhal families in Ethiopia in need of humanitarian assistance.⁵² [...]

➤ [United Nations High Commissioner for Refugees \(UNHCR\), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Somalia, 05/05/2010,](#)

[...] B. Main Groups at Risk on the on the Basis of Article 1(a) of the 1951 Convention and/or Article I(1) of the OAU Convention,

d) Members of Minority Clans

Members of minority clans in southern and central Somalia include the Ashraf,¹¹⁴ Midgan, Bantu,¹¹⁵ Bravenese,¹¹⁶ Bajuni,¹¹⁷ Rerhamar, Eyle, Galgala, Tumul, Yibir, Gaboye,¹¹⁸ Hamar Hindi and Oromos.¹¹⁹

These minority clans are vulnerable as they lack the military capabilities to defend themselves and do generally not benefit from the protection of war-lords and militias of the large clans. They are therefore exposed to an increased risk of rape, attack, abduction and having their real and personal property confiscated in southern and central Somalia's lawless atmosphere. Inter-marriage between members of minority and majority clans is reportedly restricted. It is further reported that those representing minority clans, such as human rights activists, have received threats.

IDPs from minority clans in all parts of Somalia face daily abuses such as killings, physical assault, theft and rape, without legal recourse either through formal justice or the customary legal system – the result being that they can be abused with impunity. [...]

UNHCR considers that members of minority clans in southern and central Somalia are at risk on the ground of their ethnicity/race (especially the out-caste clans). [...]

Excerpt from October 2011 Somalia OGN

3.9.5 Some have established relations with 'noble' clans such as the Hawiye Abgal and Habr Gedir through marriage. The Benadiri in Merka have learned to compromise and negotiate with the stronger clans through which they have received a level of protection. **They may find it easy to move elsewhere in Somalia, buy property or achieve clan protection there.** However, that is likely to vary from place to place and may also depend on what the individual can contribute. Rer Hamar business people in Mogadishu may be employing armed protection as do all other Somali business people.⁸⁴

It is considered that the above highlighted sentence, taken from a report published by ACCORD in December 2009, is not fully consistent with the original source cited for this section as follows (emphasis added):

- [Austrian Centre for Country of Origin and Asylum Research and Documentation \(ACCORD\), Clans in Somalia, 15/12/2009,](#)

[...] 5. Minority and other groups with affiliations to major clans, Rer Hamar

To the extent that Rer Hamar in practice have adapted to the Somali Xeer is not clear to me, but I would not be surprised if it were the case. That means that they do negotiate diya payment in cases of killings between them and the Somali clans. **The Rer Hamar do live in Hamarweyne and Shangani, where they do own property. But, they may not find it easy to move elsewhere in Somalia, buy property or achieve clan protection there.** However, again that depends from place to place, and may also depend on what the given 'Rer Hamar' individual may contribute with.

Excerpt from October 2011 Somalia OGN

3.9.8 The UN's Independent Expert has stated that conditions for minorities are difficult. However, since clan affiliation is not a criterion for social status and protection **in the view of the Islamist groups, Al-Shabaab in particular represents something positive to minorities.** Strict law enforcement in areas controlled by this group also prevents the crime that for years has affected these groups in particular. **Consequently in some regions the minorities support Al-Shabaab.**⁸⁷

As addressed above on page 60 the information in this paragraph of the OGN is not fully consistent with the original source of COI, nor with other COI available in the public domain on the treatment of minorities by Al-Shabaab. Furthermore, the highlighted sentence is inconsistent with other COI which notes that Al-Shabaab, rather than representing something positive to minorities such as the Benadiri, in fact directly targets them:

- [Immigration and Refugee Board of Canada, Somalia: Information on the Ashraf clan, including the location of their traditional homeland, affiliated clans, risks they face from other tribes; whether the name Sharif is given to a male at birth, 23/11/2010](#)

[...] The ACCORD-Austrian Red Cross report maintains that the Ashraf are "not targeted as a minority as such" (Dec. 2009, 20). The Associate Professor stated that, in the early 2000s, the Ashraf were not specifically "targeted" as a group (Associate Professor 27 Oct. 2010). However, he added that the conflict in Somalia has since evolved with the emergence of various Islamic groups, such as Al Shabaab (ibid.). Al Shabaab has been listed as a "terrorist" group by the government of Canada (Canada 7 Mar. 2010). The Associate Professor stated that Al Shabaab "targets" the Ashraf for ideological reasons (27 Oct. 2010). In particular, he stated that Al Shabaab denies any kind of moral hierarchy based on descent (Associate Professor 27 Oct. 2010). He indicated that Al Shabaab considers the Ashraf to be bid'ah or an "unlawful innovation" with respect to Islam. The Associate Professor stated that the Ashraf are at risk of being killed or "persecuted" by Al Shabaab (ibid.). [...]

Excerpt from October 2011 Somalia OGN

3.9.9 Conclusion. For the vast majority of Somalis clan status should not in itself give rise to a risk of mistreatment, and **some members of minority groups including the Benadiri are able to secure protection from major or sub related clans in some areas.** The Benadiri are no longer subject to the targeted violence they suffered previously. **Although some discrimination may remain,** they nevertheless play a role in politics, have established relationships with dominant clans, have inter-married and established businesses. Many have achieved a level of 'legal' protection. **Internal relocation might also be possible for members of the Benadiri. They may find it easy to move elsewhere in Somalia, buy property or achieve clan protection there.** However, that is likely to vary from place to place and may also depend on what the individual can contribute.

3.9.10 Case owners should consider each case carefully on its individual merits. Some Benadiri will be entitled to refugee status based on their personal circumstances and experiences.

The first highlighted sentence in the conclusion above suggests that effective protection from majority clans is available for members of the Benadiri clan. In addition to the COI presented in the [Actors of Protection](#) section which details the issues in securing protection from majority clans in general, the following COI addresses the specific protection concerns for Benadiri clan members (emphasis added):

➤ [United Nations High Commissioner for Refugees \(UNHCR\), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Somalia, 05/05/2010,](#)

[...] B. Main Groups at Risk on the on the Basis of Article 1(a) of the 1951 Convention and/or Article I(1) of the OAU Convention,

d) Members of Minority Clans

Members of minority clans in southern and central Somalia include the Ashraf,¹¹⁴ Midgan, Bantu,¹¹⁵ Bravenese,¹¹⁶ Bajuni,¹¹⁷ Rerhamar, Eyle, Galgala, Tumul, Yibir, Gaboye,¹¹⁸ Hamar Hindi and Oromos.¹¹⁹

These minority clans are vulnerable as they lack the military capabilities to defend themselves and do generally not benefit from the protection of war-lords and militias of the large clans. They are therefore exposed to an increased risk of rape, attack, abduction and having their real and personal property confiscated in southern and central Somalia's lawless atmosphere. Inter-marriage between members of minority and majority clans is reportedly restricted. It is further reported that those representing minority clans, such as human rights activists, have received threats.

IDPs from minority clans in all parts of Somalia face daily abuses such as killings, physical assault, theft and rape, without legal recourse either through formal justice or the customary legal system – the result being that they can be abused with impunity. [...]

UNHCR considers that members of minority clans in southern and central Somalia are at risk on the ground of their ethnicity/race (especially the out-caste clans). [...]

For the reasons identified above, it is considered inaccurate and overly positive that the *Conclusion* describes the ill-treatment of members of the Benadiri clan simply as 'discrimination'.

The third highlighted sentence of the conclusion asserts that internal relocation may be possible for members of the Benadiri. However, as explained above, this is based on a misreading of the December 2009 Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD). Such an assertion also fails to identify the relevant factors to consider in assessing the possibility of effective protection and internal relocation for minority clan members. Also see below section on [Internal Relocation](#) for an analysis of the possibility of internal relocation in Somalia, including the findings of in *Sufi & Elmi v UK* and in particular, note the COI presented on page 60 onwards which addresses the risks specific to minority clan IDPs and the risk to women during flight from page 68 onwards.

3.10 Midgan, Tumul, Yibir or Galgala

Excerpt from October 2011 Somalia OGN

3.10.4 With the exception of the Bantu, Rerhamar, Bravanese, Bajuni and Eyle who have distinct "non-Somali" physical appearance, all other minorities have physical appearances similar to that of the dominant clans, as well as having ethnic and cultural similarities. What distinguish the assimilated minorities are their distinct economic livelihoods.⁹¹

It is considered that this paragraph is not relevant to a consideration of whether persons of this profile are at risk in Somalia, and may be read to imply that an applicant's physical appearance is relevant to a credibility assessment, which the OGN should not encourage decision makers to assess.

Excerpt from October 2011 Somalia OGN

3.10.6 Conclusion. Case owners must assess the credibility of the applicant and the evidence they submit in accordance with the relevant Asylum Instructions (see para 3.2 – 3.5 above). Members of the Midgan, Tumul Yibir or Galgala groups traditionally settle in areas where they can obtain protection from the dominant clan and engage in economic activity. Most have assimilated into major clan or sub-clan groups. **While they may from time to time encounter discrimination and harassment from other clan groups due to their lowly social status, they may avail themselves of the protection of their patron clan or relocate to another region where their patron clan is represented.** It is unlikely that such a claimant would encounter ill treatment amounting to persecution within the terms of the 1951 Convention. The grant of asylum in such cases is therefore not likely to be appropriate.

It is considered that the conclusion is not fully consistent with the Country Guidance case law nor available COI on this issue. No COI is included in the *Treatment* section which actually addresses the treatment of members of these groups. Rather, only in the *Conclusion* is this addressed, where members of the Midgan, Tumul Yibir or Galgala are inaccurately described as only subjected to 'discrimination and harassment'. Note that more severe treatment of these groups is reported in the public domain:

- [UN Human Rights Council, Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(b\) of the annex to Human Rights Council resolution 5/1, 21/02/2011](#)

[...] 8. Minorities and indigenous peoples

59. UNHCR stated that clan identity continued to permeate Somali culture and often resulted in extreme social, economic, political and cultural discrimination for minority clans. Most IDPs were of minority clan extraction and therefore faced a barrage of discriminatory indignities and generally suffered human rights violations perpetrated with impunity by host communities.¹²⁷ The independent expert made similar remarks.¹²⁸

[...] 60. The independent expert stated that discrimination and abuses against minorities and vulnerable groups continued unabated. Somali minorities such as the Benadir/Rer Hamar, Midgan (Gadoye) and Tomal, in particular the African Bantu/Jarir population, who had been traditionally discriminated against in Somali society, continued to face abuses and human rights violations.¹²⁹ [...]

- [United Nations High Commissioner for Refugees \(UNHCR\), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Somalia, 05/05/2010,](#)

[...] B. Main Groups at Risk on the on the Basis of Article 1(a) of the 1951 Convention and/or Article I(1) of the OAU Convention,

d) Members of Minority Clans

Members of minority clans in southern and central Somalia include the Ashraf,¹¹⁴ Midgan, Bantu,¹¹⁵ Bravanese,¹¹⁶ Bajuni,¹¹⁷ Rerhamar, Eyle, Galgala, Tumul, Yibir, Gaboye,¹¹⁸ Hamar Hindi and Oromos.¹¹⁹

These minority clans are vulnerable as they lack the military capabilities to defend themselves and do generally not benefit from the protection of war-lords and militias of the large clans. They are therefore

exposed to an increased risk of rape, attack, abduction and having their real and personal property confiscated in southern and central Somalia's lawless atmosphere. Inter-marriage between members of minority and majority clans is reportedly restricted. It is further reported that those representing minority clans, such as human rights activists, have received threats.

IDPs from minority clans in all parts of Somalia face daily abuses such as killings, physical assault, theft and rape, without legal recourse either through formal justice or the customary legal system – the result being that they can be abused with impunity. [...]

UNHCR considers that members of minority clans in southern and central Somalia are at risk on the ground of their ethnicity/race (especially the out-caste clans). [...]

Furthermore, in section 2.5 *Case law* the OGN only cites the following excerpt from *YS and HA (Midgan – not generally at risk)*

Excerpt from October 2011 Somalia OGN

YS and HA (Somalia) CG [2005] 00088. Midgan not generally at risk. The Tribunal found that while being a woman or lone woman increases the level of risk under the Refugee Convention or the ECHR... the question of real risk comes down to whether a Midgan would be able to access protection from a majority clan patron. There is nothing to show that such protection would be denied to a female Midgan where it would be afforded to a male Midgan.

It fails to include the following relevant findings of the case law in relation to the possibility of internal relocation for members of the Midgan minority clan:

➤ [YS and HA \(Midgan – not generally at risk\) Somalia CG \[2005\] UKIAT 00088](#)

[...] 65. Internal relocation would rarely, if ever, be a viable option for a Midgan

[...] Specifically we bear in mind that for Midgan any available majority clan patron protection will normally exist in his or her home area only: there are no Midgan communities in Somalia. Thus, if it has been found that a Midgan would be at risk in his or her home area, then it is difficult to see how he or she could move elsewhere with any real prospect of securing an alternative source of majority clan protection. [...]

Also see below section on [Internal Relocation](#) for an analysis of the possibility of internal relocation in Somalia, including the findings of in *AMM and Others* and *Sufi & Elmi v UK* and in particular, note the COI presented on page 60 which addresses the risks specific to minority clan IDPs.

In addition to the COI presented in the [Actors of Protection](#) section which details the issues in securing protection from majority clans in general, COI also suggests that protection may only be available to the Midgan, Tumul and Yibir clans if a historical relationship exists, and for members of the Midgan group, only if they are in a position to pay for it:

➤ [United Nations High Commissioner for Refugees \(UNHCR\), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Somalia, 05/05/2010,](#)

[...] B. Main Groups at Risk on the on the Basis of Article 1(a) of the 1951 Convention and/or Article I(1) of the OAU Convention, d) Members of Minority Clans

[...] Members of certain minority clans, such as the Midgan, Tumul and Yibir, who were previously residing near or with majority clans, may be able to call upon the protection of majority clans, if that historical relationship exists.¹²³ However, given the breakdown in clan protection mechanisms due to the ongoing conflict, as a result of which members of majority clans may no longer be able to rely on such protection, the situation of members of minority clans living together with majority clans will be precarious too.¹²⁴

UNHCR considers that members of minority clans in southern and central Somalia are at risk on the ground of their ethnicity/race (especially the out-caste clans). [...]

➤ [Norwegian Country of Origin Information Service, Protection and Conflict Resolution Mechanisms, 30/09/2011](#)

[...] 3.3 PROTECTION AND MINORITY GROUPS

When asked about the protection provided to Midgan groups, a well-informed international source (interview in Nairobi, March 2009) stated that these groups often rely on various variants of paid protection.⁸ The same source described protection in Mogadishu as similar to a mafia-like protection racket. [...]

3.11 Women

Conclusion 3.11.8-3.11.11

Excerpt from October 2011 Somalia OGN

3.11.8 Conclusion. Given the generalised discrimination towards women in Somalia and the inability of the State to provide protection in many areas of south central Somalia, some applicants are likely to be able to demonstrate a need for international protection. Factors to be taken into account include the age, health, economic status, family responsibilities and other individual circumstances of the applicant.

It is considered that in the conclusion for this category of claim is not fully consistent with the COI contained in the OGN and elsewhere in the public domain, which suggests that ‘most’, not ‘some’ women applicants are likely to be able to demonstrate a need for international protection.

Excerpt from October 2011 Somalia OGN

3.11.9 A woman returning to an area where she has clan or family support and/or other resources such as remittances from abroad or ability to work would clearly be in a different situation to a lone woman in some IDP camps with no protectors or resources. There is evidence that women from minority clans face greater problems but, as noted in 3.7 – 3.10 above, the situation for minority clans is not clear cut. Some are able to enlist the support and protection of other clans, and the risk to the particular individual should be assessed carefully on a case by case basis.

It is further considered that this section of the OGN which address the possibility of effective protection and internal relocation for women is not consistent with the available COI on this issue. COI is included in the [Actors of Protection](#) section which details that whilst clan identity has been historically important in Somalia and the clan system is still functioning, it has been undermined as a protection mechanism by the on-going conflict and the implementation of Shari’a law by al-Shabaab. This latter point has been confirmed in the most recent CG case [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#), which was promulgated after the publication of the OGN, found that “family and/or clan connections may have an important part to play in determining the reasonableness of a proposed place of relocation”, but “in the light of the present humanitarian crisis, the cogency of the indicators pointing to such a position would need to be powerful”:

Country guidance

[...] Southern and central Somalia, outside Mogadishu

[...] 11) *Within the context of these findings, family and/or clan connections may have an important part to play in determining the reasonableness of a proposed place of relocation. The importance of these connections is likely to grow, as the nature of the present humanitarian crisis diminishes and if Al-Shabab continues to lose territory.*

[...] The Tribunal’s findings

[...] (3) Internal relocation

[...] (d) To an area not controlled by Al-Shabab

[...] 507. A person who has a clan or strong family connection with a particular area in south or central Somalia, not controlled by Al-Shabab, particularly a town, may, in the light of all this, have an internal relocation alternative to that place. In the light of the present humanitarian crisis, the cogency of the indicators pointing to such a position would need to be powerful. However, as the nature of that crisis diminishes, as we all hope it must, the importance of such an internal relocation alternative is likely to grow. The same is true if Al-Shabab continues to lose territory to the TFG/AMISOM and/or those aligned with them.

Also see below section on [Internal Relocation](#) for an analysis of the possibility of internal relocation in Somalia, including the findings of *AMM and Others* and in *Sufi & Elmi v UK* and in particular, note the COI presented on page 60 which addresses the risks specific to minority clan IDPs.

Excerpt from October 2011 Somalia OGN

3.11.10 Case owners should consider whether internal flight may be a relevant option for the individual applicant. **Independent travel may be difficult but the evidence does not suggest a complete prohibition on women travelling unaccompanied.** Taking into account the general position of women in Somalia, who may not be able to survive economically or not able to depend on clan or family for economic support, internal relocation may be unduly harsh for some women. However, given the latest position regarding Al-Shabaab withdrawal from Mogadishu, case owners should contact Country of Origin Service to ascertain the most up-to-date country situation and consider the security or other risk on return on a case by case basis in light of the latest information at the date of decision.

The first highlighted sentence fails to address the specific risks that arise for women during flight. This is despite the fact that COI is included on this point within the *Treatment* section of the OGN (emphasis added):

Excerpt from October 2011 Somalia OGN

3.11.7 Human Rights Watch reported in April 2010 that when women travel, they are often required to have a male escort. Male escorts must sit in a different seat if the woman is travelling in the vehicle however as Al-Shabaab bars men and women from sitting together.¹⁰⁴ **In August 2011, the UN Special Representative of the Secretary-General on Sexual Violence in Conflict voiced concern over reports that women and girls fleeing famine in Somalia were being raped or abducted and forced into marriage by bandits and other armed groups as they tried to reach refugee camps in Kenya.**
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Additional COI which corroborates the specific risk that women face during flight includes:

- [United Nations, Report of the Secretary-General on Somalia, 30/08/2011](#)
[...] 32. The ongoing conflict has increased the risk of sexual violence for women and children. There are reports of Al-Shabaab recruiting girls for forced marriage to fighters, and allegations of rape by militias allied to the Government in southern central Somalia. Although the United Nations has not been able to confirm widespread cases of sexual violence during flight among newly arrived refugees in Dadaab, Kenya, it is acknowledged that there are high risk areas on the outskirts of the camps and en route to Kenya where women and children may be more exposed to sexual violence by “bandits” or “men with guns”.
[...]
- [UNOCHA, Somalia Famine & Drought Situation Report No. 10, 23/08/2011](#)
[...] PROTECTION
Needs: Protection risks are rife among the population on the move. Armed bandits attack and sometimes rape women who often travel alone. In many cases, the men in the family have gone with their livestock in search of water and pasture. Pregnant women and children have to make the long and dangerous trek in search of food and safety and often arrive at their destination with medical complications, including severe malnutrition. Within the host community at the Kenyan village of Liboi, just across the Somalia border, health centres are reporting cases of sexual violence amongst newly arrived Somali refugees. In July 2011, the cluster recorded 236 protection related incidents involving a total of 461 victims. The Protection cluster aims to assist 15,000 survivors of human rights violations and assist 2,600 households (15,600 people) through livelihood support and community protection initiatives. [...]
- [UN News Service, UN official voices concern over reports of rape of Somali women fleeing famine, 11/08/2011](#)

[...] The United Nations official leading the fight against sexual violence in times of conflict today voiced concern over reports that women and girls fleeing famine in Somalia were being raped or abducted and forced into marriage by bandits and other armed groups as they tried to reach refugee camps in Kenya.

"During the long and perilous journey from Somalia to the camps in Kenya, women and girls are subjected to attacks, including rape, by armed militants and bandits," said Margot Wallström, the Special Representative of the Secretary-General on Sexual Violence in Conflict, in a statement. "Once they cross the Somalia-Kenya border or reach Dadaab – the world's largest refugee settlement – their hopes of finding a safe haven are often overshadowed by new dangers and hardships, including the risk of rape," she said. [...]

➤ [UNHCR, Somali rape survivor rebuilds life, 14/07/2011](#)

[...] Annabel Mwangi, UNHCR's Protection Officer in Bosaso, agrees that internally displaced people (IDPs) are even more vulnerable to gender-based violence. "Just like women around the world, IDP women in Puntland are mothers, wives, orphans, widows – except they are forced to play these roles in extremely difficult conditions, which many of us cannot begin to imagine," she said. "These women often have to travel long distances in search of some form of income, along unsafe routes, at risk of being subjected to various forms of violence, knowing it is the only way to provide one daily meal for their children." [...]

➤ [United Nations Human Rights Council, Report of the independent expert on the situation of human rights in Somalia, Shamsul Bari* 29/08/2011](#)

[...] E. Women's rights

41. Access to justice and equality before the law remains a challenge, as exemplified in cases of sexual violence that are settled by tribal elders who disregard the opinion and will of the victim, including with forced marriages between the victim and the perpetrator. In the course of the universal periodic review, several delegations focused on the urgent need to improve the human rights situation of women and children. The Transitional Federal Government delegation committed to eradicating female genital mutilation, and it was recommended that the practice be criminalized and awareness-raising campaigns conducted. Other recommendations on women's rights concerned the urgent need to address violence against women and to include women in political life and the peace process. [...]

➤ [UNOCHA, Somalia Famine & Drought Situation Report No. 10, 23/08/2011](#)

[...] PROTECTION

Needs: Protection risks are rife among the population on the move. Armed bandits attack and sometimes rape women who often travel alone. In many cases, the men in the family have gone with their livestock in search of water and pasture. Pregnant women and children have to make the long and dangerous trek in search of food and safety and often arrive at their destination with medical complications, including severe malnutrition. Within the host community at the Kenyan village of Liboi, just across the Somalia border, health centres are reporting cases of sexual violence amongst newly arrived Somali refugees. In July 2011, the cluster recorded 236 protection related incidents involving a total of 461 victims. The Protection cluster aims to assist 15,000 survivors of human rights violations and assist 2,600 households (15,600 people) through livelihood support and community protection initiatives. [...]

➤ [CARE, Horn of Africa Drought: Reported cases of sexual violence have quadrupled among refugees, 12/07/2011](#)

[...] The most dangerous period for refugees is when they are on the move. Women and girls are especially vulnerable to rape, abduction, illness and even death on the journey. Many women set out on the journey alone with their children, leaving husbands behind and they may walk for weeks in search of safety. [...]

➤ [Inter Agency Standing Committee Somalia, Protection Cluster Update, 01/07/2011](#)

[...] Reports related to other types of gender-based violence (GBV), which include domestic violence, rape, early marriage as a result of lack of livelihood opportunities, and sexual exploitation and abuse has increased throughout Somalia. IDP women and girls continue to be most affected by GBV as they lose their clan protection and male relatives while fleeing. A general trend analysis of the GBV in Somalia shows a clear trend of impunity due to social stigma that is often attached to such cases. Hence, the extent of GBV related cases remains severely underreported in all regions. [...]

- [Office of the United Nations High Commissioner for Human Rights \(OHCHR\), Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kalin on his mission to Somalia, 21/01/2010](#)

[...] V. Protection of displaced persons during displacement

42. Even if people manage to escape areas of acute insecurity, they remain exposed to other severe protection risks during flight and once they find refuge in settlements of IDPs in safer areas of Somalia. Displacement by its very nature strips people of their protective environment, lowers their resilience and heightens their vulnerability. In the context of Somalia, IDPs often lose their clan protection if they are forced to move to other, safer areas and are therefore even more exposed to protection risks. Women and children constitute the majority of the displaced, who often flee and settle in safer areas without male family members accompanying them, which increases their vulnerability in the local context.

43. During flight, the displaced reportedly encounter serious protection risks. Testimonies indicate that these include the rape of women and girls, looting of transport vehicles, physical assaults and murder inflicted by militia groups and gangs. Other protection challenges relate to the hardship of the flight, which poses severe physical challenges, in particular if IDPs cannot afford transport and have to flee on foot. This is exacerbated by the lack of food and potable water that has even resulted in fatalities among children, as testimonies from newly arrived IDPs in Bossasso indicate. Risks to health and lack of access to health care are concerns in particular for pregnant women, especially if they give birth during flight. The Representative has further learnt that armed elements, who have set up illegal checkpoints, interfere with the right of all Somalis to seek safety in another part of the country, by, inter alia, asking for payment to pass, stripping the displaced of their last possessions, or committing even worse crimes. He recalls that governmental authorities are not only obliged to refrain from such acts, but also have the obligation to protect the displaced from such actions by private actors. [...]

Moreover, the most recent CG case [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#), which was promulgated after the publication of the OGN, found that not only do female returnees in particular face “threats against the person” in an IDP camp, but that women travelling by land “without male friends or relatives are in general likely to face a real risk of sexual violence”. A “real risk of serious harm” would also occur for women returned to Mogadishu International Airport and travelling by land to Somaliland. See the relevant paragraphs of *AMM and others* below:

Country guidance

[...] Southern and central Somalia, outside Mogadishu

[...]12) *Travel by land across southern and central Somalia to a home area or proposed place of relocation is an issue that falls to be addressed in the course of determining claims to international protection. Such travel may well, in general, pose real risks of serious harm, not only from Al-Shabab checkpoints but also as a result of the present famine conditions. Women travelling without male friends or relatives are in general likely to face a real risk of sexual violence.*

[...] Somaliland and Puntland

[...] 15) *A person from Somaliland will not, in general, be able without real risk of serious harm to travel overland from Mogadishu International Airport to a place where he or she might be able to obtain an unofficial travel document for the purposes of gaining entry to Somaliland, and then by land to Somaliland. This is particularly the case if the person is female. A proposed return by air to Hargeisa, Somaliland (whether or not via Mogadishu International Airport) will in general involve no such risks.*

[...] The Tribunal’s findings

[...] (3) Internal relocation

[...] b) To an IDP camp in the Afgoye Corridor

501. On the basis of our earlier findings, it would, as a general matter, be unreasonable/unduly harsh to expect a returnee to live in an IDP camp, unless there was evidence that he or she would be able to achieve the lifestyle of those better-off inhabitants of the Afgoye Corridor settlements. That would depend, we consider, on the returnee having family or other significant connections with such better-off

elements. In the absence of these, we do not consider that even the likelihood of United Kingdom money for the returnee would be enough to eliminate the risks inherent in IDP camps, including threats against the person. This is, of course, particularly relevant in the case of a female returnee.

3.12 Female Genital Mutilation (FGM)

It is considered that the information included in this section is not consistent with the original sources of COI cited nor with the COI available in the public domain. In addition, the guidance provided in the OGN needs to be reconsidered in light of the findings made in [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#) on 28th November 2011.

That the COI is inconsistent with the original source can be seen by comparing the information contained in paragraph 3.12.4 with the original source cited. The OGN states:

Excerpt from October 2011 Somalia OGN

3.12.4 The avoidance of FGM is dependent on whether a girl is from the town or the countryside.[109] If a family lives in a major city it is possible to avoid FGM so long as the parents agree (even if the rest of the family and/ or clan do not support the idea). It has also been reported that there is a tendency towards Somali men being more easily convinced not to have their daughters circumcised.109 And, according to a LandInfo report, the younger generation of men between 15 and 26 do not regard FGM as a prerequisite for marriage and the fact that some men comply with the decisions women make, means that it should be possible for mothers to oppose FGM.

The source referenced as [109] in the first highlighted sentence is the 2004 Joint Danish, Finnish, Norwegian and British fact-finding mission to Nairobi. The relevant excerpt of the original source in fact states that (emphasis added):

[Report on the Human Rights and Security in Central and Southern Somalia: Joint British-Nordic Fact-Finding Mission to Nairobi 7-21 January 2004, 17/03/2004](#)

[...] Mørch referred to a development with regard to the number of girls who have not been circumcised He emphasised that **avoidance of FGM is dependent on the clan** and whether she lives in the city or in the countryside. If a family lives in a major city, it is possible to avoid FGM, so long as the parents agree (even if the rest of the family and/or clan do not support the idea) [...]

It is also considered that the inference drawn at the end of paragraph 3.12.4 is not fully representative of the original source. The relevant excerpt from the original Landinfo Country of Origin Information Centre (Norway) report states that (emphasis added):

[Landinfo Country of Origin Information Centre \(Norway\), Female genital mutilation in Sudan and Somalia, 15/12/2008](#)

3.6 ATTITUDES TOWARDS GENITAL MUTILATION

[...] Certain trends indicate a positive shift with regard to genital mutilation in Somalia. According to COSPE (meeting 2007), the custom is mainly a female affair and the young generation of men between 15 and 26 do not regard FGM to be a prerequisite for marriage. Somali sources claim that given that fact that men comply with the decisions women make, it should be possible for mothers to oppose FGM. **However, the World Bank (World Bank & UNPFA 2004) and other Somali sources (lecture by Asha Barre 2008) emphasise that men carry major responsibility for the continuation of the practice.** For a majority of the population, circumcision is a prerequisite for marriage. Prospective husbands pay a dowry and demand a circumcised wife. Fathers also play a key role – a daughter's chance to get married is poor unless she is circumcised and thus the father risks not getting a dowry. **Families have limited means of preventing or impeding the genital mutilation of their daughters** (meetings with UNICEF 2005 and COSPE 2007)[...]

It is further contended, that the supposition in paragraph 3.12.4 of the OGN, as paraphrased from the original LandInfo report, that "some men comply with the decisions women make, means that it should be possible for mothers to oppose FGM" is highly speculative and does not come near to

conveying the degree of confidence that would be required to assert that mothers can in fact successfully oppose FGM. It should be noted that this point is attributed to simply the 'Landinfo Report' when it is in fact clear from that original source that it is unspecified "Somali sources" which hold this view.

Indeed, this supposition that "it should be possible for mothers to oppose FGM" is inconsistent with COI both contained in other sections of the OGN and elsewhere in the public domain. For example note paragraphs 3.12.2 and 3.12.3 of the OGN (emphasis added):

Excerpt from October 2011 Somalia OGN

3.12.2 Treatment: The practice of FGM is widespread throughout Somalia. The US State Department records that as many as 98% of women have undergone FGM; the majority were subjected to infibulations, the most severe form of FGM. In Somaliland and Puntland, FGM is illegal, but the law is not enforced. UN agencies and NGOs have tried to educate the population about the dangers of FGM but there were no reliable statistics to measure the success of their programmes. **Some sources claim to have observed a transition from infibulations to sunna (excising of part of the female genitals) in recent years but it is difficult to ascertain with any degree of certainty how extensively patterns might have changed. It was emphasised that it is extremely difficult to change the attitude towards FGM and providing education and information to young girls might be the only way to make any impact on this issue.**¹⁰⁶ [...]

3.12.3 The age when FGM is performed is in later childhood; usually between the ages of five and eight. There is societal pressure on families to perform FGM. In Somalia, genital mutilation is not a rite of passage that marks the transition from child to adult. The practice is linked to tradition and notions about purity, virginity and control of unwanted sexuality.¹⁰⁷ Although many women understand that the practice is harmful, they still believe that the custom should be preserved. **There is pressure on mothers (and other female family members) in societies where religion, tradition, ideals of purity, fear of stigmatisation and absence of networks beyond the family or clan, plays a pervasive role. Whereas pressure is administered primarily by women, overall attitude towards FGM is strongly influenced by the requirements and ideals held by men and wider society towards virginity. Fear of exclusion from marriage and family contributes to the pressure.**¹⁰⁸

The persisting high prevalence rate of FGM can also be seen as indicative of a lack of women's success in opposing FGM:

- [Amnesty International, In the line of fire: Somalia's children under attack, 20/07/2011](#)
[...] The prevalence of female genital mutilation (FGM) in Somalia is estimated at 98 per cent, 6 and it is primarily girls aged between four and 11 who undergo the procedure. [...]
- [UN Human Rights Council, Report of the Working Group on the Universal Periodic Review*Somalia, 11/07/2011](#)
[...] 19. The Somali Penal Code covers "hurt", "grievous hurt" and "very grievous hurt" and Islam also prohibits female genital mutilation (FGM). However, FGM is very widespread in Somalia and almost all Somali women and girls are subjected to this damaging practice. [...]
- [Freedom House, Worst of the Worst 2011the world's most repressive societies, 01/06/2011](#)
[...] Female genital mutilation is still practiced in some form on nearly all Somali girls, and sexual violence is rampant. [...]
- [UN Human Rights Council, National report submitted in accordance with paragraph 15 \(a\) of the annex to Human Rights Council resolution 5/1 Somalia*, 11/04/2011](#)
[...] 3. Female Genital Mutilation (FGM)
52. There has been a trend lately in many countries to end this harmful practice. The Somali Penal Code covers "hurt", "grievous hurt" and "very grievous hurt" and Islam also prohibits this harmful practice. However, FGM is very widespread in Somalia and almost all Somali women and girls are subjected to this damaging practice. Since this practice is a widespread phenomenon in the society, a large number of

people make their living on it and the Government has to find alternative sources of income for practitioners of it.

53. The TFG is committed to total elimination of this harmful practice. It is willing to amend its penal code with provisions to specifically prohibit this practice. We call upon the international community to share with us good practices that could be applied to our case. [...]

- [UN Human Rights Council, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(c\) of the annex to Human Rights Council resolution 5/1, 21/02/2011](#)

Summary of stakeholders' information to the Working Group on the Universal Periodic Review on the promotion and protection of human rights

] 26. JS1 stated that female genital mutilation was a deeply rooted traditional practice.⁴⁰ COGWO stated that this practice was rampant and that gender based violence was a common problem which remained a secret.

⁴¹ SWC stated that young girls between the ages of 4–8 were subjected to “infibulations” to ensure their chastity until they were married. SSWC indicated that many girls die from the shock and pain of the procedure which was normally done without anesthesia, as well as from infections and massive blood loss.⁴³ [...]

- [United Nations High Commissioner for Refugees \(UNHCR\), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Somalia, 05/05/2010](#)

[...] B. Main Groups at Risk on the Basis of Article 1(a) of the 1951 Convention and/or Article I(1) of the OAU Convention UNHCR considers that groups set out in this section face a particular risk of persecution or serious harm in Somalia, including through cumulative discriminatory acts. The list is not necessarily exhaustive, hence a claim should not be automatically considered as without merit because it may not fall within any of these groups.

1. Southern and Central Somalia [...]. g Women and Girls [...] Female genital mutilation (FGM) is widely practiced; 98% of the women aged between 15 and 49 years have been circumcised, with 78% having experienced the extreme form of FGM. FGM raises the incidence of hemorrhage, prolonged and obstructed labour, infections and eclampsia, which contribute to maternal death. In addition to poor health care, this is the reason why Somali women remain among the most high risk groups in the world for maternal mortality. Only one-third of births are attended by skilled health personnel.¹⁵⁰

[...] 2. Puntland

[...] e) Women and Girls

Female genital mutilation is almost universally prevalent in Somalia, including in Puntland.¹⁸⁶ SGBV is reportedly common in the IDP camps in Puntland.¹⁸⁷

[...] 3. Somaliland [...]

c) Women and Girls

According to reports, FGM is practiced on the vast majority of women in Somaliland²⁰² despite the fact that it is illegal. The legal ban of this practice is reportedly not enforced²⁰³ and an estimated 90 percent of girls undergo the procedure as societal attitudes still encourage the practice, particularly to prepare girls for marriage.²⁰⁴ [...]

Moreover, it is considered that at paragraph 3.12.6 the OGN has again selectively cited the original source. The OGN states that:

Excerpt from October 2011 Somalia OGN

3.12.6 UNIFEM has also indicated that a mother can protect her daughter from FGM if she has her husband's support and he has some standing in the community to counter any opposition from the rest of the family. **If the husband does not support his wife's decision, then his wife does have the option to leave the community with the child.**¹¹³ In 2011 UNICEF reported about a programme to educate women in Somaliland about alternatives to FGM. The NGO, Tostan, reported that 28 communities had declared collective abandonment of FGM. ¹¹⁴

This paragraph of the OGN cites a UNIFEM representative that was interviewed for the 2004 Joint Danish, Finnish, Norwegian and British fact-finding mission to Nairobi. The original source in fact states that (emphasis added):

[Danish Immigration Service, Human rights and security in central and southern Somalia \(Joint Danish, Finnish, Norwegian and British fact-finding mission to Nairobi, Kenya 7-21 January 2004\), 17/03/2004](#), [...] 4.5 Female Genital Mutilation (FGM)

A mother can protect her daughter from being circumcised if she has her husband's support and he has some standing in the community to counter opposition from the rest of the family. **If the husband does not support his wife's decision, her only option is to leave the community with the child, thereby forgoing her access to support and protection [...].**

This is a particularly serious omission in the light of the significance of security, community and clan protection in Somali society. Moreover, other COI in the public domain is further supportive of this point:

- [Landinfo Country of Origin Information Centre \(Norway\), Female genital mutilation in Sudan and Somalia, 15/12/2008](#)

[...] 3.6 ATTITUDES TOWARDS GENITAL MUTILATION

Although the origins of genital mutilation are unclear, the population groups and communities practicing the custom are largely concurrent in their approach to the issue itself and in their justifications for continuing the practice. Justifications span from religious beliefs to ideas about purity, beauty and aesthetics.

In a study by World Health Organisation (WHO), covering 1,744 women aged between 15 and 49 in North East and North West Somalia, 90 percent of the women responded that they preferred that the custom be preserved (World Bank & UNFPA 2004). Another study carried out in the district of Awdal in North West Somalia (Somaliland) and among Somalians in the Mandera district of Kenya, showed that more than half 10 of the respondents wanted their daughters to be circumcised (ibid). Furthermore, the study from the Awdal district showed that 36 percent of the respondents believed genital mutilation to have cultural and religious benefits. 42 percent did not share this view. Twelve percent believed that the custom prevented pre-marital sex and 16 percent were of the opinion that the custom promoted beauty. Both studies highlight the fact that more than half of the rural and nomadic respondents believed that genital mutilation was a requirement in Islam. The percentage was lower among urban respondents. The figures show that although many women understand that genital mutilation is harmful, they still believe that the custom should be preserved. This illustrates the complexity of the problems related to FGM. There is massive pressure on mothers (and other female family members) in societies where religion, tradition, ideals of purity, fear of stigmatisation and absence of networks beyond the family or clan, plays such a pervasive role. Whereas pressure itself is administered primarily by women, there is no doubt that the overall attitude towards FGM is strongly influenced by the requirements and ideals held by men (and society at large) towards virginity. With marriage and family representing the main pillars of society, even fear of exclusion or the mere prospect of exclusion contributes to pressurising those involved. [...]

- [Danish Immigration Service, Human rights and security in central and southern Somalia Joint fact-finding mission by the Danish Refugee Council and the Danish Immigration Service 14 – 27 March 2007, 01/08/2007](#)

3.9.1. Female Genital Mutilation (FGM)

An international organisation (C) explained that FGM normally takes place when the girl is between six and seven years old. In case the father or brother (in the father's absence) decides not to go through with the FGM of the daughter/sister the father/brother will be attacked by family or clan members. Anti-FGM is in Somali translated into 'anti-purity'.

The above analysis is consistent with the most recent CG case [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#), which was promulgated after the publication of the OGN, and which found that "The prevalence of FGM in Somalia is, we find, so great that an uncircumcised, unmarried Somali woman, up to age 39, will in

general be at real risk of suffering FGM” (para. 560). Moreover, a mother whose daughter was subjected to FGM against the mother’s wishes would thereby suffer persecution or treatment in breach of art. 3 (para. 558). In addition, the Refugee Convention would also be “engaged in the case of a mother who was genuinely strongly opposed to inflicting or procuring FGM on her daughter but who, on the evidence, was reasonably likely, sooner or later, to countenance it, as the lesser of two evils” (para. 567). Should both parents oppose FGM for their daughter(s), their socio-economic background might be able to withstand “strong societal pressures”, but “the fact of parental opposition may well as a general matter be incapable of eliminating the real risk to the daughter that others (particularly relatives) will at some point inflict FGM on her”. See the relevant paragraphs of the judgement below:

Country guidance
[...] **Female genital mutilation**

16) The incidence of FGM in Somalia is universally agreed to be over 90%. The predominant type of FGM is the “pharaonic”, categorised by the World Health Organisation as Type III. The societal requirement for any girl or woman to undergo FGM is strong. In general, an uncircumcised, unmarried Somali woman, up to the age of 39, will be at real risk of suffering FGM.

17) The risk will be greatest in cases where both parents are in favour of FGM. Where both are opposed, the question of whether the risk will reach the requisite level will need to be determined by reference to the extent to which the parents are likely to be able to withstand the strong societal pressures. Unless the parents are from a socio-economic background that is likely to distance them from mainstream social attitudes, or there is some other particular feature of their case, the fact of parental opposition may well as a general matter be incapable of eliminating the real risk to the daughter that others (particularly relatives) will at some point inflict FGM on her.

[...] **The Tribunal’s findings**

[...] **(6) Female genital mutilation**

[...] 558. Likewise, we have no difficulty in finding that a Somali mother may suffer persecution and treatment in breach of her own Article 3/15(b) rights if her daughter is subjected to FGM against the mother’s wishes. As the AIT found in FM (FGM) Sudan CG [2007] UKAIT 00060:-

“Given the first appellant’s abhorrence of FGM, any infliction of it upon either of her daughters is, we find, reasonably likely to have so profound an effect upon the first appellant as to amount to the infliction on her of persecutory harm. In the light of our finding as to the nature of the particular social group in the present case, it follows that the first appellant is at real risk of persecution for a Refugee Convention reason (Katrinak v Secretary of State for the Home Department [2001] EWCA Civ 832: Recital 27 to Council Directive 2004/83/EC).”

[...] 560. The prevalence of FGM in Somalia is, we find, so great that an uncircumcised, unmarried Somali woman, up to age 39, will in general be at real risk of suffering FGM. The risk will obviously be at its greatest where both parents are in favour of FGM. Conversely, where both parents are opposed to it, the question of whether the risk will reach the requisite level will need to be determined by reference to the extent to which the parents are likely to be able to withstand what are, as a general matter, strong societal pressures (from both men and women) in Somalia for the procedure to be carried out on their daughter. Unless the parents are from a socio-economic background that is likely to distance them from mainstream social attitudes, or there is some other particular feature of their case (such as living in a place where – exceptionally - an anti-FGM stance has taken hold) the fact of parental opposition may well as a general matter be incapable of eliminating the real risk to the daughter that others (particularly relatives) will at some point inflict FGM on her.

[...] 567. Accordingly, we consider that it would be open to a judicial fact-finder, in such circumstances, to find the Refugee Convention engaged in the case of a mother who was genuinely strongly opposed to inflicting or procuring FGM on her daughter but who, on the evidence, was reasonably likely, sooner or later, to countenance it, as the lesser of two evils.

3.13 Prison Conditions

Only one source of COI, the 2010 U.S. State Department report, is cited in this whole section. It is considered that whilst the position of this source that “prison conditions remained harsh and life threatening in all regions in 2010” is accurate of the situation in Somalia, this information should be corroborated by other sources.

Excerpt from October 2011 Somalia OGN

3.13.8 Conclusion. **Prison conditions in Somalia are poor and may breach the Article 3 threshold in individual cases.** The individual factors of each case should be considered to determine whether detention will cause a particular individual in his particular circumstances to suffer treatment contrary to Article 3, relevant factors being the likely length of detention the likely type of detention facility and the individual’s age and state of health. Where in an individual case treatment does reach the Article 3 threshold a grant of Humanitarian Protection will be appropriate.

This conclusion of the OGN also fails to identify gender as amongst those additional factors that should be considered to determine whether detention will cause a particular individual to suffer treatment contrary to Article 3. It is further considered that the conclusion for this section of the OGN fails to accurately represent the available COI on detention conditions in Somalia, Somaliland and Puntland. It is considered that as the COI both contained in the OGN and elsewhere in the public domain documents that conditions are not simply “poor” but are harsh and life threatening and therefore are likely to breach the Article 3 threshold in individual cases.

The following COI not included in the OGN supports this view:

- [United Nations, Report of the Secretary-General on Somalia, 30/08/2011](#)
E. Human rights and protection of civilians
[...] 29. Non-State armed actors continue to perpetrate serious human rights violations, including summary executions of civilians associated with parties to the conflict. Unlawful arrest and detention and acts amounting to torture and other inhumane, cruel and degrading practices, such as flogging, amputations and stoning, also took place during the reporting period. [...]
- [Human Rights Watch, "You Don't Know Who to Blame?; War Crimes in Somalia", 14/08/2011](#)
[...] Mistreatment in Custody
Human Rights Watch received reports of arbitrary arrest and mistreatment of civilians by al-Shabaab and TFG-aligned groups after taking control of areas from other armed groups.
Al-Shabaab
Al-Shabaab routinely mistreats persons in areas under its control.⁷⁶ A former al-Shabaab child soldier told Human Rights Watch about the arrests he recently helped carry out:
We worked in shifts, some at day, some at night. Some people were sent into town to arrest those who were drinking, smoking, chewing qat [a commonly used stimulant], and gossiping. I was among those who arrested people. They are blindfolded, their shirts are removed, and they are slashed with canes and kicked. A person is beaten until he becomes unconscious, then he’s taken to a cell.⁷⁷
Torture and other ill-treatment previously documented appear to continue unabated. AlShabaab’s strict interpretation of Sharia is the basis for much mistreatment. Women are caned or arbitrarily detained for greeting men, including relatives, in public.⁷⁸ Al-Shabaab bans most recreational activities, including watching and playing football, and singing. Those who violate these prohibitions also risk beatings. One woman, who had made her living as a singer in Kismayo said, “It was suicidal to continue.”⁷⁹ Both women and men are subjected to conservative dress codes (such as covering of female heads and limbs, wearing black) and are punished if they do not comply; for instance, D.S., a man, was beaten for wearing trousers that were considered too long.⁸⁰

TFG-Aligned Militias

In at least one area captured from al-Shabaab, TFG-aligned forces allegedly arbitrarily detained suspected members of al-Shabaab. A.D., a woman who had fled from Bula Hawo to Kenya, returned to Bula Hawo after the fighting ended, and then fled once more, complaining of intimidation by TFG forces:

“The officials from the TFG talked to us and said ‘Al-Shabaab has been causing lots of problems here. We called you back, but we want you to stay here peacefully. But if anyone tries to cause any problems, if anyone creates any insecurity, you will all be punished.’ Because of that we decided to leave.”⁸¹

Her husband, T.A., said his mistreatment by Ahlu Sunna Wal Jama’a drove him and his family from Bula Hawo, even after the town seemingly returned to peace. He explained:

I myself was arrested and robbed by [Ahlu Sunna Wal Jama’a] officials. I was sitting somewhere in the town center in Bula Hawo, and an explosion took place. A TFG government vehicle was destroyed by a mine. Immediately, the soldiers [from Ahlu Sunna Wal Jama’a] entered the town and started shooting carelessly. All of us were rounded up and taken to the police station. While I was being taken to the cell, the soldiers robbed my cell phone and 7,000 Kenyan shillings. Five hundred of us were arrested. We were kept in a compound. Some were in a cell. Women were also arrested and were held separately. Some were carrying small children. The women and children were released the same day, but the men stayed in detention for two days. After we were released, there was a public rally by the TFG government. They told us to do one of three things: either go to Kenya or Ethiopia, or go join those al-Shabaab people. [A district official] said, “If something happens again here, you will be held responsible and we will kill you.” The day after the public rally we saw there was going to be no life there. We decided to take off.⁸²

A.D. continued:

The TFG was also beating people. There were a lot of women who were put in the cell. They were arresting people and not even letting people take food to them. When I left, a lot of these people were still in the cell. I knew one lady among them... I don’t know if she’s been released. She was accused of being al-Shabaab because her brother was a member of al-Shabaab who was killed in the fighting. They were arresting people ages 15 and up whom they suspected of looking like al-Shabaab or dressing like al-Shabaab.⁸³

This account aligns with what Ahlu Sunna Wal Jama’a spokesman Shariff Abduwahid told IRIN News in March:

We don’t want to kill brainwashed teenagers who were used by people who don’t favor the interest of the country and the Somalis; so those we have here we feel were misled; our intention is to keep them in prison, to orientate and clear their brainwashed minds.⁸⁴TFG

The Transitional Federal Government maintains a number of detention sites in Mogadishu where alleged al-Shabaab members and others are detained. Conditions in these detention facilities are dire and arbitrary detention is the norm. Access to the National Security Agency (NSA) detention facility is severely restricted; Human Rights Watch was unable to identify a single independent monitor that has recently had access to NSA facilities in order to assess the condition of detainees. Reports point to the presence of children in the NSA detention facility. Independent monitoring by the United Nations and civil society organizations is necessary in order to ensure human rights protections for detainees in TFG custody. [...]

➤ [United Nations, Report of the Secretary-General on Somalia, 28/04/2011](#)

[...] 82. The prisons in southern central Somalia fail to meet the minimum standards required under the United Nations Standard Minimum Rules for the Treatment of Prisoners. Prison officers lack proper training in human rights, rehabilitation and reintegration, and relevant international standards for the treatment of offenders. [...]

➤ [UN Human Rights Council, National report submitted in accordance with paragraph 15 \(a\) of the annex to Human Rights Council resolution 5/1 Somalia*, 11/04/2011](#)

[...] VII. Challenges and constraints

90. Somalia is currently facing tough and complex challenges inter alia, poverty, and droughts, insecurity aggravated by the lack of fully functional institutions including the institutions of rule of law (addressing police, judiciary, and corrections). While the challenges are huge, the following should be mentioned:

- IDPs and refugees;
- Insecurity;

- Weakness of State institutions;
- Existence of corruption;
- Poverty and unemployment;
- Critical status of detention centers;
- Lack of juvenile correction centers;
- Child soldiers (and “defector”);
- Weakness of the civil society;
- Low capacity of rule of law enforcement institution of the country. [...]

➤ [Foreign and Commonwealth Office, Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report - Section VII: Human Rights in Countries of Concern, 31/03/2011](#)

Somalia

[...] Prisons and detention issues

We were not aware of any reports during 2010 of the use of widespread or systematic arbitrary detentions, or of detentions of political prisoners. Prison conditions are harsh and do not meet international standards. Police stations in Mogadishu were monitored by civil society groups through the UN Development Programme and as a result, a number of prisoners were released when it was found that the police had not followed due process. However, the difficult security situation in Mogadishu meant that the monitoring of police stations was ad hoc. [...]

Torture and other ill treatment

There is no clear evidence of the use or extent of torture, but media reports indicate that al-Shabaab use serious acts of violence, such as public amputations and lashings to enforce its law. The Somaliland government was subject to accusations of mistreatment in 2010, despite the Somaliland constitution forbidding the use of any kind of “cruel and physical treatment”. [...]

➤ [UN Human Rights Council, Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(b\) of the annex to Human Rights Council resolution 5/1, 21/02/2011](#)

[...] Compilation of UN information to the Working Group on the Universal Periodic Review on the promotion and protection of human rights

3. Administration of justice, including impunity and the rule of law [...]

38. In 2010, UNODC indicated that many areas of Somalia had no functioning criminal justice system, that there was an almost total absence of law reform, and that existing codes were barely sufficient to support the operation of the criminal justice system.⁸²

43. The High Commissioner for Human Rights raised concerns that prison conditions in Puntland and Somaliland remained poor and life threatening, and detention centres lacked basic health care and water supplies.⁹⁴ The Secretary-General stated that the Puntland prison population had grown by approximately 10 per cent per month, and that the majority of prisoners were detained without due process.⁹⁵

44. According to the independent expert, in all parts of Somalia there were no adequate detention facilities for women, who were thus extremely vulnerable to violence by fellow male detainees or male wardens.⁹⁶

Young adolescent girls were often brought by their families to detention centres for “misbehaving” and held in custody until the family requested their release.⁹⁷ Juveniles not accused of anything amounting to a criminal offence under the law were sent to jail by the regional security committees who took decisions based on traditional Somali law, or Xeer.⁹⁸ [...]

➤ [UN Human Rights Council, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(c\) of the annex to Human Rights Council resolution 5/1, 21/02/2011](#)

Summary of stakeholders' information to the Working Group on the Universal Periodic Review on the promotion and protection of human rights

[...] 16. COGWO [Coalition for Grassroots Women Organisations, Mogadishu, Somalia] stated that people were detained in secret facilities in areas controlled by the TFG, some merely for the purposes of a ransom.²⁴ JS2 stated that the police force remained mired in deeply entrenched patterns of extortion, torture, and other forms of ill treatment and that impunity from prosecution remained the biggest single

obstacle to ending such abuses.²⁵ It also stated that the police continued to be implicated in numerous extrajudicial killings in the course of police operations in TFG controlled areas.²⁶ JS2 stated that in “Puntland” civilians and political rivals were tortured by the military.²⁷ [...]

➤ [United Nations, Report of the Secretary-General on Somalia, 30/12/2010](#)

[...] 85. Prison conditions remained harsh and life-threatening throughout the country. Detainees’ families and clans are expected to pay the costs of detention. The United Nations completed the rehabilitation of Hargeysa prison to international standards and reintroduced prison uniforms after a 30-year absence. A total of 162 custodial staff in “Puntland” and 200 correctional staff in “Somaliland” received training developed by the United Nations. [...]

➤ [United Nations, Report of the Secretary-General on Somalia, 11/05/2010](#)

[...] 64. Following an agreement with UNDP, UNODC is currently taking the lead in activities related to corrections in Somalia as they relate to counter-piracy efforts. In this context, and in support of counter-piracy efforts, UNODC is working to bring Hargeisa prison up to international health and safety standards and will shortly evaluate and refurbish Bossaso prison. According to the Somalia Deputy Attorney General, conditions in the Mogadishu Prison are dire and life-threatening, with overcrowding, poor sanitary conditions and access to health care, and inadequate food and water supply. [...]

2.3 Actors of Protection

None of the categories of claim the OGN includes a relevant sub-section on *Actors of Protection*, but instead each refers to this section of the OGN. The structure of the OGN would suggest that this general section should be relevant for all main categories of claim for which the agent of persecution is a non-state actor. However, this section of the OGN only focuses on the size and resources of the forces of the Transitional Federal Government (TFG) and the African Union Mission in Somalia (AMISOM). It does not make an assessment of the likelihood of effective state protection being available for either persons fearing Al-Shabaab or persons fearing persecution owing to their clan identity. It is considered that given the overwhelming evidence available in the public domain that the state authorities are incapable of providing effective protection, that the OGNs should specifically reflect this. For example:

- [United Nations High Commissioner for Refugees \(UNHCR\), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Somalia, 05/05/2010](#)
[...] D. The Availability of Effective State or De Facto Protection in Somalia, Somaliland and Puntland
1. State Protection
Effective State protection is unavailable in southern and central Somalia given the situation of armed conflict and the inability of the government authorities to extend control over any territory outside a few districts in Mogadishu. [...]

In addition to not providing guidance on whether effective state protection is available, this section of the OGN does not address the availability of clan protection. The following COI demonstrates that whilst clan identity has been historically important in Somalia and the clan system is still functioning, it has been undermined as a protection mechanism by the on-going conflict and the implementation of Shari'a law by al-Shabaab:

- [Norwegian Country of Origin Information Service \(Landinfo\), Protection and Conflict Resolution Mechanisms, 30/09/2011](#)
[...] SUMMARY
The Somali clan system is amazingly adaptable, and in spite of nearly two decades of turmoil and unrest, it is still functioning. Scarce resources, and natural disasters such as floods and drought, limit however both the opportunities and the will to support newcomers in an area, even though these may belong to the same Diya group, or the same clan. Clan protection issues, especially in Shabaab-controlled areas, are complex and depend on several factors. Affiliation to one of the major clans does not automatically provide protection. Political, ideological or religious issues are not negotiable with Shabaab. On other matters clans might be able to influence the decisions of the movement, but in strategically important places Shabaab's control is strong, and clan influence is very weak. [...]
1. CLAN PROTECTION IN GENERAL
In traditional Somali society, individual security depended on the ability of the clan, i.e. the diya group, to pay compensation or defend itself from possible attacks. Diya (or mag, which is the Somali term) is the compensation that, in the Somali context, is paid by the clan of someone who has caused a death or an injury to the clan and immediate family of the dead/injured person. In other words, this penalty is a collective, rather than an individual responsibility. The element of protection is mainly inherent in the fact that a large and/or militarily strong clan will deter a possible attacker.¹
In spite of many years of conflict, clan affiliation and clan networks still remain the safety net – and the bedrock – of Somali society. All experts on Somalia as well as various Somali resource persons emphasize this (interviews in Nairobi, march 2011). [...]
Minor clans or groups have traditionally sought protection through affiliation with the dominant clans in a given area. Internal clan conflicts and politicisation of the situation in recent years, as well as al-Shabaab's advancement, have affected these mechanisms negatively. [...]
3. CLAN PROTECTION AND CLAN INFLUENCE TODAY

Today, affiliation with a major clan does not imply automatic protection.⁶ Clans remain important, but politics and ideology as well as international and domestic conditions divide and weaken the authority of the clans and the traditional mediators in conflict situations. Shabaab seeks to distance itself from the clan dimension for reasons of principle, but will also cooperate with clans and enjoy a certain amount of support from clans and minority groups in the areas under their control. Thus, large clans in many areas are subject to Shabaab and must comply with Shabaab's enforcement of sharia law. Small clans and groups could therefore see that their role has been strengthened in relation to the large clans. The smaller Hawiye clans Duduble, Murosade, Haber Gedir Ayr, Salebaan, Hawadle and Galjeel have allied themselves with Shabaab.⁷

According to some observers, one of the factors that has served to weaken the influence of the certain (large) clans, is that the clans are no longer armed – with some exceptions. The exceptions are the Ahlu Sunna Wal Jammaah (ASWJ) and other armed groups that are more or less allied with the TFG. On closer inspection, these groups are also clan-based. The ASWJ is divided, with divisions following clan lines.

The aspect of protection is therefore complicated, and the vulnerability and opportunity of individuals to find protection and support depend on a number of circumstances, such as local conditions, balance of power, kinship ties or relationships, financial position and status (interviews in Nairobi, March 2007, June 2008, March 2009, March 2010 and March 2011). This implies that opportunities for protection may vary from one area to another, and from one individual to another. Clan protection is not a realistic alternative with regard to conflicts or disputes pertaining to ideology, religion or politics in areas under the control of Shabaab. This includes recruitment to Shabaab or marriage with Shabaab soldiers. With regard to conflicts without political or ideological undertones, such as disputes over access to pastures or water, the clans remain influential and conflicts are solved by traditional means. On the other hand, the clan system and clan protection still function in areas outside the control of Shabaab, but first and foremost for the local inhabitants. Newcomers without affiliation to a local clan, as well as people who have not been in touch with their local kinsmen for a long time, have fewer opportunities for protection and support, and remain dependent on the resources and goodwill of the local population (interview with well-informed international representative in Nairobi, March 31st, 2011).

As described above, the clan's ability to provide protection depends on a number of factors. Place of residence is one variable, and Shabaab undoubtedly emphasises maintenance of control in strategically and financially important cities such as the capital (see Section 3.1), the port city of Kismayo, Beled Weyne (which is a hub for transport and trade with Ethiopia), towns along the Kenyan border, etc. In these cities and towns, the clans have very limited influence. Outside these areas the situation is different, and the clans have retained a certain influence. The Shabaab administration or prominent leaders with a local base of support, such as Mukthar Robow from the local Rahanweyn clan in Bay and Bakol, can also grant some influence to local people and clan elders, but only to a certain extent and only to the extent that this does not threaten Shabaab's political goals on the local level or otherwise. The influence of the council of elders remains restricted even here. According to various international sources and Somali representatives, the expulsion of the international aid organisations is a good example of this lack of influence (interviews in Nairobi, March 2011). [...]

3.1 Mogadishu

[...] In the areas of the capital that previously was controlled by Shabaab, the clans had a generally weak position, and hence a very limited influence. Mogadishu is strategically important, the leadership of the movement was located there, and the population was tightly controlled. Those seeking to obtain benefits for themselves or their kin within such areas will find it easier if the local commander himself has a local base of support. This provides an opening for influence by way of relatives, but here, too, some restrictions prevail. Conflicts or issues of an ideological, political or religious nature are not negotiable.

Those who leave conflict-ridden areas often travel to regions where their clan has traditionally been settled – provided that this offers better security than their current area of residence. Today, the issue of protection is first and foremost associated with the situation in the areas of arrival and the resources that are available to the family, the networks and the local population there (interviews in Nairobi, June 2008, March 2009, March 2010 and March 2011). [...]

3.2 CLANS, ARBITRARY VIOLENCE AND CONFLICTS

Nor are the clans able to protect anyone against arbitrary violence, as pointed out by many informants: "Your clan cannot protect you from bombs" (interviews in Nairobi, June 2008 and March 2009). However, clans remain important with regard to where people flee – most of them want to resettle in a region where there are many others with the same clan affiliation (interview with UNHCR, June 2008). [...]

- [Amnesty International, In the line of fire: Somalia's children under attack, 20/07/2011](#)
 - [...] Domestic parties to the conflict
 - [...] Al-Shabab gained control of some areas after defeating pro-TFG forces or other armed opposition groups and gained control of other areas through negotiations with local clans and clan militias. Some of the leaders appointed by al-Shabab are from the areas they control. One farmer from a village near Jamame, in the Lower Juba region said to Amnesty International: "The local al-Shabab leader is from the area, he used to be a farmer." In other localities, al-Shabab has reportedly appointed leaders from other areas or clans, apparently to avoid local leaders favouring their own clansmen and softening the group's control over the local population [...]
 - [...] CHILDREN'S LIVELIHOODS THREATENED BY INDISCRIMINATE ATTACKS AND VIOLENCE
 - [...] Children are extremely vulnerable to insecurity and abuse once they lose the protection and care of their parents, particularly in South and Central Somalia where there is no state protection and the traditional clan protection mechanisms are being eroded by armed groups, and where war, poverty, lack of access to humanitarian aid and employment opportunities hamper the daily survival of millions of civilians.
 - [...] 4. RECRUITMENT AND USE OF CHILDREN INTO ARMED GROUPS AND FORCES
 - [...] The recruitment and use of children by parties to the conflict is a long-standing concern in Somalia. Boys over 15 years old are often considered adults and, in a situation of state collapse, breakdown of the rule of law and clan feuds, have been expected by some to defend their clan and family.⁵³
 - [...] RECRUITMENT OF CHILDREN BY ARMED GROUPS AGE AND TARGETS
 - [...] Some testimonies also indicate that minority clans have been targeted for recruitment by al-Shabab. Minority clans in Somalia have faced a long history of discrimination and human rights abuse, as they usually do not benefit from the military protection of warlords and majority clan militias.⁵⁷ [...]

- [UN, Report of the Working Group on the Universal Periodic Review*Somalia, 11/07/2011](#)
 - [...] I. Summary of the proceedings of the review process
 - A. Presentation by the State under review
 - [...] 7. The continuing armed conflict has resulted in the total destruction of assets and infrastructure in south and central Somalia. Any progress made since independence in forming a unified national entity has been lost, the rule of law collapsed and people have had to go back to the traditional system and seek protection from their clans.
 - 8. At the same time, however, the traditional structures and institutions that for many generations functioned through kinship, marriage, and the social codes of conduct, "Xeer", (Somali customary law) to maintain social cohesion have been weakened by the introduction of a centralized modern system of governance. Hence, when the modern state institutions fell apart, the traditional institutions were no longer able to resume their earlier role.
 - 9. The entire State system has to be rebuilt. The main challenge ahead of the Somali Government is the harmonization between the traditional setting and the modern statehood in which the harmonization between the genuine Islamic sharia law, the Somali customary law and the modern law is one of the main pillars. [...]

- [UNHCR, REGIONAL CONFERENCE ON REFUGEE PROTECTION AND INTERNATIONAL MIGRATION in Central America, Western Africa, Eastern Africa and Asia, June 2011](#)
 - [...] Regional Conference on Refugee Protection and International Migration in the Gulf of Aden, Sana'a, Yemen, 19- 20 May 2008
 - Summary Report
 - [...] 4. Addressing human rights abuses during travel and transit
 - Participants referred to the Background Paper of the Mixed Migration Task Force Somalia (MMTF) as helpful in outlining the human rights abuses that migrants and refugees may be subjected to during their journey. The key protection challenges for migrants, refugees and internally displaced persons (IDPs) identified by the MMTF are: the prevention of human rights abuses in an increasingly insecure environment; poor quality and availability of information upon which to craft protection responses; inadequate livelihoods for displaced persons in Somalia; limited capacity of the authorities to provide protection to migrants, refugees and IDPs; no or uneven access to clan protection; insufficient numbers of international actors in Somalia; and weak operational linkages at the regional level. [...]

➤ [U.S. Department of State, County Reports on Human Rights Practices, 08/04/2011](#)

[...] Intermittent resource-related sub-clan disputes escalated into minor armed conflicts. Targeted assassinations continued. [...] While TFG forces reported to government authorities, TFG-allied militia/paramilitary forces reported to clan or factional militia commanders and were outside the control of official authorities.

[...] Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

[...] Hundreds of civilians were killed in inter- or intra-clan militia clashes throughout the country. The killings resulted from clan militias fighting for political power and control of territory and resources; revenge attacks; banditry and other criminal activity; private disputes over property and marriage; and vendettas after incidents such as rape, family disagreements, killings, and abductions. Authorities investigated very few of these cases, and there were few reports that any of the cases resulted in formal action by the local justice system.

Despite local efforts to mitigate interclan conflicts, Galkayo and surrounding nomadic villages experienced the most severe and frequent armed clashes in the country. An estimated 100 civilians were killed and hundreds others displaced from their homesteads in water and land resource-related reprisal attacks during the year. Intermittent intraclan armed clashes over resource sharing were also reported in other parts of the Mudug Region, as well as in remote villages between Burao and Buuhoodle towns, in Bari Region, and in parts of Bay, Lower and Middle Shabelle, Hiraan, and Galgaduud regions, resulting in several civilian deaths. [...]

b. Disappearance

[...] During the year there were no reports of politically motivated disappearances, although these types of disappearances could have easily been concealed due to overall insecurity in the country. Abduction as a tactic in clan disputes, however, was reported but less frequently than in previous years. The Somali NGO Safety Preparedness and Support Program reported a decreased incidence of kidnapping, in part because of fewer international staff in the country.

Clan militia groups and criminal gangs made ransom demands on abductees or demanded property or hostage exchanges as preconditions to the release of abductees. Unlike the previous years where the majority of reported kidnappings were in the southern regions of Somalia, especially in areas surrounding Mogadishu, most kidnappings were reported in the Sool and Sanaag and Mudug regions. [...]

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment [...]

Unlike in previous years, there were no reports of police raping women; however, there continued to be reports of irregular/clan militias using rape to punish and intimidate rivals. Rape was commonly perpetrated in interclan conflicts. [...]

Role of the Police and Security Apparatus

[...] Traditional clan elders mediated and resolved intra- and inter-clan conflicts throughout the country. During the year traditional elders in Somaliland intervened in political disputes between the government and opposition political parties. Clans and sub-clans frequently used traditional justice, which was swift. Traditional judgments sometimes held entire opposing clans or sub-clans responsible for alleged violations by individuals.

[...] National/Racial/Ethnic Minorities

More than 85 percent of the population shared a common ethnic heritage, religion, and nomad-influenced culture. UNIE estimated that minority groups constitute approximately 22 percent of the population. In most areas, members of groups other than the predominant clan were excluded from effective participation in governing institutions and were subject to discrimination in employment, judicial proceedings, and access to public services.

Minority groups and low-caste clans included the Bantu (the largest minority group), the Benadiri, Rer Hamar, Brawanese, Swahili, Tumul, Yibir, Yaxar, Madhiban, Hawrarsame, Muse Dheryo, Faqayaqub, and Somaliland's Gabooye. Inter-marriage between minority groups and mainstream clans was restricted by custom. Minority groups had no armed militias and continued to be disproportionately subject to killings, torture, rape, kidnapping for ransom, and looting of land and property with impunity by faction militias and majority clan members. Many minority communities continued to live in deep poverty and suffer from numerous forms of discrimination and exclusion. [...]

c. Prohibition of Forced or Compulsory Labor

The pre-1991 penal code and the TFC prohibit forced or compulsory labor, including by children. Children and individuals from minority clans were reportedly used in the khat trade as porters, as well in farming and animal herding. [...]

➤ [Foreign and Commonwealth Office, Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report \(Somalia excerpt\), 31/03/2011](#)

[...] Minorities and other discriminated groups

[...] The clan structure is of great significance and importance in Somalia and four main clans continue to dominate politics, the economy and urban life. Minority clans are not proportionately represented in local and regional governments. Minority groups do not have the protection that the traditional clan structure affords. They are therefore more exposed to marginalisation and victimisation. During 2010, they suffered abuse at the hands of local governments as well as members of more dominant clans.

[...] Protection of civilians

[...] Displaced people often lose their clan protection when they are forced to move to other parts of the country, leaving them more vulnerable. [...]

➤ [United Nations High Commissioner for Refugees \(UNHCR\), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Somalia, 05/05/2010](#)

[...] 2. Clan Protection

Clan identity and membership in Somalia have historically been important in determining whether individuals could rely on effective protection when State protection was not available. Clan protection was bolstered and supported by customary law (xeer).²⁴⁶ Prior to 2007, effective protection could be relied on by members of majority clans.²⁴⁷ Since 2007, clan protection has been undermined in Mogadishu but also increasingly in other regions of southern and central Somalia by the ongoing conflict and the diminution of the traditional clan systems of justice due to the favoured strict interpretations of Shari'a law being implemented by the Islamist groups al-Shabaab and Hizbul Islam in areas under their control.²⁴⁸

The absence of State protection coupled with weakened clan protection mechanisms have led to an increase in uncertainty, criminality and impunity. Contrary to the past, clan protection can no longer be reasonably relied on to systematically and uniformly provide effective protection to Somalis anywhere in southern and central Somalia.²⁴⁹ [...]

➤ [ACCORD, Clans in Somalia: Report on a Lecture by Joakim Gundel, COI Workshop Vienna, 15 May 2009 \(Revised Edition\), December 2009](#)

[...] III. Protection

[...] 7. Clan Protection

[...] 7.3. Clan protection in the light of the current conflict

It is a traditional code in Somali culture that when a person comes to your house and seeks protection, one is obliged to protect this person. Thus failing to protect a person is considered dishonourable, signifying that one did not live up to his obligations. However, in the light of the massive displacements of recent times, the numbers of people have become too large for the local host clans to service this traditional obligation – which has increased their vulnerability. In this context, it should be noted in particular that women and children are at the bottom in all the social hierarchies. Women from minority clans or other groups not part of the main nomadic local clans are in particularly bad positions, even the more if they belong to a minority in an IDP camp. Due to this destruction of the social fabric and state structures, there is a high level of lack of law and order. There are many young men who are often armed (or have access to arms) who abuse the situation of big IDP camps and feel free to harass IDPs, rape women, force people into certain kinds of labour, extort money etc. As these men usually originate from the host clans, they are in a position of impunity. The only possible way of bringing change into such a situation can be found in entering a new xeer agreement between the elders of the host clans and those representing the IDPs and the other clan communities, in which the host clan promises to protect them against this kind of abuse.²⁶ However, members of the sab-minorities or the Rahanweyn will in this context stand weaker compared to those who belong to one of the bigger nomadic clans, one of the reasons for this being that the nomadic clans have a clear xeer between them. Particularly in South Central Somalia, where these traditional structures are not sufficient due to prevailing lawlessness, Sharia, as it was practiced by the Islamic Courts, is being brought forward, as the common perception is that the only possible way to deal with high levels of crime and freelance gangs is by implementing a harsh rule and exerting severe punishments. Hence there are clans in the South which claim that it is not sufficient to

pay the diya compensation (usually, in the Somali tradition, one is obliged to pay the 100 camels per person who has been killed), but the “wrongdoer” has to be killed as a punishment.

8. Internal Flight / Relocation Alternative

Members of minorities or majority clans from South Central Somalia can only expect a limited level of physical protection by relocating to Somaliland or Puntland, meaning that they can expect to be safe from indiscriminate shelling, becoming victims of fighting or being chased out of areas because of their clan membership, or domination by gate keepers (see below) in an IDP camp, or from the radical Islamic groups. However, in Hargeysa (Somaliland), people who have fled the conflict in the south are restricted to stay in certain locations and southerners are generally looked upon with considerable suspicion, as threats to the peace.²⁷ Furthermore, people who have fled from the South are in a situation of limbo in Somaliland because the government of Somaliland regards itself as an independent state from the South and hence sees them as refugees while UNHCR insists on treating them as IDPs. Unless wealthy, people will lose their livelihood by relocating to another area and will not be able to gain a new one. There is no social protection provided for them. The kind of protection one can receive from the host community is dependent on the amount of money one can provide to the hosts (e.g. if a person brings sufficient resources to rent a good house, he would not be touched as he becomes a valuable source of income), or on whether or not they are able to deliver services needed by their hosts, be it work for free or - in the case of sab minorities – being able to provide certain professional skills in demand. As to whether or not minority members can safely travel/relocate from Central or Southern Somalia to Puntland (or Somaliland), minority group members who do so face the same difficulties during their journey as anybody, namely the difficulties related to crossing other clan territories.²⁸ While journeys are usually preceded by arrangements with the local clans and thus can be considered generally safe and feasible for minorities (provided that they have the necessary resources), there can be situations where clans have established checkpoints on the way, which can prove dangerous. If a group has set up a checkpoint and is resentful of members of a certain sub-clan or another clan, the latter might specifically be targeted. Apart from this, due to the conflict, there may be many armed gangs who set up their own checkpoints for the purpose of looting, in which case it is irrelevant whether or not a person belongs to minority, as these activities affect everybody. [...]

Inter-clan fighting

- [Observatory For the Protection of Human Rights Defenders FIDH/OMCT, Steadfast in Protest, October 2011](#)
[...] Somalia
[...] Political context
[...] In the autonomous region of Puntland, the situation was more volatile with political violence and recurrent clashes among clans [...]
- [Society for Threatened Peoples, Written statement * submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status, 12/09/2011](#)
[...] Humanitarian conditions continue to deteriorate due to increasing insecurity and armed conflict, inter-clan fighting, refusal of humanitarian access, population displacement, diseases, food insecurity and the deterioration of livelihood. [...]
- [U.S. Department of State, County Reports on Human Rights Practices, 08/04/2011](#)
[...] Intermittent resource-related sub-clan disputes escalated into minor armed conflicts. Targeted assassinations continued. [...] While TFG forces reported to government authorities, TFG-allied militia/paramilitary forces reported to clan or factional militia commanders and were outside the control of official authorities.
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investigated very few of these cases, and there were few reports that any of the cases resulted in formal action by the local justice system.

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[...] e. Denial of Fair Public Trial

[...] Civil Judicial Procedures and Remedies

The inability of the judiciary to handle civil cases involving such matters as defaulted loans or other contract disputes encouraged clans to take matters into their own hands and led to increased inter-clan conflict. [...]

➤ [UN, Somalia Humanitarian Overview Vol. 3 Issue 11, November 2010](#)

[...] Intra-clan Clashes

November witnessed increased intra-clan clashes over water and grazing resources in central and northern Somalia. On 9 November, intra-clan fighting in Golisor, Galgaduud, over grazing pasture and water reportedly killed 20 people and displaced thousands. According to the Protection Cluster partners on the ground the fighting displaced up to 1,300 families in Bandiiradley town (20km to the north of Adado town) and its surrounding villages. On 16 November, two clans clashed at a village between Burco and Buuhoodle in Togdheer region, killing at least seven people and wounding more than 10 others. The clans clashed over water resources and land ownership. [...]

➤ [Office of the United Nations High Commissioner for Human Rights \(OHCHR\), Report of the independent expert on the situation of human rights in Somalia, 16/09/2010](#)

[...] II. Human rights and humanitarian law situation in Mogadishu and other parts of south-central Somalia

[...] A. Conflict-related violations

[...] 15. [...] While most of the casualties appeared to have been caused by violent attacks by the militant group Al-Shabaab and its allies, against TFG and AMISOM forces and retaliatory attacks by the latter, direct fighting between moderate Islamists, namely Ahlu Sunnah, and Al-Shabaab, combined with inter-clan clashes in central Somalia, also contributed to the higher number of deaths. [...]

The above analysis should be seen in the context of the promulgation of the most recent CG case [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#), which found that “family and/or clan connections may have an important part to play in determining the reasonableness of a proposed place of relocation”, but “in the light of the present humanitarian crisis, the cogency of the indicators pointing to such a position would need to be powerful”:

Country guidance

[...] ***Southern and central Somalia, outside Mogadishu***

[...] 11) *Within the context of these findings, family and/or clan connections may have an important part to play in determining the reasonableness of a proposed place of relocation. The importance of these connections is likely to grow, as the nature of the present humanitarian crisis diminishes and if Al-Shabab continues to lose territory.*

[...] **The Tribunal’s findings**

[...] **(3) Internal relocation**

[...] **(d) To an area not controlled by Al-Shabab**

[...] 507. A person who has a clan or strong family connection with a particular area in south or central Somalia, not controlled by Al-Shabab, particularly a town, may, in the light of all this, have an

internal relocation alternative to that place. In the light of the present humanitarian crisis, the cogency of the indicators pointing to such a position would need to be powerful. However, as the nature of that crisis diminishes, as we all hope it must, the importance of such an internal relocation alternative is likely to grow. The same is true if Al-Shabab continues to lose territory to the TFG/AMISOM and/or those aligned with them.

2.4 Internal Relocation

Excerpt from October 2011 Somalia OGN

2.4.1 The UNHCR Eligibility Guidelines (May 2010) conclude that where the examination of an Internal Flight Argument/Internal Relocation Argument is a requirement under domestic law, it should be examined on a case-by-case basis, taking into consideration the specific circumstances of the asylum-seeker within the UNHCR guidelines.⁸ In accordance with those guidelines, the UK very carefully considers the appropriateness of internal relocation on a case by case basis taking full account of the individual circumstances of the particular claimant.

Whilst this is an accurate excerpt from the May 2010 UNHCR Guidelines, the OGN fails to include UNHCR's position in relation to the possibility of internal relocation throughout South and Central Somalia as follows (emphasis added):

- [United Nations High Commissioner for Refugees \(UNHCR\), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Somalia, 05/05/2010](#)

[...] E. Internal Flight or Relocation Alternative (IFA/IRA)

[...] 2. Southern and Central Somalia

On account of the general unavailability of protection from the State in southern and central Somalia due to the fact that the State has lost effective control over large parts of territory, the situation in southern and central Somalia does not meet the “relevance” test for the application of the IFA/IRA concept. Furthermore, the customary law systems cannot be considered as sources of effective and durable protection²⁶² due to their fragmented nature, the recent breakdown of traditional clan protection mechanisms, bias towards majority clans and the contradictions between customary law and international human rights law, particularly in relation to the rights of women.

In the absence of a risk of persecution or other serious harm upon relocation, it must also be “reasonable” for a claimant to relocate. Such an assessment must take into account the elements of safety and security, respect for human rights and options for economic survival in order to evaluate if the individual would be able to live a relatively normal life without undue hardship given his or her situation.²⁶³

In light of the risks to safety and security, ongoing armed conflict and the shifting armed fronts and ongoing widespread human rights violations, **it cannot be considered reasonable for any Somali, regardless of whether the individual originates from southern and central Somalia, Somaliland or Puntland, to relocate within or to southern and central Somalia.** [...]

Excerpt from October 2011 Somalia OGN

2.4.2 There are many parts of central and southern Somalia where there is no or little ongoing fighting including, even before the recent withdrawal of Al-Shabaab, parts of Mogadishu. **The PMT Mogadishu Dashboard shows that those IDPs who have left Mogadishu have gone predominantly to Afgooye and the area has become increasingly urbanised, many IDPs having shifted from temporary shelters to permanent accommodation.**⁹ In October 2010, it was reported that many who left Mogadishu as IDPs return regularly —to engage in petty trade, load trucks, drive taxis or do whatever they can to bring in some income in order to survive.¹⁰ Outside Mogadishu the top 10 districts receiving IDPs since February 2011 have been in regions that in February 2011 were under Al-Shabaab control, and include areas in the south west where fighting has been occurring: Shabelle Hoose, Juba Hoose, Gedo, Banadir and Bay. ¹¹

This is the only paragraph of the *Internal Relocation* section of the OGN which addresses the situation for IDPs in the Afgooye corridor. The above highlighted sentence may be read to imply that the building of permanent buildings in Afgooye is indicative of an improving situation there. This is false on several counts. Firstly, as the original UNHCR sources of April 2011 and October 2010 cited for this section details, temporary shelters still heavily outweigh the number of permanent structures:

- [UNHCR Somalia, Total IDPs, April 2011](#)

Mogadishu Periphery IDPs
As of 23rd September 2010
Afgooye Corridor
Population in Buildings
109,560
Population in Shelters
299,780

409,340

- [UNHCR, Afgooye corridor fast becoming the capital of Somalia's displaced, 01/10/2010](#)
[...] Amid the deteriorating situation in Mogadishu, UNHCR has noted significant growth in the numbers of displaced people in the Afgooye corridor, which lies to the north-west of the city.
Following a new assessment we have revised upwards our estimate of the number of people in the Afgooye corridor to 410,000. Since the escalation of the conflict in Somalia in 2007, a number of makeshift sites sprung up along this stretch of road leading from Mogadishu to Afgooye town. Our previous estimate, as of September 2009, put the number at 366,000. The new assessment is the result of a complex, three-month long exercise led by UNHCR on behalf of humanitarian agencies in Somalia. Due to the difficult security situation and lack of access it was based on high-resolution satellite imagery from which we extrapolated the population size.
The satellite images indicate that there has been very significant recent new building of both permanent and temporary structures. We were able to identify and map every individual building and temporary shelter. Overall there are 91,397 temporary shelters and 15,495 permanent ones in the area. [...]

Secondly, the building of permanent structures should be seen in the context of a deteriorating security situation in Mogadishu:

- [UNHCR, Afgooye corridor fast becoming the capital of Somalia's displaced, 01/10/2010](#)
[...] Reflecting the increased population has been a rapid urbanization of the Afgooye corridor – clearly apparent in the satellite imagery. Entire new towns have replaced makeshift IDP sites with more people living in rudimentary buildings alongside the tens of thousands of shelters made of cloth and fabric.
Overall it appears that structures in Afgooye are becoming more permanent as hopes fade for a safe return to the capital any time soon. [...]

Thirdly, the above highlighted paragraph of the OGN fails to detail the ‘reasonableness’ factors that must be considered when assessing the possibility of relocating to IDP camps such as Afgooye without undue hardship. This is despite the “acute humanitarian crisis” in Afgooye being reported on in the same UNHCR sources relied upon in this section of the OGN (emphasis added):

Excerpt from October 2011 Somalia OGN

3.6.22 In August 2011, the United Nations Office for the Co-ordination of Humanitarian Affairs (UNOCHA) reported that approximately 1.46 million people are displaced within Somalia, with Mogadishu hosting 370,000 old IDPs and 100,000 IDPs who have moved into the city within the last two months. —**Somalia faces the most severe humanitarian crisis in the world today and the worst food security crisis in Africa since the country’s 1990/91 famine.** At least 3.7 million people are in acute food and livelihood crisis - about 50 per cent of the country’s population. Some 3.2 million people are in extreme need of immediate, lifesaving assistance as a result of cumulative droughts, loss of livelihoods and insecurity. **While all of southern Somalia is under acute humanitarian crisis, Lower Shabelle, Middle Shabelle, Bakool, the Afgooye corridor IDP settlement and the areas with IDP camps in Mogadishu are under famine conditions.** Already, the crisis has claimed the lives of tens of thousands of people. 57 Bay was declared the sixth famine area in September. 58

The OGN also fails to include the position of *Sufi & Elmi v UK* on the situation in Afgooye and the possibility of internal relocation within Somalia in general. As detailed above in the [Case law](#) section, whilst the referral request to the Grand Chamber remains pending, the judgment of *Sufi & Elmi v UK*

remains good law as it has an analogous status to a Court of Appeal judgment where a permission application is pending to the UK Supreme Court. The following summary of *Sufi & Elmi v UK* is therefore relevant to this main category of claim of the OGN (emphasis added):

➤ [Case of Sufi & Elmi v. The United Kingdom \(Applications nos. 8319/07 and 11449/07\)](#)

292. Accordingly, the Court finds that any returnee forced to seek refuge in either camp would be at real risk of Article 3 ill-treatment on account of the dire humanitarian conditions. Although there is little information regarding the situation in other IDP settlements in Somalia, from the information that is available the Court sees little reason to believe that the conditions there would be any better than those in the Afgooye Corridor or in the Dadaab camps. **If anything, the situation in those settlements is likely to be worse as there has been less publicity concerning the plight of their inhabitants and there is therefore even less chance that they might receive humanitarian assistance.** [...]

6. Summary of the Court's conclusions

293. In conclusion, the Court considers that the situation of general violence in Mogadishu is sufficiently intense to enable it to conclude that any returnee would be at real risk of Article 3 ill-treatment solely on account of his presence there, unless it could be demonstrated that he was sufficiently well connected to powerful actors in the city to enable him to obtain protection (see paragraph 249, above).

294. Nevertheless, Article 3 does not preclude the Contracting States from placing reliance on the internal flight alternative provided that the returnee could travel to, gain admittance to and settle in the area in question without being exposed to a real risk of Article 3 ill-treatment. **In this regard, the Court accepts that there may be parts of southern and central Somalia where a returnee would not necessarily be at real risk of Article 3 ill-treatment solely on account of the situation of general violence (see paragraph 270, above). However, in the context of Somalia, the Court considers that this could only apply if the applicant had close family connections in the area concerned, where he could effectively seek refuge. If he has no such connections, or if those connections are in an area which he could not safely reach, the Court considers that there is a likelihood that he would have to have recourse to either an IDP or refugee camp (see paragraph 266, above).**

295. **If the returnee's family connections are in a region which is under the control of al-Shabaab, or if it could not be accessed except through an al-Shabaab controlled area, the Court does not consider that he could relocate to this region without being exposed to a risk of ill-treatment unless it could be demonstrated that he had recent experience of living in Somalia and could therefore avoid coming to the attention of al-Shabaab (see paragraph 276, above).**

296. **Where it is reasonably likely that a returnee would find himself in an IDP camp, such as those in the Afgooye Corridor, or in a refugee camp, such as the Dadaab camps in Kenya, the Court considers that there would be a real risk that he would be exposed to treatment in breach of Article 3 on account of the humanitarian conditions there (see paragraph 295, above).** [...]

The position of the UK Secretary of State for International Development on the establishment of IDP camps inside Somalia should also be noted:

➤ [Andrew Mitchell, Secretary of State for International Development, House of Commons Written Answers, 14/09/2011](#)

[...] Internally displaced people

Hugh Bayley: To ask the Secretary of State for International Development what his policy is on the establishment of internally displaced peoples' camps inside Somalia; and if he will make a statement. [71376]

Mr Andrew Mitchell: UK Government policy is to get humanitarian assistance to people as close to their homes as possible so that they do not feel the need to leave their homes. Some Somalis choose to migrate internally, for example to seek support from family members in Mogadishu. I support United Nations' High Commissioner for Refugee's (UNHCR) work with the Somali authorities to get assistance to voluntary camps across Somalia.

Vulnerable Somalis also have a right to flee across international borders to seek asylum but I agree with the UNHCR position that establishing new internally displaced people's camps, especially near border areas, is not the answer to prevent international refugee flows. They are likely to be sited in insecure areas, with difficult access for agencies, and health and security risks for the population which may be even greater than where they have fled from. [...]

Following on from the above, of particular importance are the findings made in the most recent CG case [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#), which found the following with regards to an IFA to Mogadishu, the Afgoye Corridor, to Al-Shabaab areas and famine affected areas of South and Central Somalia.

Country guidance

[...] Southern and central Somalia, outside Mogadishu

[...] 9) *For someone at real risk in a home area in southern or central Somalia, an internal relocation alternative to Mogadishu is in general unlikely to be available, given the risk of indiscriminate violence in the city, together with the present humanitarian situation. Relocation to an IDP camp in the Afgoye Corridor will, as a general matter, likewise be unreasonable, unless there is evidence that the person concerned would be able to achieve the lifestyle of those better-off inhabitants of the Afgoye Corridor settlements.*

10) Internal relocation to an area controlled by Al-Shabab is not feasible for a person who has had no history of living under Al-Shabab in that area (and is in general unlikely to be a reasonable proposition for someone who has had such a history - see above). Internal relocation to an area not controlled by Al-Shabab is in general unlikely to be an option, if the place of proposed relocation is stricken by famine or near famine.

[...] The Tribunal's findings

[...] (b) Article 3

[...] Humanitarian situation

[...] 482. The contrast between such cases and that of southern and central Somalia is stark, as the evidence shows. A test founded on exceptionality must still be capable of being met; otherwise it is bogus. We consider that the widespread famine, unique to our planet at the present time, coupled with the exacerbating factors we have described, discloses a situation of sufficient exceptionality to cross the threshold set in N. It is this mix of factors that makes the situation exceptional, not the predominance of the parties' actions that causes the threshold to be lowered.

[...] (3) Internal relocation

[...] (a) To Mogadishu

499. In the light of our earlier findings regarding Mogadishu, that persons currently there are, as a general matter, running an Article 15(c) risk, it would plainly be unreasonable to expect a person whose home is elsewhere in southern and central Somalia to relocate to Mogadishu. The limited qualification we have made to the assessment of Article 15(c) risk is highly unlikely to have application to a person whose home area is not Mogadishu because the necessary accommodation and social support to alleviate the risk of indiscriminate violence are unlikely to be available.

500. Another factor in assessing the reasonableness of relocation to Mogadishu is the present humanitarian situation in the city, including the state of famine that has been declared in the IDP camps. A person with significant contacts may be able (absent Article 15(c) issues) to avoid having to live in such a camp and thus have a viable relocation alternative.

(b) To an IDP camp in the Afgoye Corridor

501. On the basis of our earlier findings, it would, as a general matter, be unreasonable/unduly harsh to expect a returnee to live in an IDP camp, unless there was evidence that he or she would be able to achieve the lifestyle of those better-off inhabitants of the Afgoye Corridor settlements. That would depend, we consider, on the returnee having family or other significant connections with such better-off elements. In the absence of these, we do not consider that even the likelihood of United Kingdom money for the returnee would be enough to eliminate the risks inherent in IDP camps, including threats against the person. This is, of course, particularly relevant in the case of a female returnee.

(c) To an area controlled by Al-Shabab

502. For the reasons we have already given, a returnee from the United Kingdom to an Al-Shabab area, certainly if he or she had no history of having lived under Al-Shabab in that area, faces at the present time a real risk of serious harm. Internal relocation to such an area is, accordingly, out of the question. Although Al-Shabab appears to be losing ground outside Mogadishu to the TFG, it still remains dominant in large parts of southern and central Somalia.

As identified in § 10 of *AMM and Others* and §295 of *Sufi & Elmi v UK* above, important to any assessment of the possibility of internal relocation is whether an applicant's close family connections would be in an area under Al-Shabaab control, or could only be accessed through an Al-Shabaab area, and what the level of famine is. In such cases research is required to identify those areas under Al-Shabaab control. The following sources are useful to consult on this point:

Famine – Maps, analysis and news		
Source	Type of source	Date
UN – Office for the Coordination of Humanitarian Affairs (OCHA)	<ul style="list-style-type: none"> ○ Map: Horn of Africa: Spread of famine (as of Sep 2011) ○ Map: Horn of Africa: Humanitarian Snapshot (as of 9 Sep 2011) ○ Map: Somalia: Famine (as of 5 September 2011) ○ Thematic maps on amongst others drought and famine ○ Somalia Drought/Famine based maps, fact and analysis per area 	<p>Latest: 16 September 2011 Latest: 9 September 2011</p> <p>Latest: 5 September 2011 Updated regularly Updated regularly</p>
UN - World Food Programme (WFP)	<ul style="list-style-type: none"> ○ Map: Horn of Africa: Weather Outlook 2011 ○ News ○ The Market Monitor: This bulletin provides information on price changes for the most commonly consumed staples and their potential impacts on the cost of the basic food basket. 	<p>Latest: October 2011 Updated regularly Updated regularly</p>
UN – Food and Agriculture Organization of the United Nations (FAO)	<ul style="list-style-type: none"> ○ News: Horn of Africa ○ News: Somalia ○ Latest reports and analysis ○ Food Security and Nutrition Analysis Unit ○ Drought Emergency Executive Brief ○ Map: Somalia – Estimated Nutrition Situation 	<p>Updated regularly Updated regularly Updated regularly Updated regularly Latest: 9 November 2011 16 August 2011</p>
All Africa Somalia pages	<p>Repository of news articles organised by country and by theme. Country pages include sections on:</p> <ul style="list-style-type: none"> ○ Headlines ○ Topical focus 	Updated daily
AlertNet Somalia pages	<p>Humanitarian news site from Thomson Reuters providing information on natural disasters, conflicts, refugees, hunger, diseases and climate change. Country pages include sections on:</p> <ul style="list-style-type: none"> ○ At a Glance ○ In detail ○ Timeline 	Updated daily

	<ul style="list-style-type: none"> ○ Links ○ News 	
Internal Displacement Monitoring Centre (IDMC) Somalia country page	<p>The IDMC is an international body which monitors conflict-induced internal displacement worldwide. Its country pages include:</p> <ul style="list-style-type: none"> ○ Statistics ○ Maps ○ Internal Displacement Profile ○ IDP News alert ○ Key documents; news and reports from other organisations on the situation and treatment of IDPs and returnees. 	Updated regularly
IRIN News Somalia Country page	<p>A service of the UN Office for the Coordination of Humanitarian Affairs. It provides:</p> <ul style="list-style-type: none"> ➤ Humanitarian news and analysis by country and theme. 	Updated daily
Oxfam, Somalia/Somaliland pages	<p>Oxfam is an international NGO. Its country pages provides information on:</p> <ul style="list-style-type: none"> ○ Conflict ○ Drought ○ Oxfam's work in Somalia/Somaliland in depth 	Updated regularly
Relief Web Somalia country page	<p>Relief Web is a database of reports from international and non-governmental organizations, governments, research institutions and the media for news, reports, press releases, appeals, policy documents, analysis and maps related to humanitarian emergencies worldwide. Provides:</p> <ul style="list-style-type: none"> ○ In-depth profiles, updates and reports on countries and disasters ○ Maps ○ Database of who's reporting 	Updated daily
Somalia Report	<p>Somalia Report is a privately funded, non-partisan website that hires Western editors to work with Somali journalists inside the country to cover all aspects of the region: piracy, conflict, terrorism, government, local news, culture and key issues.</p> <ul style="list-style-type: none"> ○ ReliefSCENE: Food – News articles relating to food description ○ ReliefSCENE: Drought – News articles relating to drought 	Updated daily

Al-Shabaab - given the ongoing conflict news articles - provide the best source of information on whether Al-Shabaab is active in a particular area

Source	Type of source	Website's search function
All Africa Somalia pages	<p>Repository of news articles organised by country and by theme. Country pages include sections on:</p> <ul style="list-style-type: none"> ○ Headlines ○ Topical focus 	<ul style="list-style-type: none"> ● Country page does not have a search function ● All Africa has a simple search function which allows for Keyword searches only, but does order search results in date order (recent first)
Relief Web Somalia country page	<p>Relief Web is a database of reports from international and non-governmental organizations, governments, research institutions and the media for news, reports, press releases, appeals, policy documents, analysis and maps related to humanitarian emergencies worldwide. Provides:</p> <ul style="list-style-type: none"> ○ In-depth profiles, updates and reports on countries and 	<ul style="list-style-type: none"> ● Country and thematic pages ● Advanced search function which allows for: <ul style="list-style-type: none"> ○ BOOLEAN searches (AND,

	<ul style="list-style-type: none"> ○ disasters ○ Maps ○ Database of who's reporting 	<ul style="list-style-type: none"> ○ OR, NOT) ○ Searches for phrases ("...") ➤ Limits searches by: Country; source; theme; content format; feature; disaster type; vulnerable groups; published date (by month); language
Somalia Report	Somalia Report is a privately funded, non-partisan website that hires Western editors to work with Somali journalists inside the country to cover all aspects of the region: piracy, conflict, terrorism, government, local news, culture and key issues.	<ul style="list-style-type: none"> • Simple search function which allows for Keyword searches only, but does order search results in date order (recent first)
Shabelle News	Shabelle News is a privately owned radio and news organisation.	<ul style="list-style-type: none"> • Under tab 'Archive' you can search per year, month and date

Excerpt from October 2011 Somalia OGN

2.4.3 The UKBA fact finding mission reported that travel within Al-Shabaab controlled areas of southern and central Somalia was common and considered relatively safe. There were checkpoints operated by the organisation and these were used to monitor the movement of people. A system exists where civilians can obtain a permit in order to travel, as long as they explain to Al-Shabaab where they are going and why. For Somali civilians with no affiliation to the TFG there were usually no problems passing through checkpoints as long as Al Shabaab's rules were followed. There were buses that will take civilians between towns. Travel between Belet Weyne, Mogadishu and Kismayo is popular.¹² Al-Shabaab has removed illegal roadblocks and left only their own checkpoints. Checkpoints ensure that banditry on the road is reduced, if not eliminated entirely.¹³ Everyone can move freely in south central. ¹⁴ There are several checkpoints on the route from Mogadishu towards the Central Regions and some precautions may be necessary particularly during militia fightings. **During overland trips clan protection is not required unless ongoing animosities between two rival clans are involved.** The transporter is most of the time the guarantor of the safety of the passengers because he is familiar with the route, militias and all the checkpoints. Within south central and Puntland, people mostly travel on buses and minibuses.¹⁵

Several issues are identified with respect to this section as will be developed further below. The first point is that the highlighted sentence gives the false impression that clan identity is not relevant to an assessment of the possibility of internal relocation. The source cited in this paragraph is a *FCO letter 5 May 2010 (hard copy available)*. As this source is not available in the public domain, it is not possible to ascertain whether it was accurately represented. Either way, this section of the OGN fails to address the specific risks for minority clan IDPs as is widely reported on in the public domain as follows:

➤ [United Nations, Report of the Secretary-General on children and armed conflict in Somalia, 09/11/2010](#)

[...] III. Grave violations of children's rights

[...] C. Sexual violence

[...] 43. [...] Most at risk are women and girls living on the streets and in open and unprotected internally displaced settlements (such as those in Bousaaso, Gaalkacyo, Hargeyoo and along the Afgooye corridor), particularly those who belong to minority clans in the area where they are living. [...]

- [United Nations High Commissioner for Refugees \(UNHCR\), Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review: Somalia, 02/11/2010](#)
 [...] Clan identity continues to permeate Somali culture and often results in extreme social, economic, political and cultural discrimination for minority clans. Most IDPs are of minority clan extraction and therefore face a barrage of discriminatory indignities and generally suffer human rights violations perpetrated with impunity by host communities. [...]
- [Foreign and Commonwealth Office, Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report \(Somalia excerpt\), 31/03/2011](#)
 [...] Protection of civilians
 [...] Displaced people often lose their clan protection when they are forced to move to other parts of the country, leaving them more vulnerable. There were numerous reports in 2010 of the abuse and rape of women, particularly those from minority groups, in internally displaced persons camps [...]
- [Office of the United Nations High Commissioner for Human Rights \(OHCHR\), Report of the independent expert on the situation of human rights in Somalia, 16/09/2010](#)
 [...] E. Sexual and gender-based violence
 27. [...] Assessments conducted revealed that there was a high prevalence of sexual violence in IDP settlements, where victims were generally of minority clan origin, bereft of clan protection and often forced to engage in risky coping mechanisms. [...]
- [United Nations, Report of the Secretary-General on Somalia, 09/09/2010](#)
 [...] E. Human rights and protection of civilians
 [...] 34. [...] Assessments revealed a high prevalence of sexual violence in settlements of internally displaced persons, mainly in "Somaliland", where victims were generally of minority clan origin and bereft of clan protection. It should be noted that gender-based violence remains grossly under-reported, particularly in southern and central Somalia. [...]
- [United Nations High Commissioner for Refugees \(UNHCR\), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Somalia, 05/05/2010](#)
 [...] B. Main Groups at Risk on the Basis of Article 1(a) of the 1951 Convention and/or Article I(1) of the OAU Convention
 [...] 1. Southern and Central Somalia
 [...] d) Members of Minority Clans
 [...] IDPs from minority clans in all parts of Somalia face daily abuses such as killings, physical assault, theft and rape, without legal recourse either through formal justice or the customary legal system – the result being that they can be abused with impunity
 [...] g) Women and Girls
 [...] Sexual and gender-based violence (SGBV) is reportedly widespread for both the general population, in terms of early and forced marriage, domestic violence and female genital mutilation, and for IDP women, who may in addition experience rape on a regular basis, especially if they are members of a minority clan. As with most gender-based violence, accurate figures are difficult to obtain, in part due to under-reporting.¹⁴⁵ [...]
 [...] E. Internal Flight or Relocation Alternative (IFA/IRA)
 [...] 3. Somaliland and Puntland
 [...] Furthermore, in the absence of clan protection and support, a Somali originating from another territory in Somalia would face the general fate of IDPs, including lack of protection, limited access to education and health services, vulnerability to sexual exploitation or rape,²⁶⁵ forced labour, perpetual threat of eviction, and destruction or confiscation of assets. Large numbers of persons displaced from southern and central Somalia live in Puntland, collected in urban slums in the main towns of Bossaso, Galkacyo and Garoowe. While many of the displaced are from the Darod clan and thus afforded some protection under the xeer system of customary law, minority clans or clans who do not constitute a majority in Puntland have suffered a number of abuses in IDP settlements and are essentially without recourse to justice through either formal or informal legal mechanisms. Reported abuses have included

rife sexual and gender-based violence, arbitrary arrest, hostage-taking by private landlords until actual or alleged rent payments have been made, enforced child labour, arson and murder.

[...] There are reports that many women fleeing the violence in southern and central Somalia and who seek protection in Galkacyo are being subjected to sexual violence. The women are reportedly targeted even within IDP camps as perpetrators come by night and take them away.²⁶⁶ [...]

- [Office of the United Nations High Commissioner for Human Rights \(OHCHR\), Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kalin on his mission to Somalia, 21/01/2010](#)

[...] V. Protection of displaced persons during displacement

42. Even if people manage to escape areas of acute insecurity, they remain exposed to other severe protection risks during flight and once they find refuge in settlements of IDPs in safer areas of Somalia. Displacement by its very nature strips people of their protective environment, lowers their resilience and heightens their vulnerability. In the context of Somalia, IDPs often lose their clan protection if they are forced to move to other, safer areas and are therefore even more exposed to protection risks. Women and children constitute the majority of the displaced, who often flee and settle in safer areas without male family members accompanying them, which increases their vulnerability in the local context. At the outset, the Representative wishes to emphasize that internally displaced persons retain the same rights and freedoms as other Somalis, including the right to seek safety in another part of the country or to seek asylum abroad, the right to physical safety and not to be sent back to dangerous areas, the right to an adequate standard of living, including shelter, the right to family unity, the rights to food and water and the rights to health and education, and protection from discrimination. [...]

It further does not take into account findings made in the most most recent CG case [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#), which found that “family and/or clan connections may have an important part to play in determining the reasonableness of a proposed place of relocation”, but “in the light of the present humanitarian crisis, the cogency of the indicators pointing to such a position would need to be powerful”:

Country guidance

[...] ***Southern and central Somalia, outside Mogadishu***

[...] 11) *Within the context of these findings, family and/or clan connections may have an important part to play in determining the reasonableness of a proposed place of relocation. The importance of these connections is likely to grow, as the nature of the present humanitarian crisis diminishes and if Al-Shabab continues to lose territory.*

[...] **The Tribunal’s findings**

[...] **(3) Internal relocation**

[...] **(d) To an area not controlled by Al-Shabab**

[...] 507. A person who has a clan or strong family connection with a particular area in south or central Somalia, not controlled by Al-Shabab, particularly a town, may, in the light of all this, have an internal relocation alternative to that place. In the light of the present humanitarian crisis, the cogency of the indicators pointing to such a position would need to be powerful. However, as the nature of that crisis diminishes, as we all hope it must, the importance of such an internal relocation alternative is likely to grow. The same is true if Al-Shabab continues to lose territory to the TFG/AMISOM and/or those aligned with them.

Excerpt from October 2011 Somalia OGN

2.4.3 The UKBA fact finding mission reported that travel within Al-Shabaab controlled areas of southern and central Somalia was common and considered relatively safe. There were checkpoints operated by the organisation and these were used to monitor the movement of people. A system exists where civilians can obtain a permit in order to travel, as long as they explain to Al-Shabaab where they are going and why. **For Somali civilians with no affiliation to the TFG there were usually no**

problems passing through checkpoints as long as Al Shabaab's rules were followed. There were buses that will take civilians between towns. Travel between Belet Weyne, Mogadishu and Kismayo is popular.¹² Al-Shabaab has removed illegal roadblocks and left only their own checkpoints. Checkpoints ensure that banditry on the road is reduced, if not eliminated entirely.¹³ Everyone can move freely in south central. ¹⁴ There are several checkpoints on the route from Mogadishu towards the Central Regions and some precautions may be necessary particularly during militia fightings. During overland trips clan protection is not required unless ongoing animosities between two rival clans are involved. The transporter is most of the time the guarantor of the safety of the passengers because he is familiar with the route, militias and all the checkpoints. Within south central and Puntland, people mostly travel on buses and minibuses.¹⁵

2.4.4 Restrictions on movement have reduced significantly as compared to the situation considered by the AIT in AM where illegal checkpoints had proliferated to excessive levels. Al-Shabaab has reportedly eradicated extortion, robbery and murder from bandits in areas it controls. There is no evidence that those not of adverse interest to the TFG, Al-Shabaab or groups such as Hizbul Islam or ASWJ who have a presence in particular areas, would be unable to pass through checkpoints safely. There may be some security incidents whilst travelling in Somalia and, although individuals will not generally need an escort, if they consider an escort necessary, it is feasible for them to arrange one either before or after arrival.

This section of the OGN fails to detail what Al Shabaab's 'rules' are and what 'problems' may be experienced by persons failing to adhere to them. This is despite the fact that as documented in *Sufi & Elmi v UK* §295 and §276, in the *Human Rights Violations, Al-Shabaab/other armed groups* section of the OGN and elsewhere in the public domain see [Case Law](#) section above, the punishments for even minor transgressions and attempting to flee Al-Shabaab controlled areas may be arbitrary, summary and cruel. Moreover, following the most recent CG case [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#) the guidance provided in the OGN is now inconsistent since it was found that "those travelling through, as well as those going to settle in Al Shabab areas would be exposed" to risks. The judgements specifically states:

Country guidance

[...] Southern and central Somalia, outside Mogadishu

[...] 8) *The same considerations apply to those who are reasonably likely to have to pass through Al-Shabab areas.*

[...] 10) *Internal relocation to an area controlled by Al-Shabab is not feasible for a person who has had no history of living under Al-Shabab in that area (and is in general unlikely to be a reasonable proposition for someone who has had such a history - see above). Internal relocation to an area not controlled by Al-Shabab is in general unlikely to be an option, if the place of proposed relocation is stricken by famine or near famine.*

[...] The Tribunal's findings

(b) Article 3

[...] Living under Al-Shabab

[...] 473. We consider that the general findings we have just made encompass those who are reasonably likely to have to pass through Al-Shabab areas. Although the evidence regarding behaviour at checkpoints was mixed, and we accept that in some areas, such as the Afgoye Corridor, there has been (at least until very recently) considerable traffic to and from the Al-Shabab-controlled area, the unpredictability of Al-Shabab behaviour, the extremely grave and immediate likely consequences of being categorised as a spy and the assumption that one of the functions of checkpoints is to serve what Al-Shabab regards as its security concerns, point clearly towards including travellers within the general finding, just as the ECtHR did at [277] of *Sufi & Elmi*.

(3) Internal relocation

[...] (c) To an area controlled by Al-Shabab

502. For the reasons we have already given, a returnee from the United Kingdom to an Al-Shabab area, certainly if he or she had no history of having lived under Al-Shabab in that area, faces at the

present time a real risk of serious harm. Internal relocation to such an area is, accordingly, out of the question. Although Al-Shabab appears to be losing ground outside Mogadishu to the TFG, it still remains dominant in large parts of southern and central Somalia.

[...] **(4) Travelling home or to another place of safety**

[...]517. We do not consider that the risks to travellers, particularly women, are likely to be materially alleviated by travelling in a minibus or other form of transport, operated by a person who has never been away and “knows the ropes”. Using such a form of transport may, we accept, be of assistance; but the combination of the unpredictability of Al-Shabab behaviour and the evidence of their brutality, when they take against an individual, is such as to constitute a real risk.

Furthermore, in addition to not being consistent with the findings of *Sufi & Elmi v UK* above and now *AMM and Others*, the above highlighted sentences are not representative of either the original source of information, or other information available in the public domain. No source is clearly referenced on this point although it appears to also rely on source 12, which is the October 2010 UKBA Fact Finding Mission report:

➤ [UKBA, Report of Fact Finding Mission to Nairobi, 8-15 September 2010, 08/10/2010](#)

[...] Executive Summary

[...] TRAVEL BETWEEN DIFFERENT AREAS IN SOUTHERN AND CENTRAL SOMALIA

[...] Travel within Al Shabaab controlled areas of southern and central Somalia was common and considered relatively safe. There were checkpoints operated by the organisation and these were used to monitor the movement of people. For Somali civilians with no affiliation to the TFG there were usually no problems passing through checkpoints as long as Al Shabaab's rules were followed. There were buses that will take civilians between towns. Travel between Belet Weyne, Mogadishu and Kismayo is popular. [...]

It should be noted that this is UKBA's own summary and therefore not necessarily representative of the views of the interlocutors interviewed for the report. For example in the *Interview Notes* section of the report it is reported that (emphasis added):

➤ [UKBA, Report of Fact Finding Mission to Nairobi, 8-15 September 2010, 08/10/2010](#)

[...] 2.27 An international NGO noted:

“The organisation stated that there are checkpoints within the city, however they move on an irregular basis and are variable in nature. Those operated by Hizbul Islam and the Transitional Federal Government can be more difficult to negotiate as they are operated with less discipline. They normally request money. **Al Shabaab operated checkpoints normally check that people are obeying their code of behaviour, for instance they will stop women who are travelling alone. They can be harsh, and some individuals operating the checkpoints on behalf of Al Shabaab will punish those who do not act according to Al Shabaab rules.**” [14] [...]

2.29 An international NGO which has worked in Somalia noted:

“Travel between different areas controlled by Al Shabaab is certainly possible, and a system exists where civilians can obtain a permit in order to travel, as long as they explain to Al Shabaab where they are going and why. People have to travel through Al Shabaab checkpoints and may have to exercise some caution when explaining why they are travelling if they know it is against the Al Shabaab rules. It is not unknown for people to lie about their reasons for travel. Al Shabaab have removed all ‘illegal’ roadblocks and left only their own checkpoints.” [2] [...]

2.32 An international NGO noted:

“There is a lot of travelling between Afgoye and Mogadishu. In general Somalis can get around in AS-controlled areas as long as they follow their rules (no music, dress code etc). With regards to checkpoints, the organisation provided the example of the situation of travelling between Belet Weyne and Galdayo: there are a number of AS checkpoints, followed by clan militia checkpoints, then Ahlu Sunna Wal Jama'a (ASWJ) checkpoints. However, usually it is possible to go through, although there is a certain amount of risk involved.” [5]

2.33 An international NGO noted:

“Al Shabaab have reduced the number of checkpoints in areas they control and have made travelling by road more secure against criminals, but they commit their own abuses, including recruitment of young men from buses that they stop at checkpoints. Forced recruitment is getting systematic, and young men are asked to register with Al Shabaab.

“People have been stopped outside Belet Weyne by criminal groups.” [6] [...]

It should also be noted that *Sufi & Elmi v UK* specifically assesses the weight that should be attached to the UKBA Fact-Finding Mission Report:

- [Case of Sufi & Elmi v. The United Kingdom \(Applications nos. 8319/07 and 11449/07\)](#)
[...] 234. In the present case the Court observes that the description of the sources relied on by the fact-finding mission is vague. As indicated by the applicants, the majority of sources have simply been described either as “an international NGO”, “a diplomatic source”, or “a security advisor”. Such descriptions give no indication of the authority or reputation of the sources or of the extent of their presence in southern and central Somalia. This is of particular concern in the present case, where it is accepted that the presence of international NGOs and diplomatic missions in southern and central Somalia is limited. It is therefore impossible for the Court to carry out any assessment of the sources’ reliability and, as a consequence, where their information is unsupported or contradictory, the Court is unable to attach substantial weight to it. [...]

Given that the OGN does not specifically include the findings of *Sufi & Elmi v UK* in the *Internal Relocation* section of the OGN, it is not surprising that the OGN also fails to give guidance on assessing the possibility of internal relocation for persons returning to South and Central Somalia with close family connections in areas *outside* of Al-Shabaab control. With regards to the risk of ill-treatment on account of the situation of general violence outside of Mogadishu, *Sufi & Elmi v UK* finds:

- [Case of Sufi & Elmi v. The United Kingdom \(Applications nos. 8319/07 and 11449/07\)](#)
[...] 271. The Court is therefore prepared to accept that it might be possible for a returnee to travel from Mogadishu International Airport to another part of southern and central Somalia without being exposed to a real risk of treatment proscribed by Article 3 solely on account of the situation of general violence. However, this will very much depend upon where a returnee’s home area is. It is not possible for the Court to assess the level of general violence in every part of southern and central Somalia and, even if it were to undertake such an exercise, it is likely that its conclusions would become outdated very quickly. Consequently, if the applicant’s home is one which has been affected by the conflict, the conditions there will have to be assessed against the requirements of Article 3 at the time of removal. [...]

Following the main findings regarding southern and central Somalia presented above at page 92 with regards to the CG case [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#), the Court also found that travel by land across southern and central Somalia “may well, in general, pose real risks of serious harm” due to Al-Shabaab checkpoints and famine, as well as the risk of sexual violence for female returnees:

Country guidance

[...] Southern and central Somalia, outside Mogadishu

[...] 12) Travel by land across southern and central Somalia to a home area or proposed place of relocation is an issue that falls to be addressed in the course of determining claims to international protection. Such travel may well, in general, pose real risks of serious harm, not only from Al-Shabab checkpoints but also as a result of the present famine conditions. Women travelling without male friends or relatives are in general likely to face a real risk of sexual violence.

[...] Somaliland and Puntland

15) A person from Somaliland will not, in general, be able without real risk of serious harm to travel overland from Mogadishu International Airport to a place where he or she might be able to obtain an unofficial travel document for the purposes of gaining entry to Somaliland, and then by land to Somaliland. This is particularly the case if the person is female. A proposed return by air to Hargeisa, Somaliland (whether or not via Mogadishu International Airport) will in general involve no such risks.

Lists of useful sources are presented on page 11 of this Commentary to assist in researching the security situation, on page 46 for researching the humanitarian situation, and on page 93 for researching specifically on the famine in a proposed site of internal relocation.

Excerpt from October 2011 Somalia OGN

2.4.6 Given the relative ease of travel within many areas of Somalia, it will be feasible for many to return to their home areas from Mogadishu airport as most areas are accessible. Mogadishu airport continues to function normally.¹⁷ There are scheduled air services to a number of destinations in Somalia – Mogadishu, Bosasso, Hargeisa, Berbera, Burao and Galcaayo.¹⁸

In addition to ignoring the risks arising from returning to or through an area controlled by Al-Shabaab as identified by *Sufi & Elmi v UK* and now also *AMM and Others*, this last paragraph of the *Internal Relocation* section completely fails to incorporate the risks arising from the situation of general violence on route from the airport to an applicant's home area or proposed site of internal relocation. It should be noted that in addition to the risk at Al-Shabaab checkpoints, those controlled by the TFG are also specifically targeted:

- [IRIN News, Analysis: Mogadishu after Al-Shabab, 07/09/2011](#)
[...] Roadblocks
An aid worker, who requested anonymity, told IRIN that immediately after the insurgents pulled out, roadblocks emerged in parts of the city. "We saw roadblocks around Bakara market, Hawl-Wadag district and Boondheere."
He said there was also fear that warlords - who controlled parts of the city from the 1990s to 2006 - or people associated with them, were trying to take control of the areas formerly occupied by Al-Shabab.
He said most of the roadblocks were manned by militias under the control of district commissioners. "The government must unify control of the various armed groups under one command," he said. Otherwise, "we will have serious problems delivering aid to those most in need". [...]
- [Shabelle Media Network \(Mogadishu\) Somalia; Demonstrators Complaining of Lack of Food Shot, One Killed in Mogadishu, 02/11/2011](#)
[...] Crowds of demonstrating people, who are complaining of lack of food, came under shooting in Mogadishu, leaving at least one woman dead.
The demonstrators marched the streets of Mogadishu's Wardhigley district, chanting slogans demanding food aid.
But, forces of Somali government have opened fire on the demonstrators, according to a female eyewitness who said at least one woman killed in shooting and two others injured.
The shooting occurred while they were passing a checkpoint controlled by government soldiers.
Before the shootout, the demonstrators congregated in front of Mogadishu mayor office to complain about lack of food aid, the woman noted.
No comments about the shooting of protesters were immediately available from government officials. [...]
- [Somalia Report, Six killed in four explosions in Somali capital, 08/11/2011](#)
[...] At least six people, including three government soldiers and a child, were killed and four others were wounded in four separate explosions in Wadajir, Howlwadag, and Yaqshiid districts in the Somali capital of Mogadishu on Tuesday evening, according to witnesses.
In a third attack this evening, two government soldiers were killed in an explosion in Howlwadag District near Bakaaraha Market and several others were wounded.

Witnesses said the explosion, believed to be a remote controlled improvised explosive device, targeted government troops at a checkpoint. [...]

- [The Guardian, Students among scores killed in Somali capital truck blast, 05/10/2011](#)
[...] Students waiting for their scholarship results were among scores killed yesterday when Somalia's insurgents exploded a truck bomb in Mogadishu in the biggest attack since they withdrew most of their fighters from the capital in August.
A truck loaded with drums of fuel blew up at a security checkpoint outside a compound housing government ministries, including the Ministry of Education, in K4 (Kilometre 4), a normally bustling neighbourhood controlled by government forces and African Union peacekeepers.
"The casualties are mostly students and parents who were waiting for results of scholarships from the Ministry of Higher Education," the government said.
Mogadishu's ambulance co-ordinator, Ali Muse, told Reuters at least 70 had been killed, with many more injured. [...]
- [Shabelle Media Network \(Mogadishu\) Somalia; Soldier Fires At Bus, Killing Two Passengers in Mogadishu, 16/09/2011](#)
[...] At least two people have been killed and two others injured after one of Somali soldiers fired gunshots at a civilian bus traveling in Mogadishu on Friday.
The soldier shot the bus while passing with high speed at Ex-Control Afgoye out of the Somali capital Mogadishu, according to eyewitnesses. The bus left Mogadishu and was on its way to Afgoye corridor, a home for thousands of Mogadishu displaced people.
The bus was hired by Khat traders mainly women, the eyewitnesses explained.
Officials at the checkpoint of Ex-Control Afgoye said that the soldier who fired at the civilian bus was captured and taken into custody.
But locals say that bus running with high speed passed the checkpoint without permission. [...]
- [The Globe and Mail \(Canada\), Roadblocks, bullets and bloodshed undermine relief efforts, 09/09/2011](#)
[...] Local officials, including powerful warlords, are another threat. A few days ago, a gunfight erupted in the middle of the city in a dispute over an illegal checkpoint, set up by a private militia to raise money for the warlord who employs them. [...]
- [Shabelle Media Network \(Mogadishu\), Govt Forces Clash With Armed Militias in Mogadishu, 03/09/2011](#)
[...] The forces of Somali interim federal government forces clashed armed militias dressed in government military uniform who have checkpoints in the war weary Mogadishu by taking illegal money from public buses.
The government forces including police and military on Saturday morning launched a security crackdown in parts of the capital in a bid to clear out all checkpoints manned armed militiamen.
Local residents said heavy firefight rocked parts of Wadajir district southwest of the Somali capital.
They said the two parts used both heavy and light weapons during the armed confrontation.
But, after hours of taking over the checkpoints, Somali soldiers came under counter attack from the militias, erupting fierce fighting there.
However, there have been casualties but not known so far the number of dead people and injuries.
Meanwhile, the district commissioner of Mogadishu's Wadajir told Shabelle that government forces attacked civilian people in the district, looting properties. But he declined to give further details about the casualties. [...]

Internal Relocation to Somaliland and Puntland

Only one paragraph of the OGN specifically addresses the possibility of internal relocation to either Somaliland or Puntland:

Excerpt from October 2011 Somalia OGN

2.4.5 Somaliland and Puntland, are in general relatively safe. The authorities in Somaliland will only admit failed asylum seekers returning from European countries who originate from their territory or those who have close affiliations to the territory through clan membership. In the case of majority clan affiliates, this means those associated with the Isaaq in Somaliland. In Somaliland taxis and 4x4 vehicles can easily travel from Hargeisa, Burao, Lasanod and Garowe. The main transportation between Somaliland and South Central is by lorry. People travel by air between Mogadishu and Hargeisa.¹⁶

The most recent CG case [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 445 \(IAC\) \(28 November 2011\)](#) highlights the fact that Somaliland and Puntland only accept back persons “who were former residents of those regions and were members of locally based clans or sub clans” and found that returning to Somaliland via land from Mogadishu Airport would expose the returnee to “real risk of serious harm”, especially if the returnee is a woman. See below

Country guidance

[...] Somaliland and Puntland

14) *The present appeals were not designed to be vehicles for giving country guidance on the position within Somaliland or Puntland. There is no evidential basis for departing from the conclusion in [NM and others](#), that Somaliland and Puntland in general only accept back persons who were former residents of those regions and were members of locally based clans or sub clans. In the context of Somali immigration to the United Kingdom, there is a close connection with Somaliland.*

15) *A person from Somaliland will not, in general, be able without real risk of serious harm to travel overland from Mogadishu International Airport to a place where he or she might be able to obtain an unofficial travel document for the purposes of gaining entry to Somaliland, and then by land to Somaliland. This is particularly the case if the person is female. A proposed return by air to Hargeisa, Somaliland (whether or not via Mogadishu International Airport) will in general involve no such risks.*

The first highlighted sentence in paragraph 2.4.5 of the OGN is further not consistent with the information available in the public domain as the following non-exhaustive recent incidents of violence demonstrate:

Security situation in Somaliland

- [United Nations, Report of the Secretary-General on Somalia, 30/08/2011](#)
[...] 19. [...] Las Anod experienced killings and violent attacks owing to the disagreement between “Somaliland”, “Puntland” and Sool-Sanag-Cayn alliances over territory. “Somaliland” forces and Sool-Sanag-Cayn militia fought in May, and “Puntland” and “Somaliland” clashed in August. Proposed oil drilling north of Las Anod by a commercial partner of “Puntland” added to existing tensions. [...]
- [US Department of State: Country Report on Terrorism 2010 - Chapter 2 - Somalia, 18/08/2011](#)
[...] Al-Shabaab's influence in Somaliland and Puntland, though on a much smaller scale than in southern Somalia, remained a concern to local and regional authorities.
2010 Terrorist Incidents:
[...] Somaliland: Attacks and government responses included the following:
On June 10, Somaliland police clashed with a heavily armed unidentified group with likely links to terrorists in Burao's eastern neighborhood. A police officer was killed, and Eastern Burao's police commander and Togdheer's regional police commander were reportedly wounded in the clashes. Police arrested five people and impounded three sacks of explosive powder and weapons. On November 15, a Berbera court sentenced one of the arrestees, Ahmed Ibrahim Farah, to death by hanging after he pled guilty to terrorism charges. The court delivered death sentences to three other accomplices, two men and

a woman, who were tried in absentia. The court also sentenced three women to serve a one-year jail term each for their role in the terrorist raid while two other women were set free due to lack of evidence.

On January 28, a remote control explosion targeting Farah Askar Hussein, Governor of the Sool region, killed one of his staff and wounded Hussein and his driver. The explosion occurred at the front gate of his Las Anod residence during the visit of eight Somaliland ministers. Somaliland police have not made any arrests related to this incident. [...]

- [IASC Somalia, Protection Cluster Update Weekly Report, 12/08/2011](#)
[...] NORTH-WEST (AWDAL, WOQOOYI GALBEED & TOGDHEER)
General insecurity resulting from armed violence continues to be the main protection concern in the North-West regions of Somaliland. [...]
- [IASC Somalia, Protection Cluster Update Weekly Report, 29/07/2011](#)
[...] NORTH-WEST (AWDAL, WOQOOYI GALBEED & TOGDHEER)
[...] However, general insecurity, especially among displaced residents who lack secure shelter has raised protection concerns. [...]
- [United Nations, Report of the Secretary-General on Somalia, 28/04/2011](#)
[...] B. Security situation
16. Disagreement over water holes in the disputed area of Buuhoodle led to fighting in late February between the "Somaliland" army and Sool-Sanaag-Cayn militias; the latter was reportedly backed by "Puntland" forces. A tentative ceasefire has held since March, aided by "Puntland's" withdrawal and "Somaliland" peacebuilding measures. However, Buuhoodle remains a militarized zone, and the conflict may resume as competition for water resources and pasture in droughtaffected areas increases.
- [IRIN, Somaliland clashes displace thousands, 10/02/2011](#)
More than 3,000 people have been displaced from settlements in Somaliland's eastern region of Togdheer following a five-hour-long battle on 7 February between the Somaliland National Army and clans loyal to the Sool, Sanag and Cayn (SSC) militia group. A long-standing dispute exists over the territories of Cayn, Sool and Sanag, with both the self-declared republic of Somaliland, in northwestern Somalia, and the self-declared autonomous region of Puntland in the northeast claiming them. SSC are fighting to remain part of the original state of Somalia. [...]
- [IRIN, Rising number of child landmine victims in Somaliland, 02/02/2011](#)
Somalia's self-declared independent region of Somaliland has experienced an increase in landmine and unexploded ordnance (UXO) explosions in the recent past, with officials calling for mine awareness education in schools, as children have been the main victims. "Child victims of land mines have increased in Somaliland in the past two months," Ahmed Ali Maah, director of the Somaliland Mine Action Center (SMAC), told IRIN. "Some 93 children have been killed by landmines in the past three years." Farhan Abdi Saleban, a child protection officer with Comprehensive Community-Based Rehabilitation in Somaliland (CCBRS), a local NGO, said three children died and five were injured by landmines in January; and two others were injured in December 2010. "Case fatalities and injuries associated with mine and UXO explosions have lately increased in the country," Saleban said. "A high proportion of the victims are children, according to comparative data/information recorded for the past two months." [...]

Security situation in Puntland

- [BBC News, Somalia: Workers for a Danish aid group abducted, 25/10/2011](#)
[...] Gunmen have abducted three aid workers employed by the Danish Demining Group in north-central Somalia. The Danish aid agency said a Somali national was taken along with two international staff members taken - a US woman and a Danish man. A Somali security official told reporters they were kidnapped near the airport at Galkayo town. Earlier this month two Spanish aid workers were taken from a refugee camp over the border in neighbouring Kenya. Since September, there have been a spate of kidnappings of foreigners in Kenya, which Nairobi has blamed on the Somali Islamist group al-Shabab. The group has denied any involvement. Galkayo is not in al-Shabab territory.
Clan fighting

The town straddles the border between Somalia's northern semi-autonomous region of Puntland and another district in control of the Galmudug clan, which is aligned to the transitional federal government. The Danish Demining Group said the abductions had occurred at 15:00 local time (12:00 GMT) and investigations were ongoing. Ahmed Mohamed, a police officer in Galkayo, told AP news agency the two were taken in the southern part of the town, in Galmudug. Correspondents say Puntland is relatively secure compared with other parts of Somalia, but there was some clan fighting in Galkayo last month. [...]

➤ [IASC Somalia, Protection Cluster Update Weekly Report, 23/09/2011](#)

[...] SOOL & SANAG

The lack of personal security continues in Sool and Sanag region as clan militias and Somaliland military continue to control the disputed borders between Sool and Sanag regions. [...]

➤ [Agence France Presse, Gunmen shoot dead Somali lawmaker: official, 21/09/2011](#)

[...] Gunmen shot and killed a Somali lawmaker in the northern breakaway state of Puntland, where fighting between political and clan groups is on the rise recently, officials said Wednesday. Security officials in Galkayo said Abdurahman Ahmed Haji was shot late Tuesday by men with handguns in front of the gate of his house.

"Two men approached the lawmaker's car and then opened fire on him as he was entering his house. One of the gunmen shot him three times before escaping," local security official Mohamed Jama told AFP.

"He was rushed to hospital where he died in the emergency ward soon after arriving. They shot him brutally in the mouth and chest," said Abdiwahab Dhamuke, another lawmaker and close friend.

Galkayo, which straddles the border between Puntland and the self-proclaimed separate region of Galmudug in central Somalia, has seen recent clashes between rival political or clan groups.

Earlier this month at least 21 people were killed in two days of heavy fighting in the Galkayo area. [...]

➤ [Agence France Presse, At least 21 dead in Somali rebel clashes, 02/09/2011](#)

[...] At least 21 people have been killed and 31 others wounded in two days of heavy fighting on the border of Somalia proper and the breakaway state of Puntland, officials and witnesses said Friday.

Clashes broke out Thursday in the northern part of Galkayo town after Puntland soldiers raided neighbourhoods searching for gunmen linked to Al Qaeda-inspired Shebab militants. "Puntland security forces carried out security operations in Galkayo after getting concrete information regarding elements with links to the Shebab terrorist group," a Puntland interior ministry statement read.

"The raid was successful and heavy casualties were inflicted on the terrorists," the statement added.

Galkayo straddles the border between the northern breakaway state of Puntland and central Somalia.

Security officials said fighting erupted again early Friday after both sides reinforced their positions. "We are not sure exactly how many people were killed, but we are getting reports that there are at least 21, most of them (rebel) fighters," said Mohamed Jama, a security official in the semi-autonomous region. [...]

➤ [United Nations, Report of the Secretary-General on Somalia, 30/08/2011](#)

[...] 19. Al-Shabaab sympathizer Sheikh Atom and his militia attacked "Puntland" forces near Galgala, Bari Province, in mid-May and the area remained insecure despite reported negotiations. "Puntland's" general security apparatus was repeatedly challenged by multiple killings and attacks over clan, religious and ideological issues. Las Anod experienced killings and violent attacks owing to the disagreement between "Somaliland", "Puntland" and Sool-Sanag-Cayn alliances over territory. "Somaliland" forces and Sool-Sanag-Cayn militia fought in May, and "Puntland" and "Somaliland" clashed in August. Proposed oil drilling north of Las Anod by a commercial partner of "Puntland" added to existing tensions. [...]

➤ [United Nations Human Rights Council, Report of the independent expert on the situation of human rights in Somalia, Shamsul Bari* 29/08/2011](#)

[...] 53. The overall security situation in Puntland remains relatively calm. However, since the beginning of 2011, there have been waves of violence and assassinations, mostly in Galkayo, Bossaso and areas around Galgala. Assassinations have targeted businessmen, elders, religious leaders, judicial officials and security and law enforcement officials. While some of these acts should be regarded as common criminal matters, others appear to be either clan-revenge killings or conducted by the Atam militia, reported to have close ties with Al-Shabaab. There are reports of peace talks between President Farole and Atam which have apparently resulted in preliminary agreements, including an announced amnesty. The independent expert

welcomes these steps, but urges all parties to reflect the necessary balance between peace and justice and integrate core international law principles, such as on the limits to the permissible scope of amnesty laws.

54. The Government of Puntland has taken some measures to reduce violence and insecurity, including the deployment in April 2011 of additional security forces in Galkayo and the imposition of a night-time curfew in Bossaso, which was revoked in May. Some of the measures taken to address insecurity, however, appeared arbitrary and violated due process rights. For instance, in June, following the assassination of a former army colonel in Bossaso, security forces conducted a search operation that resulted in more than a 100 people being arrested.

55. Nonetheless, killings, assassinations and other violent acts continued to be reported, and the Government has been widely criticized by sections of society for failing to address the problem. In June, the Governor of the Bari region resigned owing to the growing insecurity in the region and the reportedly poor cooperation of the central administration to address the insecurity. In July, a new Minister for Security was appointed. [...]

56. With regard to the situation of internally displaced persons, a concern in previous reports, a decrease in the number of forcible transfers of displaced males from Puntland towards the Galkayo area was noted. The independent expert recognizes the legitimate concerns of the Puntland authorities about infiltration of militant forces from the South, but, as expressed in his meeting with the Puntland authorities, he is concerned that an overreaction to such concerns may in some cases result in serious human rights violations.

57. The engagement of the United Nations with the Government on a policy for internally displaced persons seem to have acquired new vigour, but the general humanitarian situation of displaced persons remains precarious in many ways, particularly with respect to access to adequate housing, food and water, health and sanitation. Protection concerns remain, and cases of sexual and gender-based violence among the displaced, as well as within host communities, are prevalent. However, owing to the stigma attached to this type of violence, coupled with a weak criminal justice system, victims continue to use traditional structures to settle such cases, which encourages impunity. [...]

➤ [Somalia Report, More Die as Attacks in Galkayo Increase, 26/08/2011](#)

At least seven people have been killed in Israac district of Galkayo town in Somalia's semi-autonomous region of Puntland on Friday after gunmen opened fire. "Four men armed with automatic assault rifles fired on civilians in a restaurant and at least six people were killed," Mohamed Ali, a local journalist told Somalia Report. "The gunmen fled from the scene and situation in Galkayo is tense," said the journalist.

[...] In another attack, an unidentified person threw a hand grenade into Radio Daljir in Galkayo, injuring one of the radio's security staff and damaging property. The director of the radio station, Abdifatah Omar Gedi, confirmed the incident to the media and said they have not yet established the reason behind the attack. Mr. Gedi said that his radio station is impartial and work for the people of Puntland. "Our radio is unbiased and we do not broadcast what our people in Puntland do not like," he explained. The blast, which could be heard on the opposite side of town, occurred at 3:30am local time and blew out the windows of a nearby building. Puntland security officers are investigating both attacks. No group has claimed responsibility for either attack, but many believe that they are based on clan retaliation as violence and organized crime have dramatically increased in Puntland's main cities of Galkayo, Bosaso and Garowe. The latest incident come as Puntland President Abdirahman Mohamed Farole dismissed the regional administration of Mudug region for inefficiency. Last week the district commissioner of Israac district was assassinated by unidentified gunmen which was followed by at least two separate explosions detonated in different locations in the town, including the home of a prominent traditional elder.

➤ [US Department of State: Country Report on Terrorism 2010 - Chapter 2 - Somalia, 18/08/2011](#)

[...] Al-Shabaab's influence in Somaliland and Puntland, though on a much smaller scale than in southern Somalia, remained a concern to local and regional authorities.

2010 Terrorist Incidents:

Puntland: An estimated 50 government officials, security officers, and leading elders were killed in terrorist-related attacks in Puntland. A clan militia led by Siad Atom, connected to al-Shabaab, in the mountainous Sanag region, was believed to be behind these attacks. From July to November, Puntland forces launched military operations against Atom and his allied clan fighters. Puntland's president

announced the end of the operation in November although the ability of Atom to continue future attacks remained viable and strong.[...]

➤ [Somalia Report, IED Blast Hits Puntland Celebrations, 01/08/2011](#)

At least two people were killed and others were wounded in a roadside attack on Monday in Garowe, the administrative capital of Somalia's semi-autonomous region of Puntland, only hours after a parade marking the 13th anniversary of the formation of Puntland concluded at a park in the center of town. Puntland police did not comment on the explosion but a local journalist who spoke to Somalia Report on the condition of anonymity said that there was suspicion that the improved explosive device (IED) was concealed in the parade-ground area before the start of the ceremony, but did not explode on time. [...] Unrest has been growing in recent weeks throughout Puntland. On Sunday, unidentified gunmen shot dead a member of Puntland's Intelligence counterterrorism (PIS) force [...]

➤ [Somalia Report, Nine Killed as Insecurity Grows in Puntland, 28/07/2011](#)

At least 9 people have been killed in Kab-Dhahad, a village few kilometers away from Ufeyn district of Bari region in Somalia's semi-autonomous state of Puntland, when unidentified gunmen opened fire on a small vehicle carrying passengers from the area to the region's main city of Bosaso. The mayor of the village confirmed the incident and the number of casualties, but couldn't identify the men who carried out the killings. He told reporters that he ordered the security authorities to carry out a full scale investigation and bring the perpetrators to justice. "We do not know at this point who carried out this barbaric attack or the motives behind this killing of innocent people," said the mayor. "There is clan rivalry in this area and we think this has something to do with that," he added. The two clans fighting in the area are Ali Jibrahil and Ali Saleban, which are sub-clans of Majeerten clan. Insecurity has been on the rise throughout Puntland in recent months with assassinations of government officials, clan rivalry, pirate fights, and government clashes with a militia in the Galgala mountains. This week an armed gang attacked a convoy carrying Africa Oil executives and Puntland officials near Ufeyn district. Puntland officials declined to comment the incident and are expected to carry out an investigation before officially commenting the subject.

Whilst section 2.4.5 of the OGN above in part addresses the 'relevance' of internal relocation to Somaliland and Puntland, the 'reasonableness' of relocation to either area is not examined in the OGN. Despite the UNHCR's Guidelines being referred to at the outset of the *Internal Relocation* section, its position on this point is noticeably absent:

➤ [United Nations High Commissioner for Refugees \(UNHCR\), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Somalia, 05/05/2010](#)

[...] E. Internal Flight or Relocation Alternative (IFA/IRA)

[...] 3. Somaliland and Puntland

Somaliland and Puntland already host tens of thousands of IDPs, by far exceeding their absorption capacity. Moreover, as explained above, the authorities in both Somaliland and Puntland have implemented strict policies with respect to Somalis not considered to originate from these areas. In Somaliland, such persons are considered as 'foreigners' under the Constitution of the self-declared independent State and in Puntland, national security concerns against persons from southern and central Somalia in the wake of the 2008 suicide bombings²⁶⁴ have led to detention and deportation back to southern and central Somalia and to Somaliland and Puntland, respectively. [...]

Furthermore, in the absence of clan protection and support, a Somali originating from another territory in Somalia would face the general fate of IDPs, including lack of protection, limited access to education and health services, vulnerability to sexual exploitation or rape,²⁶⁵ forced labour, perpetual threat of eviction, and destruction or confiscation of assets. [...]

Whether an IFA/IRA exists in Puntland or Somaliland will depend on the circumstances of the individual case, including whether the individual is a member of a majority or minority clan and whether the individual originates from the territory where IFA/IRA is being considered. The generally deplorable living conditions of displaced persons in Puntland and Somaliland, however, indicate that an IFA/IRA is generally not available for individuals from southern and central Somalia in these territories. [...]

COI presented on the following issues documents that for persons admitted to these regions, the situation remains severe:

Somaliland

[Humanitarian situation for IDPs](#)

[Risk of sexual violence](#)

[Risk of deportation](#)

Puntland

[Humanitarian situation for IDPs](#)

[Risk of sexual violence](#)

[Risk of deportation](#)

Somaliland

[Humanitarian situation for IDPs](#)

➤ [IASC Somalia, Protection Cluster Update Weekly Report, 04/11/2011](#)

[...] NORTH-WEST (AWDAL, WOQOOYI GALBEED & TOGDHEER)

Over 10,500 newly arrived IDPs have settled in Mohamed Mogeheh IDP camp in Hargeisa. The IDPs who were mainly displaced as a result of drought in some parts of Somaliland or due to the conflict in South Central Somalia, are facing eviction threats by the private landlords. During an assessment carried out in the new IDP settlement by the Hargeisa IDP Working Group and the authorities, IDP women and girls stated that in addition to inadequate shelter, they feel unsafe walking long distances to access latrines or collect firewood. The increase in the number of GBV cases reported in Somaliland further confirms the unsafe environment women face in North-western regions.

SOOL & SANAG

Despite the peace negotiations that took place in August in Erigavo district of Sanaag region, Somaliland, clan conflict remains a major protection risk to civilians in both Sool and Sanag regions. [...]

➤ [IASC Somalia, Protection Cluster Update Weekly Report, 07/10/2011](#)

[...] NORTH-WEST (AWDAL, WOQOOYI GALBEED & TOGDHEER)

The rainy season in Hargeisa, Woqooyi Galbeed region of Somaliland continued to pose protection risks to the IDP population in the area. A number of people were reportedly killed and many IDPs left homeless as the result of floods which followed. As the 4 October deadline set for the deportation of undocumented Ethiopian migrants approached, many migrants have reportedly begun return to Ethiopia in the face of increasing hostility from the general public and to avoid mistreatment by the government. Spontaneous returns were reported in Jijiga town in eastern Ethiopia. A number of cases of abandoned children were also recorded during the past two weeks in Woqooyi Galbeed and Togdheer regions, indicating increased economic destitution amongst many families, but also possibly due to stigmatization of unmarried women who become pregnant. [...]

➤ [United Nations, Report of the Secretary-General on Somalia, 30/08/2011](#)

[...] G. Humanitarian and recovery and development activities

[...] Recovery and development activities

95. [...] The "Somaliland" authorities imposed numerous restrictions on humanitarian and development work which hampered the activities of the United Nations and non-governmental organizations. [...]

➤ [International Medical Corps, Food Security Situation Deteriorating in Somaliland, 24/08/2011](#)

With famine already affecting five zones of southern Somalia, the food security situation in many areas of Somaliland - the autonomous, generally more stable region to the north - has now reached critical levels and is rapidly deteriorating. [...]

- [Internal Displacement Monitoring Centre \(Norwegian Refugee Council\), Somalia: Displacement and worsening humanitarian situation as a result of ongoing violence and conflict, 30/07/2010](#)
 [...] Protection Risks
 Physical security and integrity
 [...] Many of the people internally displaced from south-central Somalia have sought protection in the self-declared “Republic of Somaliland”, where the authorities consider them as refugees; they lack clan support and associated livelihood opportunities (IRIN, 16 June 2010; Guardian, 6 July 2010).
- [IRIN, Hundreds of drought-displaced seek shelter in Somaliland, 29/07/2011](#)
 Hundreds of families from south-central Somalia who have sought refuge in the self-declared independent Republic of Somaliland lack food, shelter and water, say local officials. Most of the 276 families (about 1,650 people) are in the town of Las-anod in Sool region, neighbouring south-central Somalia. "At least 10 families arrive in Las-anod daily; some pass through to other towns in Somaliland but many remain here," Khadra Mohamed, secretary-general of Somaliland's internally displaced persons (IDP) organization, told IRIN. "Some of the new arrivals are [staying] with conflict-displaced Somalis who have been living in the town for the last several years. These people have no food or shelter. However, Mohamed said, local communities have been providing food aid to the new arrivals. "These families have little access to health services, some of them lost their children during their long journey to Somaliland," Mohamed added. [...]
- [UN General Assembly, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(c\) of the annex to Human Rights Council resolution 5/1, 21/02/2011](#)
 [...] II. Promotion and protection of human rights on the ground
 [...] B. Implementation of international human rights obligations, taking into account applicable international humanitarian law
 [...] 10. Internally displaced persons
 68. [...] “Somaliland” and “Puntland” hosted tens of thousands of IDPs from Southern and Central Somalia. IDPs in “Somaliland” and “Puntland” have limited access to health services and education and are vulnerable to evictions.¹³⁸
 [...] 71. JS1 stated that there were at least six settlements of displaced persons in Hargeisa in “Somaliland”. 142 These settlements were over crowded and there was inadequate food, health care, education, shelter or jobs.¹⁴³ [...]
- [Office of the United Nations High Commissioner for Human Rights \(OHCHR\), Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kalin on his mission to Somalia, 21/01/2010](#)
 [...] B. Magnitude and dynamics of internal displacement
 [...] 15. [...] In Puntland and Somaliland, IDPs have remained for many years in settlements, without a solution to their displacement and often living in precarious conditions. In Somaliland, many who fled to neighbouring countries in 1991 were unable to return to their homes after being repatriated and have since remained in internal displacement.
 16. Today, displacement continues unabated, with waves of newly displaced persons joining those who previously fled to the urban areas because they promised increased physical and economic security compared to rural areas. These arrivals exacerbate the protracted displacement situations as the newly displaced not only impose a huge burden on the local authorities and communities, but also on the old communities of IDPs, in particular in areas where basic services and resources are already under a lot of strain.
 [...] 20. In Somaliland and Puntland, IDPs live intermingled in settlements with returning refugees, asylum-seekers and refugees from neighbouring Ethiopia, as well as urban poor who often have similar needs. Displacement in these northern areas must further be seen in the wider context of mixed migration, including economic migration, human trafficking and smuggling.
 III. Responses to internal displacement
 A. Domestic response
 [...] 25. The Somaliland and Puntland authorities face particular constraints in terms of resources and capacity and are in need of support for capacity-building and other measures. The Representative

appreciates the continued efforts of these authorities to host IDPs and underlines that they must not be prevented from seeking safety, nor should they be met with general mistrust or hostility due to their origin.

[...] 27. Given the limited capacities of the Somaliland and Puntland authorities and the difficult challenges they face in fulfilling their obligations to provide assistance and protection to all the displaced, partly due to lack of resources, cooperation with the humanitarian and development community is key. Efforts by the authorities to safeguard humanitarian aid workers are appreciated by the humanitarian community in Somaliland and Puntland. Support provided by them must not be diverted, through e.g. “gatekeepers”.¹⁸ Authorities should grant and facilitate free passage of all humanitarian assistance,¹⁹ including non-food items. This also requires general tax and customs exemptions for humanitarian goods.

[...] V. Protection of displaced persons during displacement

[...] 45. The visit to Puntland and Somaliland enabled the Representative to see the situation at first-hand and gather information in settlements of IDPs in Galkayo, Bossasso and Hargeisa, where protracted displacement situations are exacerbated by the influx of new arrivals. The Representative acknowledges the hospitality provided to IDPs by the local populations under difficult circumstances. At the same time, he is concerned that the authorities view new arrivals with increasing suspicion, fearing infiltration by insurgents. While genuine security concerns need to be addressed, this must be done in a way that fully respects the rights of IDPs.

[...] 47. In Somaliland, a primary challenge to the rights of IDPs from the central and southern regions of Somalia is the fact that they are treated as foreigners, i.e. refugees or even illegal migrants. As such, they cannot acquire property, participate in elections or access public employment. While noting that Somaliland also encounters mixed migration as well as the return of high numbers of Somaliland refugees, the Representative reiterates that those displaced from the central and southern regions of Somalia retain all their rights as internally displaced persons within the meaning of the Guiding Principles when they flee to Somaliland as they do not cross an internationally recognized state border.²⁹ He therefore calls on the authorities to find pragmatic ways to ensure that these people can fully enjoy their rights as provided for by the Guiding Principles and the binding human rights provisions that underlie them. In particular, he seeks the commitment of Somaliland authorities to refrain from deporting persons displaced from the central and southern regions of Somalia.

48. In Puntland and Somaliland, the continuous inflow of IDPs is a burden on the reception and absorption capacities of local authorities and communities, but also for existing communities of IDPs. While some IDPs remain invisible in host communities, the majority are in IDP settlements, which have become a melting pot of IDPs, asylum-seekers, refugees, including returning Somali and Somaliland refugees, urban poor and migrants. Thus, the identification of beneficiaries remains a challenge. Nevertheless, the majority of IDPs in Puntland and Somaliland have lost their traditional support mechanisms and clan protection and are therefore vulnerable in ways not encountered by others. At the same time, given in particular the vulnerabilities of poor local communities, singling out the displaced may create or exacerbate tensions and hostilities with the local communities. Approaches based on a concept of “displacement affected communities” which address in a comprehensive way the needs of displaced communities, as well as host communities bearing the burden caused by the arrival of IDPs, might be more appropriate in such circumstances.

49. Major protection concerns encountered in IDP settlements both in Puntland and Somaliland but reportedly also in the southern and central region include: (a) Overcrowding, with the overwhelming majority of residents being women and children, who often live without adequate shelter and access to basic services, including health care, education, potable water and sanitation, or education. Specific support structures for persons with special needs, such as the disabled, traumatized persons or victims of sexual and gender-based violence, are virtually non-existent. Outbreaks of fire in the overcrowded settlements are another concern; (b) Severe levels of malnourishment, which in Somalia have been found to be highest in IDP settlements and drought-affected areas;³⁰ (c) Lack or inaccessibility of education programmes for internally displaced children and youth and lack of opportunities for vocational or skills training leaving them with no or little prospect for their future; (d) Economic exploitation of children and, in particular in southern and central Somalia, also their recruitment into armed groups; (e) Lack of physical security, rapes, gang rapes and other instances of sexual and gender-based violence in and around the settlements³¹ as well as domestic violence. This is exacerbated by a lack of medical and psychosocial care, legal counselling, access to justice, rehabilitation and livelihood support for victims. The subordinate socio-economic position of Somali women is one of the root causes of the sexual violence faced by internally

displaced women and girls; (f) Lack of public land where IDPs can settle with a certain security of tenure and without the risk of becoming forcibly evicted or having to pay exorbitant rents to private landlords.

[...] VI. Protracted internal displacement

[...] 54. Many IDPs also sought refuge in Puntland and Somaliland over a decade ago and have since remained in displacement, living under very difficult conditions on the margins of society. The relative stability of these regions provides them with opportunities to improve their social and economic condition and thus strengthen their capacity to become self-reliant as full members of society, regardless of whether they want to return to their former homes once this becomes possible. For those wishing to remain where they are, local integration would help them find a durable solution to their displacement in accordance with the Guiding Principles.³²

55. Assessments carried out in Puntland and Somaliland indicate that the vast majority of IDPs wish to seek local integration as a durable solution³³ while others continue to return to home areas once conditions allow. Integrating long-term IDPs into local society, instead of marginalizing and discriminating them, would help them to become self-sufficient. Joint programmes for displaced communities in Hargeisa, Bossasso and Galkayo were elaborated by respective line ministries and key United Nations partners with the United Nations Development Programme as the lead agency. They not only include projects aimed at improving the living standards of IDPs in temporary settlements through activities to better protect their human rights — in particular by protecting their physical integrity, improving access to basic services, upgrading temporary settlements and facilitating access to livelihood opportunities — but they also seek to identify and find durable solutions. The programmes thus combine the need for continued humanitarian efforts with recovery and development initiatives. [...]

Risk of sexual violence

➤ [IASC Somalia, Protection Cluster Update Weekly Report, 04/11/2011](#)

[...] NORTH-WEST (AWDAL, WOQOOYI GALBEED & TOGDHEER)

[...] During an assessment carried out in the new IDP settlement by the Hargeisa IDP Working Group and the authorities, IDP women and girls stated that in addition to inadequate shelter, they feel unsafe walking long distances to access latrines or collect firewood. The increase in the number of GBV cases reported in Somaliland further confirms the unsafe environment women face in North-western regions.

[...] SOOL & SANAG

[...] Gender based violence and protection of children continue to be a challenge. [...]

➤ [IASC Somalia, Protection Cluster Update Weekly Report, 23/09/2011](#)

[...] NORTH-WEST (AWDAL, WOQOOYI GALBEED & TOGDHEER)

The lack of personal security, particularly for women and girls, continues to be major factor behind protection violations in the North-West of Somaliland. Incidents of domestic assaults and rape have highlighted the insecurity faced by Somalis woman living in Somaliland despite its relatively peaceful reputation. [...]

➤ [United Nations Human Rights Council, Report of the independent expert on the situation of human rights in Somalia, Shamsul Bari* 29/08/2011](#)

VII. Human rights situation in Somaliland [...]

49. Cases of sexual violence, even after being reported to the Police, continue to be taken out of the formal legal process and adjudicated through the customary system. Nonetheless, violence against women is either on the increase or increasingly reported, despite the attached stigma. The independent expert was informed that only two police stations in Hargeisa have in place a women's desk staffed by female police officers. It is apparent that this policy needs to be substantially strengthened to contribute to promoting women's access to justice. [...]

➤ [IASC Somalia, Protection Cluster Update Weekly Report, 12/08/2011](#)

[...] NORTH-WEST (AWDAL, WOQOOYI GALBEED & TOGDHEER)

[...] Rape and physical assaults on women and children committed by private persons not affiliated with the state continue to take place in greater numbers due to the lack of protection mechanisms for these vulnerable groups. Most of these attacks go unpunished in the absence of effective rule of law. [...]

- [IASC Somalia, Protection Cluster Update Weekly Report, 29/07/2011](#)
 [...] NORTH-WEST (AWDAL, WOQOOYI GALBEED & TOGDHEER)
 [...] Women and girls within IDP camps continue to facing insecurity and gender based violence. [...]
- [United Nations, Report of the Secretary-General on Somalia, 28/04/2011](#)
 [...] E. Human rights and protection of civilians
 [...] 32. There were significant reports of sexual violence in “Somaliland” and “Puntland” during the reporting period, which both recognize as a criminal act. Some 140 incidents were reported from January to early March, of which 99 were rape cases. Such cases were mostly dealt with through the customary law system. Settlements reached out of court may result in either marriage with the offender or the survivor’s removal from the community. During his February visit to “Somaliland” and “Puntland”, the Independent Expert on the situation of human rights in Somalia met with women’s organizations and survivors of such violence. They noted that while the customary system contributes to ensuring peace between clans, it would not ensure proper redress for victims. [...]
- [UN General Assembly, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(c\) of the annex to Human Rights Council resolution 5/1, 21/02/2011](#)
 [...] II. Promotion and protection of human rights on the ground
 [...] B. Implementation of international human rights obligations, taking into account applicable international humanitarian law
 [...] 2. Right to life, liberty and security of the person
 [...] 20. JS1 stated in relation to “Somaliland” that sexual and gender-based violence commonly occurred and that rape was common among the disadvantaged communities.³¹ The laws were ineffective in protecting victims of rape and that these matters were mostly solved through traditional mechanisms which, in some instances, resulted in the victim being forced to marry the perpetrator.³² [...]
- [United Nations, Report of the Secretary-General on Somalia, 30/12/2010](#)
 [...] E. Human rights and protection of civilians
 [...] 34. Collection of data on sexual violence remains a challenge owing mainly to underreporting. Gang rape, a relatively new phenomenon in Somalia, is occurring more often, including in “Puntland” and “Somaliland”, with many cases taking place within settlements for internally displaced persons. Assessments conducted this year indicate that the most frequently recorded age group of survivors of sexual violence is 13 to 24 years of age. Female heads of household, women and girls with disabilities, and unaccompanied minors have been identified as the most vulnerable. [...]
- [United Nations, Report of the Secretary-General on children and armed conflict in Somalia, 09/11/2010](#)
 [...] III. Grave violations of children’s rights
 [...] C. Sexual violence
 [...] 43. [...] Most at risk are women and girls living on the streets and in open and unprotected internally displaced settlements (such as those in Bousaaso, Gaalkacyo, Hargeyoa and along the Afgooye corridor), particularly those who belong to minority clans in the area where they are living. [...]
- [United Nations, Report of the Secretary-General on Somalia, 09/09/2010](#)
 [...] E. Human rights and protection of civilians
 [...] 34. [...] Assessments revealed a high prevalence of sexual violence in settlements of internally displaced persons, mainly in “Somaliland”, where victims were generally of minority clan origin and bereft of clan protection. It should be noted that gender-based violence remains grossly under-reported, particularly in southern and central Somalia. [...]
- [Office of the United Nations High Commissioner for Human Rights \(OHCHR\), Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kalin on his mission to Somalia, 21/01/2010](#)
 [...] V. Protection of displaced persons during displacement

[...] 49. Major protection concerns encountered in IDP settlements both in Puntland and Somaliland but reportedly also in the southern and central region include:

[...] (e) Lack of physical security, rapes, gang rapes and other instances of sexual and gender-based violence in and around the settlements³¹ as well as domestic violence. This is exacerbated by a lack of medical and psychosocial care, legal counselling, access to justice, rehabilitation and livelihood support for victims. The subordinate socio-economic position of Somali women is one of the root causes of the sexual violence faced by internally displaced women and girls; [...]

Risk of deportation

- [UN General Assembly, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(c\) of the annex to Human Rights Council resolution 5/1, 21/02/2011](#)

[...] II. Promotion and protection of human rights on the ground

[...] B. Implementation of international human rights obligations, taking into account applicable international humanitarian law

[...] 10. Internally displaced persons

[...] 69. ARM recommended that “Puntland” and “Somaliland” must stop returning internally displaced persons back to conflict areas.¹⁴⁰ [...]

- [United Nations High Commissioner for Refugees \(UNHCR\), Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review: Somalia, 02/11/2010](#)

[...] Somaliland’s policies towards IDPs, asylum-seekers and refugees are also underpinned by security concerns and a desire to regulate the number of these people in Somaliland. [...]

- [Office of the United Nations High Commissioner for Human Rights \(OHCHR\), Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kalin on his mission to Somalia, 21/01/2010](#)

[...] V. Protection of displaced persons during displacement

[...] 47. In Somaliland, a primary challenge to the rights of IDPs from the central and southern regions of Somalia is the fact that they are treated as foreigners, i.e. refugees or even illegal migrants. As such, they cannot acquire property, participate in elections or access public employment. While noting that Somaliland also encounters mixed migration as well as the return of high numbers of Somaliland refugees, the Representative reiterates that those displaced from the central and southern regions of Somalia retain all their rights as internally displaced persons within the meaning of the Guiding Principles when they flee to Somaliland as they do not cross an internationally recognized state border.²⁹ He therefore calls on the authorities to find pragmatic ways to ensure that these people can fully enjoy their rights as provided for by the Guiding Principles and the binding human rights provisions that underlie them. In particular, he seeks the commitment of Somaliland authorities to refrain from deporting persons displaced from the central and southern regions of Somalia. [...]

Puntland

Humanitarian situation for IDPs

- [Amnesty International, Somalia: a humanitarian and human rights catastrophe, 26/09/2011](#)

[...] Several reports indicate that people fleeing north towards Puntland, particularly men, have been refused passage at checkpoints, deported, or arrested. On 16 August, 49 young men from Bay and Bakool regions were reportedly deported from Garowe to Galkayo by the Puntland security forces, while a hundred others were reportedly arrested south of Garowe, separated from their relatives and awaiting deportation.²⁹ [...]

- [OCHA, Somalia Humanitarian Overview: Vol. 4 Issue 9, September 2011](#)

[...] IDPs still detained in Puntland

Humanitarian partners continued to negotiate for the release, on humanitarian grounds, of more than 200 IDPs from south Somalia who were arrested in the last week of August and were subsequently placed in the custody of Puntland police at various stations in Garowe. According to field reports, the government of Puntland made the arrests for security reasons. International and local humanitarian organizations provided food assistance and legal advice to the detainees. [...]

- [United Nations, Report of the Secretary-General on Somalia, 28/04/2011](#)
[...] E. Human rights and protection of civilians
[...]31. [...] However, since January, over 250 persons, mainly male internally displaced persons from southern central Somalia, have been rounded up in Boosaaso or arrested at checkpoints in Garoowe and brought to Gaalkacyo, with the aim of preventing Al-Shabaab from infiltrating the region. [...]
- [UN General Assembly, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(c\) of the annex to Human Rights Council resolution 5/1, 21/02/2011](#)
[...] II. Promotion and protection of human rights on the ground
[...] B. Implementation of international human rights obligations, taking into account applicable international humanitarian law
[...] 10. Internally displaced persons
68. [...] “Somaliland” and “Puntland” hosted tens of thousands of IDPs from Southern and Central Somalia. IDPs in “Somaliland” and “Puntland” have limited access to health services and education and are vulnerable to evictions.138 [...]
- [Minority Rights Group International \(UK\), No redress: Somalia's forgotten minorities, 23/11/2010](#)
[...] Violations of the rights of minorities by region
[...] Puntland
[...] Puntland has provided little protection or assistance to minorities, whether communities long established in the region (mainly the occupational groups) or IDPs from southern Somalia (mostly Bantu, but with some occupational groups and Benadiri).
[...] Rights violations of the internally displaced
The United Nations Development Programme (UNDP) in Somalia has estimated there to be about 35,000 IDPs in Puntland, of which there are 22,000 in the coastal town of Bossaso.⁸¹ A large proportion of IDPs come from minority and other vulnerable groups from south-central Somalia.⁸² Harsh conditions in the IDP settlements have been frequently criticized by successive UN Independent Experts, with little improvement to record. While Bossaso port benefits substantially from Bantu and Gaboye labour in the construction industry, low-level public service jobs, such as street sweeping and rubbish collection, and the service industry, this work is unregulated and comes with few social benefits. MRG researchers found that violations of rights of minority IDP women and children in Puntland were widespread. The most severe human rights violations against IDP minorities reported to MRG’s researchers were rape and denial of access to justice, with lack of protection from police and courts. Their conditions of extreme poverty and indignity are not being addressed by the authorities. [...]
- [United Nations High Commissioner for Refugees \(UNHCR\), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Somalia, 05/05/2010](#)
[...] E. Internal Flight or Relocation Alternative (IFA/IRA)
[...] 3. Somaliland and Puntland
[...] Large numbers of persons displaced from southern and central Somalia live in Puntland, collected in urban slums in the main towns of Bossaso, Gaalkacyo and Garoowe. While many of the displaced are from the Darod clan and thus afforded some protection under the xeer system of customary law, minority clans or clans who do not constitute a majority in Puntland have suffered a number of abuses in IDP settlements and are essentially without recourse to justice through either formal or informal legal mechanisms. Reported abuses have included rife sexual and gender-based violence, arbitrary arrest, hostage-taking by private landlords until actual or alleged rent payments have been made, enforced child labour, arson and murder. In addition, on a number of occasions in recent years the Puntland authorities

have deported large numbers of persons considered not to originate from Puntland, including persons fleeing the violence in southern and central Somalia. [...]

➤ [Office of the United Nations High Commissioner for Human Rights \(OHCHR\), Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kalin on his mission to Somalia, 21/01/2010](#)

[...] B. Magnitude and dynamics of internal displacement

[...] 15. [...] In Puntland and Somaliland, IDPs have remained for many years in settlements, without a solution to their displacement and often living in precarious conditions.

[...] 16. Today, displacement continues unabated, with waves of newly displaced persons joining those who previously fled to the urban areas because they promised increased physical and economic security compared to rural areas. These arrivals exacerbate the protracted displacement situations as the newly displaced not only impose a huge burden on the local authorities and communities, but also on the old communities of IDPs, in particular in areas where basic services and resources are already under a lot of strain.

[...] 20. In Somaliland and Puntland, IDPs live intermingled in settlements with returning refugees, asylum-seekers and refugees from neighbouring Ethiopia, as well as urban poor who often have similar needs. Displacement in these northern areas must further be seen in the wider context of mixed migration, including economic migration, human trafficking and smuggling.

III. Responses to internal displacement

A. Domestic response

[...] 25. The Somaliland and Puntland authorities face particular constraints in terms of resources and capacity and are in need of support for capacity-building and other measures. The Representative appreciates the continued efforts of these authorities to host IDPs and underlines that they must not be prevented from seeking safety, nor should they be met with general mistrust or hostility due to their origin.

[...] 27. Given the limited capacities of the Somaliland and Puntland authorities and the difficult challenges they face in fulfilling their obligations to provide assistance and protection to all the displaced, partly due to lack of resources, cooperation with the humanitarian and development community is key. Efforts by the authorities to safeguard humanitarian aid workers are appreciated by the humanitarian community in Somaliland and Puntland. Support provided by them must not be diverted, through e.g. "gatekeepers".¹⁸ Authorities should grant and facilitate free passage of all humanitarian assistance,¹⁹ including non-food items. This also requires general tax and customs exemptions for humanitarian goods.

[...] V. Protection of displaced persons during displacement

[...] 45. The visit to Puntland and Somaliland enabled the Representative to see the situation at first-hand and gather information in settlements of IDPs in Galkayo, Bossasso and Hargeisa, where protracted displacement situations are exacerbated by the influx of new arrivals. The Representative acknowledges the hospitality provided to IDPs by the local populations under difficult circumstances. At the same time, he is concerned that the authorities view new arrivals with increasing suspicion, fearing infiltration by insurgents. While genuine security concerns need to be addressed, this must be done in a way that fully respects the rights of IDPs.

46. As regards Puntland, the Representative wishes to make specific reference to a letter dated 19 October 2009, addressed to him by the President of Puntland State on the repatriation of IDPs and economic migrants, expressing the position of the administration that IDPs from the central and southern regions of Somalia are regarded as economic migrants rather than persons seeking safety from danger. The Representative, while appreciating the efforts of the authorities to host large numbers of IDPs and aware of the burden these populations may pose, insists that IDPs do not have a choice but to flee from violence, violations of their human rights or — particularly in the case of IDPs from drought-affected areas — situations threatening survival. He calls on the Puntland authorities to recognize these vulnerabilities and refrain, in accordance with the Guiding Principles, from any attempts to return IDPs to any place where their life, safety, liberty and/or health would be at risk.²⁸

[...] 48. In Puntland and Somaliland, the continuous inflow of IDPs is a burden on the reception and absorption capacities of local authorities and communities, but also for existing communities of IDPs. While some IDPs remain invisible in host communities, the majority are in IDP settlements, which have become a melting pot of IDPs, asylum-seekers, refugees, including returning Somali and Somaliland refugees, urban poor and migrants. Thus, the identification of beneficiaries remains a challenge.

Nevertheless, the majority of IDPs in Puntland and Somaliland have lost their traditional support mechanisms and clan protection and are therefore vulnerable in ways not encountered by others. At the same time, given in particular the vulnerabilities of poor local communities, singling out the displaced may create or exacerbate tensions and hostilities with the local communities. Approaches based on a concept of “displacement affected communities” which address in a comprehensive way the needs of displaced communities, as well as host communities bearing the burden caused by the arrival of IDPs, might be more appropriate in such circumstances.

49. Major protection concerns encountered in IDP settlements both in Puntland and Somaliland but reportedly also in the southern and central region include: (a) Overcrowding, with the overwhelming majority of residents being women and children, who often live without adequate shelter and access to basic services, including health care, education, potable water and sanitation, or education. Specific support structures for persons with special needs, such as the disabled, traumatized persons or victims of sexual and gender-based violence, are virtually non-existent. Outbreaks of fire in the overcrowded settlements are another concern; (b) Severe levels of malnourishment, which in Somalia have been found to be highest in IDP settlements and drought-affected areas;³⁰ (c) Lack or inaccessibility of education programmes for internally displaced children and youth and lack of opportunities for vocational or skills training leaving them with no or little prospect for their future; (d) Economic exploitation of children and, in particular in southern and central Somalia, also their recruitment into armed groups; (e) Lack of physical security, rapes, gang rapes and other instances of sexual and gender-based violence in and around the settlements³¹ as well as domestic violence. This is exacerbated by a lack of medical and psychosocial care, legal counselling, access to justice, rehabilitation and livelihood support for victims. The subordinate socio-economic position of Somali women is one of the root causes of the sexual violence faced by internally displaced women and girls; (f) Lack of public land where IDPs can settle with a certain security of tenure and without the risk of becoming forcibly evicted or having to pay exorbitant rents to private landlords.

[...] VI. Protracted internal displacement

[...] 54. Many IDPs also sought refuge in Puntland and Somaliland over a decade ago and have since remained in displacement, living under very difficult conditions on the margins of society. The relative stability of these regions provides them with opportunities to improve their social and economic condition and thus strengthen their capacity to become self-reliant as full members of society, regardless of whether they want to return to their former homes once this becomes possible. For those wishing to remain where they are, local integration would help them find a durable solution to their displacement in accordance with the Guiding Principles.³²

55. Assessments carried out in Puntland and Somaliland indicate that the vast majority of IDPs wish to seek local integration as a durable solution³³ while others continue to return to home areas once conditions allow. Integrating long-term IDPs into local society, instead of marginalizing and discriminating them, would help them to become self-sufficient. Joint programmes for displaced communities in Hargeisa, Bossasso and Galkayo were elaborated by respective line ministries and key United Nations partners with the United Nations Development Programme as the lead agency. They not only include projects aimed at improving the living standards of IDPs in temporary settlements through activities to better protect their human rights — in particular by protecting their physical integrity, improving access to basic services, upgrading temporary settlements and facilitating access to livelihood opportunities — but they also seek to identify and find durable solutions. The programmes thus combine the need for continued humanitarian efforts with recovery and development initiatives. [...]

Risk of sexual violence

➤ [IASC Somalia, Protection Cluster Update Weekly Report, 04/11/2011](#)

[...] NORTH-EAST (MUDUG, NUGAAL & BARI)

A number of cases of rape and domestic violence, especially in the IDP camps, were recorded over the past two weeks with few arrests made, demonstrating an environment of impunity enjoyed by perpetrators of such cases in Puntland. [...]

➤ [IASC Somalia, Protection Cluster Update Weekly Report, 07/10/2011](#)

[...] SOOL & SANAG

[...] Cases of gender-based violence, mainly committed against women and girls continued to be reported during the reporting period. [...]

- [United Nations Human Rights Council, Report of the independent expert on the situation of human rights in Somalia, Shamsul Bari* 29/08/2011](#)
VIII. Human rights situation in Puntland [...]
58. In Galkayo, the independent expert was briefed by the Galkayo Education Centre for Peace and Development on its programmes to combat sexual and gender-based violence. Such violence takes place while women are involved in earning a livelihood for sheer survival, washing clothes, at the water well, fetching wood or in the house itself. According to the Centre, there is no recognition by the authorities of the critical nature of this type of violence, with the effect that prevention and response are inadequate. Significantly, the Centre reports that, of the 104 cases reported to the police in 2009, none had reached sentence at the time of the independent expert's visit in February 2011. [...]
- [UNHCR, Somali rape survivor rebuilds life, 14/07/2011](#)
[...] Annabel Mwangi, UNHCR's Protection Officer in Bosasso, agrees that internally displaced people (IDPs) are even more vulnerable to gender-based violence. "Just like women around the world, IDP women in Puntland are mothers, wives, orphans, widows – except they are forced to play these roles in extremely difficult conditions, which many of us cannot begin to imagine," she said. "These women often have to travel long distances in search of some form of income, along unsafe routes, at risk of being subjected to various forms of violence, knowing it is the only way to provide one daily meal for their children." [...]
- [United Nations, Report of the Secretary-General on Somalia, 28/04/2011](#)
[...] E. Human rights and protection of civilians
[...] 32. There were significant reports of sexual violence in "Somaliland" and "Puntland" during the reporting period, which both recognize as a criminal act. Some 140 incidents were reported from January to early March, of which 99 were rape cases. Such cases were mostly dealt with through the customary law system. Settlements reached out of court may result in either marriage with the offender or the survivor's removal from the community. During his February visit to "Somaliland" and "Puntland", the Independent Expert on the situation of human rights in Somalia met with women's organizations and survivors of such violence. They noted that while the customary system contributes to ensuring peace between clans, it would not ensure proper redress for victims. [...]
- [United Nations, Report of the Secretary-General on Somalia, 30/12/2010](#)
[...] E. Human rights and protection of civilians
[...] 34. Collection of data on sexual violence remains a challenge owing mainly to underreporting. Gang rape, a relatively new phenomenon in Somalia, is occurring more often, including in "Puntland" and "Somaliland", with many cases taking place within settlements for internally displaced persons. Assessments conducted this year indicate that the most frequently recorded age group of survivors of sexual violence is 13 to 24 years of age. Female heads of household, women and girls with disabilities, and unaccompanied minors have been identified as the most vulnerable. [...]
- [Minority Rights Group International \(UK\), No redress: Somalia's forgotten minorities, 23/11/2010](#)
[...] Introduction
[...] Furthermore, a shocking pattern of gender-based violence is taking place against minority women languishing in IDP camps in the Puntland region in the north-east of the country. [...]
[...] Violations of the rights of minorities by region
[...] Puntland
[...] Rights violations of the internally displaced
[...] MRG researchers found that violations of rights of minority IDP women and children in Puntland were widespread. The most severe human rights violations against IDP minorities reported to MRG's researchers were rape and denial of access to justice, with lack of protection from police and courts. [...]
- [United Nations, Report of the Secretary-General on children and armed conflict in Somalia, 09/11/2010](#)
[...] III. Grave violations of children's rights

[...] C. Sexual violence

[...] 43. [...] Most at risk are women and girls living on the streets and in open and unprotected internally displaced settlements (such as those in Bousaaso, Gaalkacyo, Hargeyoo and along the Afgooye corridor), particularly those who belong to minority clans in the area where they are living. [...]

- [Internal Displacement Monitoring Centre \(Norwegian Refugee Council\), Somalia: Displacement and worsening humanitarian situation as a result of ongoing violence and conflict, 30/07/2010](#)

[...] Protection Risks

Physical security and integrity

[...] Meanwhile, IDPs in Puntland have reportedly continued to face protection risks including attacks and cases of rape (IRIN, 21 and 23 December 2009). [...]

- [Office of the United Nations High Commissioner for Human Rights \(OHCHR\), Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kalin on his mission to Somalia, 21/01/2010](#)

[...] V. Protection of displaced persons during displacement

[...] 49. Major protection concerns encountered in IDP settlements both in Puntland and Somaliland but reportedly also in the southern and central region include:

[...] (e) Lack of physical security, rapes, gang rapes and other instances of sexual and gender-based violence in and around the settlements³¹ as well as domestic violence. This is exacerbated by a lack of medical and psychosocial care, legal counselling, access to justice, rehabilitation and livelihood support for victims. The subordinate socio-economic position of Somali women is one of the root causes of the sexual violence faced by internally displaced women and girls; [...]

Risk of deportation

- [IASC Somalia, Protection Cluster Update Weekly Report, 07/10/2011](#)

[...] SOOL & SANAG

Incidents of IDP deportations originating from South Central Somalia were recorded in Sool region. [...]

- [Amnesty International, Somalia: a humanitarian and human rights catastrophe, 26/09/2011](#)

[...] Several reports indicate that people fleeing north towards Puntland, particularly men, have been refused passage at checkpoints, deported, or arrested. On 16 August, 49 young men from Bay and Bakool regions were reportedly deported from Garowe to Galkayo by the Puntland security forces, while a hundred others were reportedly arrested south of Garowe, separated from their relatives and awaiting deportation.²⁹ [...]

- [IRIN, Puntland, Somaliland act on migrants, IDPs, 14/09/2011](#)

[...] At the same time, authorities in the semi-autonomous region of Puntland have initiated a scheme to issue ID cards to internally displaced persons (IDPs) from southern Somalia who have sought refuge in the region. The move, officials said, would weed out militias and other criminal elements from genuine IDPs. "The ID cards will be given to all IDPs in Puntland; these people will, in particular, get food distribution cards, those for registration, ID cards to enable WFP [World Food Programme] or other aid organizations to count them," said Abdullahi Ahmed Jama, Puntland's Minister for Home Affairs. "These IDs will also be issued for security matters [because] we want to encourage the IDPs to police themselves... build police stations and recruit some of them to handle their own security." Jama dismissed claims that Puntland had thrown out IDPs from southern Somalia, saying: "This is totally untrue, people [from southern Somalia] are not discriminated against here. For example, in the recent past, we have had drought-displaced people who have been left with nothing, some live with their relatives but we have taken the responsibility to help these people as most are IDPs from the south." UNHCR's Needham said at least 290 people from southern Somalia were in Garowe, the capital of Puntland. He said initial talks had been held between Puntland authorities, UNHCR and other agencies regarding the issue. [...]

- [Amnesty International, Somalia: a humanitarian and human rights catastrophe, 26/09/2011](#)

[...] Several reports indicate that people fleeing north towards Puntland, particularly men, have been refused passage at checkpoints, deported, or arrested. On 16 August, 49 young men from Bay and Bakool regions were reportedly deported from Garowe to Galkayo by the Puntland security forces, while a hundred others were reportedly arrested south of Garowe, separated from their relatives and awaiting deportation. 29 [...]

➤ [IASC Somalia, Protection Cluster Update, 26/08/2011](#)

[...] Following the withdrawal of Al Shabaab from Mogadishu, the Puntland administration has began a policy of forcefully returning male IDPs arriving at Puntland border checkpoints from South Central Somalia. The forceful returns have at times resulted in the separation of families, as men are arrested and deported to South Central. Women, children and the elderly who are forcefully separated from their primary caregivers often face a precarious future as they continue their journey in Puntland without primary protection [...]

➤ [UN General Assembly, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(c\) of the annex to Human Rights Council resolution 5/1, 21/02/2011](#)

[...] II. Promotion and protection of human rights on the ground

[...] B. Implementation of international human rights obligations, taking into account applicable international humanitarian law

[...] 10. Internally displaced persons

[...] 69. ARM recommended that “Puntland” and “Somaliland” must stop returning internally displaced persons back to conflict areas.140 [...]

➤ [United Nations High Commissioner for Refugees \(UNHCR\), Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report - Universal Periodic Review: Somalia, 02/11/2010](#)

[...] Since the October 2008 bombings allegedly perpetrated by Islamist infiltrators into Puntland, the Puntland administration has adopted increasingly security-conscious policies in respect of the large numbers of refugees, asylum-seekers, IDPs from south central Somalia and migrants. These policies have resulted in summary deportations of asylum-seekers and migrants and forced relocations of IDPs. [...]

➤ [Internal Displacement Monitoring Centre \(Norwegian Refugee Council\), Somalia: Displacement and worsening humanitarian situation as a result of ongoing violence and conflict, 30/07/2010](#)

[...] Protection Risks

Physical security and integrity

IDPs continue facing serious protection risks in different parts of the country. In July, authorities in Puntland deported some 800 IDPs back to south central Somalia accusing them engaging in subversive activities. This arbitrary action was condemned by UN agencies (UNHCR, 23 July 2010). [...]

4.2 Minors claiming in their own right

Excerpt from October 2011 Somalia OGN

4.2 Minors claiming in their own right

4.2.1 Minors claiming in their own right who have not been granted asylum or HP can only be returned where there are adequate reception, care and support arrangements. At the moment we do not have sufficient information to be satisfied that there are adequate reception, care and support arrangements in place in Somalia.

4.2.2 Minors claiming in their own right without a family to return to, or where there are no adequate reception, care and support arrangements, should if they do not qualify for leave on any more favourable grounds be granted Discretionary Leave for a period as set out in the relevant Asylum Instructions.

No COI has been included in section 4.2 Minors claiming in their own right on the particular risks faced by children, despite the fact that it is well-documented that children are at risk of the following human rights violations in Somalia:

South and Central Somalia

- [Disproportionate impact of the armed conflict on children](#)
- [Forced Recruitment \(by Al-Shabaab and Government forces\)](#)
- [Forced Labour and Child Trafficking](#)
- [Child abuse and sexual violence](#)
- [Forced Marriage](#)
- [Impact of the humanitarian situation on children](#)

Somaliland

- [Arbitrary detention and abuse of children](#)
- [Landmines](#)

Puntland

- [Situation of orphans](#)

For information on the practice of Forced Genital Mutilation (FGM) against girls, see analysis of [section 3.12](#).

Core sources have been included below on each issue. Unless specifically mentioned otherwise, it can be assumed that the documented human rights abuses occur throughout Somalia, are directed against both girls and boys and occur whether or not the child lives with his/her family or community. It is imperative that additional COI research is conducted with the specific profile of claimant in mind when representing a minor facing return to Somalia.

South and Central Somalia

Disproportionate impact of the armed conflict on children

- [UNICEF, Somalia web pages, undated \(accessed 26/10/2011\)](#)

[...] Adolescence

Among the youth many have known nothing but conflict and hardship for most of their lives. Many children and youth have suffered displacement and have observed, experienced and sometimes participated in violence. A majority have never experienced normal, stable social relationships and systems of governance. Since the deterioration of the educational system during the conflict period many

youth in the teenage age range have never been to school, and are illiterate or only semi-literate. Lack of optimism about the possibilities the future holds for them is common among this group.

There are growing categories of vulnerable children who are in need of special care and protection including:

1. Those who have been displaced within the country, such as people driven from their homes by conflict, drought, floods, or other factors;
2. Children from minority groups, the very poor, orphans, disabled children, working children;
3. Children living on the streets, militia children and children in conflict with the law.

Girls are especially disadvantaged in most of these categories. Gender discrimination is deeply rooted in the traditional socio-cultural structures of Somali society and is a formidable barrier to women's participation in decision-making and access to resources. [...]

➤ [Africa Review, Al-Shabaab could use children for suicide attacks, warn police, 31/10/2011](#)

[...] Somali police have warned that embattled Muslim fundamentalist group Al-Shabaab may be planning to use children and the mentally sick to deploy explosive devices or carry out suicide missions.

Deputy police commander Gen Abdikarim Dahir Sa'id told a top-level government security meeting that the Islamists may already be inculcating children that spilling their blood would advance "the cause of Islam". [...]

➤ [Human Rights Watch, Somalia: Al-Shabaab Attack Indefensible, 05/10/2011](#)

[...] A car bomb exploded outside a compound housing several government ministries, including the Ministry of Education, at the strategic junction of Km4 (Kilometer 4) in Mogadishu. Between 69 and 82 people died, and at least 90 were wounded. Many of the casualties were students and their parents awaiting exam results. Ali Mohamed Raghe, the spokesperson for al-Shabaab, claimed responsibility for the attack, warned civilians to stay away from institutions of the ruling Transitional Federal Government, and threatened further attacks. [...] Human Rights Watch has documented a range of serious attacks on education by al-Shabaab in Somalia over the past year, including intentional attacks on educational institutions, forced recruitment of children from schools, and killings of teachers and students that may amount to war crimes. [...]

➤ [UNICEF, Most difficult place to grow up: Somalia has the world's highest child mortality rate, 16/09/2011](#)

[...] Stricken by chronic conflict and recurring drought for decades, Somalia now has the world's highest mortality rate for children under the age of five, according to the latest data released by the UN Inter-agency Group for Child Mortality Estimation.

The group's report, 'Levels and Trends in Child Mortality,' published on Thursday, finds that preventable deaths of young children have dropped by 35 per cent worldwide since 1990. The findings also show that the decline is accelerating globally. Somalia's child mortality rate in 2010, stood at 180 deaths per 1,000 live births which now ranks worst in the world.

"Even before this current crisis, one in six children was dying before their fifth birthday. Now we anticipate this number of deaths will be even greater," said Rozanne Chorlton, UNICEF Representative in Somalia. "There is no doubt that Somalia is one of the toughest places for a child to survive.

" Six areas in southern Somalia have been declared famine zones by the UN: Lower Shabelle region, parts of Bakool and Middle Shabelle, Bay region and the IDP settlements in the Afgoye corridor and Mogadishu. In central and south Somalia, 750,000 people are at imminent risk of death and 1.5 million children need immediate humanitarian assistance – including 336,000 children under the age of five who are acutely malnourished.

The highest rate of global acute malnutrition is in Bay region, at 58 per cent, nearly four times the emergency threshold of 15 per cent set by the World Health Organization. With the onset of rains in the coming months, the risk of disease outbreaks, like malaria and pneumonia, is likely to increase mortality even further. High prevalence of acute malnutrition dramatically increases a child's risk of getting infections and can lead to death. Already during August in South and Central Somalia, there has been a dramatic increase in the numbers of reported cases of measles (1,903 cases), pneumonia (over 9,500 cases) and acute water diarrhea (7,109 cases). These, as well as malaria, are expected to increase in October during the deyr rains. [...]

➤ [Amnesty International, In the line of fire: Somalia's children under attack, 20/07/2011](#)

[...] 3. CHILDREN CAUGHT UP IN INDISCRIMINATE AND OTHER UNLAWFUL ATTACKS

Constant insecurity and unpredictable outbreaks of fighting in South and Central Somalia impact on every aspect of children's lives. Children face extreme threats to their lives and livelihoods, often losing parents, carers and homes in the fighting, which increases their vulnerability.

CHILDREN KILLED AND INJURED IN INDISCRIMINATE ATTACKS

Civilians of all ages in South and Central Somalia have borne the brunt of the armed conflict and worsening indiscriminate attacks and insecurity in the past four years. Among them, children have continued to be killed and seriously injured in the fighting between armed groups and pro-TFG forces.

Mogadishu residents have particularly suffered, as the capital continues to be the main battleground between the TFG and armed Islamist groups. According to WHO, children in Mogadishu accounted for almost one-fifth of all weapons-related casualties between January and October 2010.²⁶ The International Committee of the Red Cross (ICRC) reported that in 2010, some 2,300 women and children with war injuries were admitted to the two hospitals it supports in Mogadishu, almost 40 per cent of all their patients.²⁷ The ICRC also said that

the number of war-wounded patients received at both hospitals in 2010 had risen compared to those received in 2009. During May 2011, there was a sharp rise in the number of recorded war-related casualties among children aged under five in Mogadishu, illustrating the high price paid by children in the unrelenting conflict in Somalia. According to WHO, between 1 and 15 May 2011, 933 patients bearing weapons-related injuries were treated in three hospitals in Mogadishu; of these 398 were children under the age of five.²⁸ In the second half of May 2011, the number of war-wounded children aged under five was also very high; WHO reported that "of the 1590-reported weapon-related injuries in May alone, 735 cases or 46 per cent were children under the age of five, compared to only 3.5% in April".²⁹ The jump in the number of recorded casualties among children aged under five in May 2011 could be explained by increased and sustained fighting occurring around Bakara market in Mogadishu, in an urban area highly populated by civilians.³⁰ [...]

OTHER UNLAWFUL ATTACKS IN MOGADISHU

Civilians, including children, are also at risk of being killed and injured by firearms in clashes or shoot-outs occurring in the streets of Mogadishu by all parties to the conflict, and in bombings or suicide attacks carried out by al-Shabab. AMISOM and the TFG say that they are taking some steps to investigate some of these incidents where their soldiers are suspected of involvement. Al-Shabab, however, does not appear to take any steps to ensure that its fighters distinguish between civilians and military targets and to minimize the impact of their actions on civilians. [...]

CHILDREN'S LIVELIHOODS THREATENED BY INDISCRIMINATE ATTACKS AND VIOLENCE

Indiscriminate attacks and violence have also robbed children of their relatives, including carers and breadwinners, caused the destruction of countless civilian homes and massive displacement. Armed conflict impacts on the lives of civilians of all ages, but children, an already vulnerable category of the population, are particularly affected. Children whose parents have been killed or injured are at higher risk of further dangers, as they have to fend for themselves in an already extremely threatening environment. Those whose homes are

destroyed are deprived of shelter, cooking utensils and means of livelihood and have to sleep on the streets, or are forced to join settlements for internally displaced persons, or attempt hazardous journeys to escape Somalia. [...]

Children are extremely vulnerable to insecurity and abuse once they lose the protection and care of their parents, particularly in South and Central Somalia where there is no state protection and the traditional clan protection mechanisms are being eroded by armed groups, and where war, poverty, lack of access to humanitarian aid and employment opportunities hamper the daily survival of millions of civilians. [...]

5. ATTACKS ON SCHOOLS AND EDUCATION

Children's right to education in South and Central Somalia has been severely restricted because of indiscriminate attacks and constant insecurity and direct attacks on schools, education personnel and pupils by al-Shabab. In some areas, al-Shabab factions have also imposed restrictions on girls' access to education and on schools' curriculum. [...]

➤ [IRIN, Under-fives make up almost half of Mogadishu casualties, 31/05/2011](#)

[...] Hundreds of children younger than five have been wounded in the latest round of fighting in Mogadishu, Somalia's capital, accounting for almost half of all trauma cases in May, according to the UN World Health Organization (WHO).

In a press statement issued on 31 May, WHO said recent data showed that the main causes of death among under-fives were burns, chest injuries and internal haemorrhaging caused by blast injuries, shrapnel and bullets.

"Of the 1,590 reported weapons-related injuries in May alone, 735 cases, or 46 percent, were children under the age of five, compared to only 3.5 percent in April," the agency said.

Marthe Everard, WHO's representative for Somalia, said: "This is the highest number of injured children that has been reported since the beginning of this year."

Fighting between government troops, backed by the African Union Mission in Somalia, and Al-Shabab has intensified in Mogadishu in recent weeks, with government troops trying to dislodge the insurgents from several parts of the city that had been under their control.

In the past week, the fighting has been mostly around Bakara, the largest open-air market in Somalia, with government troops seeking to oust Al-Shabab from the area.

Ahmed Dini of Peaceline, a Somali civil society group that monitors the welfare of children in the country, told IRIN the numbers would be even higher "if you take into consideration that many families are unable to access hospitals and are therefore keeping wounded children at home, taking care of them as best they can.

"Unfortunately, in every instance in Mogadishu, be it displacement, poverty or violence, children are more often than not the most affected," Dini said. [...]

➤ [IRIN News, Shoe-shining in a war zone, 14/04/2011](#)

[...] There are a lot of boots to shine in heavily militarized Mogadishu, and a lot of boys to shine them, despite the risks of bombs, bullets and beatings. Two decades of civil war in Somalia's capital have left many civilians, particularly the youth, without employment or viable alternative means of earning a livelihood. Ahmed Dini, a civil society activist involved in children's welfare, told IRIN that exact figures were not available but estimated that "roughly between 4,000 and 4,500 children live on the streets of Mogadishu". He said the numbers had been increasing in the past few years. "Some have lost their parents and others have been separated from families who fled the violence." Halimo Ahmed*, an official of a women's business association in Mogadishu, told IRIN: "These children live under difficult situations while working in the streets. Sometimes, a child shining the shoes of soldier is caught up in conflict if rivals attack while the task is going on. In such situations, the children are [sometimes] killed accidentally." Two children were shot dead three months ago in K4 [a neighbourhood of southern Mogadishu] when the soldiers whose shoes they were shining were attacked by a militia group. "Fighting between government troops, backed by the African Union peacekeeping mission in Somalia (AMISOM), and opposition Islamist groups, continues in Mogadishu and other parts of the country and has caused the displacement of hundreds of thousands of Somalis. Most of the children work as shoe-shiners in the southern part of Mogadishu, which is controlled by the Transitional Federal Government, or in the northern part controlled by opposition Islamist group, Al-Shabab.

Harassment

Due to daily conflict in the city, Ahmed said, these children are often harassed or denied payment by their customers. "Sometimes, soldiers promise the children khat [mild stimulant widely chewed in the country] for shining their shoes then they later refuse to hand over the khat; if the children insist on being paid, they could even be shot," Ahmed said. Both military and civilian customers sometimes abuse the shoe-shiners. [...]

➤ [UNICEF, Ongoing Somalia crisis is a children's crisis says UNICEF - recent child casualties and detentions, 11/03/2011](#)

[...] Amid heavy fighting in parts of Somalia, UNICEF is seriously concerned about the severe impact on children and young people. "The world must see that Somalia's crisis is a children's crisis," says UNICEF Representative to Somalia, Rozanne Chorlton, "Grave violations of children's rights are taking place on a daily basis."

In recent weeks, there has been fierce fighting between Somali government forces and armed groups in and around the capital city, Mogadishu, and other parts of south-central Somalia. Reliable sources reported that in Belet Hawa town on the border with Kenya, children were involved as fighters and a

significant number of them were killed. According to reports, intense fighting in the area between Dhusamareb and Ceel bur in Galgaduud has also resulted in many child casualties.

“Putting children in the line of fire, killing and maiming them in the context of an armed conflict are among the most serious violations of international law which all parties to the conflict are expected to uphold. The use and recruitment of children under the age of 15 years is a war crime,” said Ms. Chorlton.

UNICEF is also gravely concerned about reports of children captured by the Transitional Federal Government (TFG)/allies in connection with the fighting in Belet Hawa. The children are reportedly being held at an undisclosed location in Belet Hawa. No detailed information is yet available on the conditions under which they are being held but UNICEF is making efforts to find out more, in order to support the delivery of humanitarian assistance and protection. [...]

➤ [UN Human Rights Council, Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(b\) of the annex to Human Rights Council resolution 5/1, 21/02/2011](#)

[...] Compilation of UN information to the Working Group on the Universal Periodic Review on the promotion and protection of human rights [...]

7. Right to education

57. The independent expert indicated that, after two decades of conflict, almost two generations of young Somali boys and girls had been denied the benefit of a full education. Existing education systems, already limited in their scope, had been badly affected by the conflict.¹²² Women’s literacy was around 12 to 14 percent.¹²³ He also noted that innovative thinking might also lead to the productive engagement of youths trained for income-generation activities.¹²⁴

58. The Secretary-General stated that schools had been damaged or destroyed, and teachers and students killed or injured, during exchanges of fire or shelling by parties to conflict.¹²⁵ Late in 2008 and in 2009, there had been an upsurge in attacks on schools, fuelled in part by the perception that children, particularly those studying in Koranic schools, were being mobilized to join insurgent groups, and were therefore “legitimate” military targets.¹²⁶ [...]

➤ [United Nations Security Council, Report of the Secretary-General on children and armed conflict in Somalia, 09/11/2010](#)

[...] III. Grave violations of children’s rights

18. Civilians, including children, continue to be the majority of casualties, primarily as a result of being caught in the crossfire between parties to conflict, shelling and explosions. Violations of child rights need to be viewed in the broader context of challenges to collecting data for Somalia, particularly for children. During 2009, some 3.64 million people, including approximately 1.8 million children, relied on humanitarian assistance. This number is almost double that of January 2008. Food supplies remain disrupted, and access to clean water and medical assistance hindered, and the hospitals are stretched to capacity. As from January 2010, food distribution by the World Food Programme (WFP) was suspended in all areas controlled by Al-Shabaab. Many schools in Mogadishu have been closed, and several taken over by armed groups. In addition, there have been higher rates of displacement of civilians escaping violence and poverty associated with the drought and floods. Children continue to be acutely affected by displacement, exhaustion, separation and emotional trauma, and deprived of access to basic services and protection. On 19 August 2009, the transitional parliament voted to declare a state of emergency in Somalia. [...]

B. Killing and maiming of children

37. Children have been the victims of armed conflict in many regions in Somalia, particularly those living in internally displaced settlements in urban centres such as Mogadishu, Galgaduud and Kismaayo. During the reporting period, conflict between the Transitional Federal Government, supported by Ethiopian national forces (until the end of January 2009) and insurgent groups, including Al-Shabaab, Hizbul Islam and clan militias, led to high civilian casualties, particularly in Mogadishu. Because of the reported increase in the recruitment of children into the armed conflict, children are often seen as “legitimate” targets. [...]

38. From May 2008 to March 2010, monitors have reported that a total of 316 children were killed and 619 injured as a result of fighting. These include those caught in crossfire, mortar attacks, and grenade launches while in their homes, on the street, in the market, walking home from school or playing football. It is difficult to separate cases of children killed or injured as a result of direct engagement from cases of children who are collateral victims of the fighting. These figures are thought to be well below the actual

number of children killed or maimed in the conflict as insecure conditions have prevented comprehensive reporting of deaths and victims [...]

D. Attacks on schools and hospitals

45. Late in 2008 and in 2009, there was an upsurge in attacks on schools, fuelled in part by the perception that children, particularly those studying in Koranic schools, are being mobilized to join insurgent groups, and are therefore “legitimate” military targets. Schools have been the sites of interrogation, armed conflict and shellings. Since mid-2008, a total of 170 schools in five districts of Mogadishu were closed at various times, as they were attacked or risked being attacked because the surrounding areas became scenes of conflict between the Ethiopian forces, the Transitional Federal Government, AMISOM and insurgent armed groups, including Al-Shabaab and clan-based armed groups. Moreover, at different moments during the reporting period, 34 schools were at least temporarily occupied by armed groups. The President of the Somalia National Union of Teachers reported late in 2009 that 34 schools and universities that had remained open in Mogadishu had to be closed because of the general insecurity, the presence of Government forces in close proximity, and an increasing number of deaths of students and teachers. Of the schools that remained open, most have seen reduced or sporadic attendance because of poor security, curfews and roadblocks, all of which has left an estimated 50,000 children without formal education, and 52 schools were still closed in Mogadishu at the end of the reporting period.

46. There have also been many instances of parties to the conflict directly targeting schools, in some cases in retaliation for attacks against them by opposing forces, resulting in the killing or wounding of teachers and students. [...]

- [United Nations High Commissioner for Refugees \(UNHCR\), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Somalia, 05/05/2010](#)

[...] h) Children¹⁵⁵

Many children remain at risk in Somalia due to a number of factors. Violence against children, including child prostitution, is a serious problem, although no statistics are readily available. Children are among the primary victims of continuing societal violence in Somalia.¹⁵⁶

Members of the various militias operating in Somalia are accused of raping children during clashes and in the ensuing flight. All parties to the conflict have reportedly recruited and exploited children as soldiers.¹⁵⁷

There is also a report of children being held to ransom by landowners in an IDP camp in Galkacyo until their guardian is able to pay the rent for their hut to secure their release.¹⁵⁸

Several attacks have been recorded against schoolchildren in Somalia. Schools have been attacked by TNG/ENDF forces and Islamic insurgent groups, resulting in casualties.¹⁵⁹

Since 2007, there have been consistent reports of children killed and injured as a consequence of the fighting.¹⁶⁰ All parties to the conflict have used child combatants, and this has increased the risk that children are attacked on the assumption that they represent a threat.¹⁶¹ Insurgent forces have been particularly active in the recruitment of children into their militias, especially since the second half of 2008 and increasingly in 2009 – a campaign often accompanied by intimidation of parents and schools.¹⁶²

Asylum claims lodged by children need to be assessed carefully against the aforementioned background information and in light of the UNHCR Guidance on Child Asylum Claims.¹⁶³ [...]

Forced Recruitment (by Al-Shabaab and Government forces)

- [Somalia Report, Al-Shabaab Kills Five Teenagers, 30/10/2011](#)

Al-Shabaab fighters killed five teenagers in Makokori village near Mahaday in Somalia's Middle Shabelle region for trying to escape forced recruitment, according to relatives who spoke to Somalia Report. “The young boys refused to join the al-Shabaab militia and tried to escape, but the extremists captured and slaughtered them with knives,” said Yussuf Dheryeye, an elder in Makokori village. Pastoralists in the rural area informed the resident of Makokori that they found the bodies of Ibrahim Hussein and Kamil Bilala, both 15 years old, Tahlil Mahamud, 14, Dadir Yaqub, 16, and Ayanle Risaq, 17. Barni Harun, the mother of Ibrahim Hussein, said she is extremely worried about her other children because al-Shabaab is continuing to recruit children to fight their 'jihad' against the Somali government and its supporters. [...]

- [Amnesty International, Human rights concerns in southern and central Somalia, 18/10/2011](#)

[...] Male children, including sometimes as young as nine years old, and young men are at a high risk of being forcibly recruited to fight for the armed Islamist groups. During its last visit to Kenya, Amnesty International collected information about a widespread pattern of such forced recruitment, particularly by al-Shabab, in the areas under its control, including in al-Shabab controlled districts of Mogadishu. Amnesty International has also received reports of girls being forced to marry al-Shabab members, or to cook and clean for al-Shabab forces. Amnesty International has also received testimonies indicating that al-Shabab has targeted minority group members for recruitment into their forces. [...]

➤ [IRIN News, Tempted with a phone to carry a gun, 18/10/2011](#)

[...] Civil society sources in Mogadishu estimate there are between 1,000 and 2,000 children in the ranks of Somalia's Al-Shabab insurgency, some as young as nine. [...]

A civil society source, who requested anonymity, told IRIN that Al-Shabab had been on a recruiting campaign since just before withdrawing from Mogadishu in July.

"They do recruit people by force and we know of families whose relatives were forcibly taken, but that is half the story. They also entice young children, especially adolescent children, who don't go to school and have nothing else to do, with money, phones and other things that may appeal to them." He said they preyed mostly on the children of the very poor in IDP camps, adding that the group not only gave small gifts to these children, "but also a sense of belonging to a bigger group and convinced them they are worthy of something". [...] A local journalist in Mogadishu told IRIN that IDP camps dotted around the city were a breeding ground for young recruits. "You have thousands of very young people who have nothing to do, no school, just sitting in camps. It won't take much to convince them that there is a better life out there." [...]

The UN Children's Fund (UNICEF) said it had been monitoring violations against children's rights since 2005 and that the majority of children associated with armed forces or armed groups were aged 14-18 years, "...though there are reports that children as young as nine are being recruited and used in the conflict".

Iman Morooka, communication officer for the UNICEF Somalia Support Centre, said the number of children being used in the conflict was not known, "but reports indicate that thousands of children and young people are being trained in basic arms techniques as well as more sophisticated skills.

"Any use of children within armed conflict is unacceptable. Regardless of the means by which children join armed forces or armed groups, their association deprives them of their rights and their childhood. Moreover, the physical and psychological impact on children and their communities is devastating." [...]

➤ [BBC, Al-Shabab radio gives weapons prize to Somali children, 20/09/2011](#)

[...] A radio station run by Somalia's al-Shabab Islamist group has awarded weapons to children who won a Koran-reciting and general knowledge contest.

Andulus radio, based near Mogadishu, gave the group which won first prize in the Ramadan competition an AK-47 rifle and the equivalent of \$700 (£450).

The second prize-winners received an AK-47 and \$500, while the third prize was two hand grenades and \$400. [...]

➤ [United Nations, Report of the Secretary-General on Somalia, 30/08/2011](#)

[...] F. Child protection

33. In May, June and July, 659 grave violations against children involving primarily child recruitment and killing and maiming of children in Mogadishu were reported in accordance with relevant Security Council resolutions. Child recruitment for use in hostilities remained the most serious violations in conflict-affected regions. Over 180 cases of children recruited by Al-Shabaab in Shabelle Hoose and systematic recruitment in Bay and Bakool were documented during the reporting period. Schools are increasingly targeted for recruitment.

34. Some children recruited by Al-Shabaab have escaped and reported to the Transitional Federal Government for assistance and protection. The Government recently moved an unconfirmed number to a former military training camp in Mogadishu. Child protection agencies are willing to assist these children under a civilian-led process.

35. Despite commitment by the Transitional Federal Government to prevent child recruitment in its ranks and allied militias, it remains a challenge, especially in the absence of strict age screening procedures.

36. Non-governmental organizations continue to be the main providers of child protection services in “Somaliland” and “Puntland”, with the role of the administrations limited to some policy development, coordination and standards. [...]

➤ [Human Rights Watch, "You Don't Know Who to Blame?; War Crimes in Somalia", 14/08/2011](#)

[...] Recruitment of Child Soldiers and Forced Recruitment

During recent military operations, particularly the “Ramadan offensive,” reports of recruitment of children by al-Shabaab increased dramatically. The United Nations Children’s Fund (UNICEF) has condemned increased recruitment, as well as the alleged detention of child combatants by TFG forces, and called for an international body to have access to all detained children alleged to have participated in conflict.⁸⁵ Local nongovernmental organizations also alleged that several parties to the conflict have used child soldiers.⁸⁶ International humanitarian law prohibits any recruitment of children under the age of 15 or their participation in hostilities by national armed forces and non-state armed groups. Somalia has signed, but has yet to ratify, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. The Optional Protocol prohibits any recruitment by non-state armed groups of children under the age of 18; any forced recruitment or conscription of children under 18 by government forces; and the participation of children under 18 in active hostilities by any party.⁸⁷

Al-Shabaab

Al-Shabaab has been responsible for the widespread recruitment of boys and girls into its forces and the forced recruitment of adults, including older men. Human Rights Watch has previously reported on forced recruitment by al-Shabaab.⁸⁸ O.L. told Human Rights Watch: “Al-Shabaab was forcibly recruiting. If someone has four boys, they are telling them they must donate three. They like to take children from 12 to 16 years, because they don’t know so much. One of my nephews was taken. He was 11-years-old. The last I heard he was in Baydhaba. I don’t know whether he’s dead or alive.”⁸⁹ Forced recruitment of children also took place in Bula Hawo. According to K.F., “Teenagers were forced to either join them or leave the town.”⁹⁰ A 15-year-old from Bula Hawo also said children his age were recently being recruited.⁹¹ In Jilb, J.K. told Human Rights Watch, “From the time al-Shabaab came, children stopped learning. Children of nine, ten, eleven years were recruited—some could not even carry a gun. All of the schools were closed.”⁹²

All recruitment of underage children is a violation of international humanitarian law whether allegedly voluntary or not. B.E. was taken to Elesha Biya, south of Mogadishu, and was trained in the use of several kinds of firearms.⁹³ He participated in combat on one occasion, shooting and killing one TFG fighter. He ran away after four of his friends, also children, were executed and dumped in the sea for attempting to escape. Despite the risk in attempting an escape himself, he said he could no longer bear the brutality of life within al-Shabaab.⁹⁴ Al-Shabaab also forcibly conscripts adults. J.K. explained that “men loitering in the town” were often forcibly conscripted, causing many men to restrict their own movements and spend most of the time in their fields.⁹⁵ Older adults have been among those forcibly recruited. One 50-year old man who fled from Afmadow district said, “They tried to recruit me, but I ran away. They threatened me that if I don’t cooperate, I will be jailed for not following orders. They are not sparing even men of 50 years from recruitment.”⁹⁶

TFG and Aligned Militias

Human Rights Watch documented recruitment under false pretenses by Kenya and the TFG during 2009 in its effort to put together the militia for the Jubaland initiative.⁹⁷ Some of those recruited under false pretenses may be among the militia deployed in Jubaland. Human Rights Watch has received credible secondary accounts that describe the presence of children among TFG and TFG-aligned militias.⁹⁸ [...]

➤ [Amnesty International, In the line of fire: Somalia's children under attack, 20/07/2011](#)

[...] 4. RECRUITMENT AND USE OF CHILDREN INTO ARMED GROUPS AND FORCES

The recruitment and use of children by parties to the conflict is a long-standing concern in Somalia. Boys over 15 years old are often considered adults and, in a situation of state collapse, breakdown of the rule of law and clan feuds, have been expected by some to defend their clan and family. 53 Somali civil society groups have raised concerns about the use of child soldiers for many years. However, the intensification of armed conflict since the end of 2006 has fuelled an increase in recruitment and use of children by fighting forces. Almost all the Somali refugees interviewed by Amnesty International in 2010 cited recruitment of

children and young adults, or the risk of such recruitment, as a reason for fleeing Somalia. Although some refugees interviewed in March 2009 mentioned the issue of recruitment of children and forced recruitment of adults in fighting groups, this concern seemed less widely shared than by those who fled later. This may indicate that the recruitment and use of children by armed groups over the past two years has become more widespread. It may also be a reflection of the spreading of armed groups' control over territory in South and Central Somalia, and therefore of their reach over a wider population. According to local sources, armed groups have further intensified their recruitment and use of children around recent military offensives, in order to boost their fighting capacity.⁵⁴ For instance, al-Shabab leaders in Baidoa reportedly called on residents, including children, to participate in the jihad (holy war) against the TFG around August 2010, when al-Shabab launched its "Ramadan" offensive against the TFG in Mogadishu, and from February 2011, as al-Shabab was fighting a TFG counter-offensive in Mogadishu and in the Gedo region. Many parents in Baidoa reportedly try to hide their children, keep them at home or send them to other areas to avoid recruitment.

All parties to the conflict, including the TFG and militia allied to it, have been accused of using child soldiers. However, the testimonies collected by Amnesty International in 2009 and 2010, and subsequent reports from local sources point to a widespread and, in some areas, systematic pattern of recruitment and use of children by armed Islamist groups, particularly al-Shabab, but also Hizbul Islam. Amnesty International describes below the patterns of recruitment and use of children by armed groups, the punishment imposed on those who oppose such recruitment and the reported recruitment and use of girls and women. It also looks at recent TFG commitments to end the recruitment and use of children in its ranks and to address the issue of child soldiers who escape or are captured from armed groups. [...]

RECRUITMENT OF CHILDREN BY ARMED GROUPS

AGE AND TARGETS

Most children recruited by armed groups appear to belong in the age bracket between 12 and 18 years old. However, refugees have told Amnesty International that even children as young as eight years old have been recruited by armed Islamist groups. [...]

According to the testimonies collected by Amnesty International, the areas where recruitment of children, particularly young children, has been especially intense are Mogadishu, Brava, Kismayo, Baidoa, the Sakow district in the Middle Juba region and the Gedo region, areas which for the past three years were firmly under the control of al-Shabab, but are now disputed.

In other areas, local al-Shabab factions appear to target children from about the age of 15 years for recruitment. Variations around the ages of children targeted for recruitment seem to depend on local factors

[...] Some testimonies also indicate that minority clans have been targeted for recruitment by al-Shabab. Minority clans in Somalia have faced a long history of discrimination and human rights abuse, as they usually do not benefit from the military protection of warlords and majority clan militias.⁵⁷ Al-Shabab's ideological emphasis on religion rather than clan may have appealed to minority clans. One woman, from the Bantu minority clan, said:

"Al-Shabab was less harsh [than other parties to the conflict] with minority clans. But al-Shabab wanted the Bantu Somalis to take the gun and fight alongside them. Some people were forced to fight with them. Al-Shabab were threatening them that they would kill their relatives if they did not join. A family living near us had their children forced to fight for al-Shabab. They were told: "If you are not with us, we will kill you." [...]

RECRUITMENT METHODS

Somali refugees' testimonies point to various methods used by al-Shabab to recruit children. They range from luring children to join them by promising phones and money, ideological indoctrination in mosques, using children previously recruited as recruitment agents to more aggressive techniques such as threats to children and their relatives, raids on schools, abductions in public areas and from vehicles departing the country. Somali refugees who fled the country in late 2009 and early 2010 described more threatening recruitment methods than those who had fled in 2008 and earlier. This could indicate that al-Shabab is increasingly resorting to forcible recruitment. Others were persuaded to join after being offered money, phones or other incentives. These are powerful incentives for destitute children, living in a situation of poverty, lawlessness and

little access to food, water, and any livelihood opportunities. [...]

TRAINING AND USE OF CHILDREN

Al-Shabab and Hizbul Islam have reportedly established training camps in various parts of southern and central Somalia. Detailed information about how these training camps operate is difficult to obtain,

because no independent observer has access to them, because few recruits are able to escape from these camps and because many fear reprisals if they talk about al-Shabab.

The testimonies Amnesty International has collected from those who have been through these camps indicate that children are trained in how to use firearms and handle grenades and improvised explosive devices. In some cases, some children appear to be used by armed Islamist groups to guard people held as prisoners, and also to enforce the group's rules related to dress code and behaviour on the population.

[...] PUNISHMENT FOR OPPOSING RECRUITMENT IN ARMED GROUPS: DEATH THREATS, ABDUCTIONS AND KILLINGS

Testimonies from Somali refugees point to a consistent pattern of threats by armed groups against children who refuse to be recruited by them, and their relatives. In some cases, those who oppose recruitment have been abducted and held as punishment, or even killed. Those punished include children.

[...] RECRUITMENT OF GIRLS INTO ARMED GROUPS

Recruitment of girls into armed groups appears to be less widespread than for boys and young men. However, several refugees have mentioned that women and girls are used to cook and clean for armed groups. According to the UN Special Representative of the Secretary-General on children and armed conflict, some girls have been recruited by armed groups and used to provide logistical help, transport weapons and collect intelligence. The Special Representative also mentioned the existence of a training camp for girls near Kismayo.⁶⁴ [...]

Some refugees have also reported that girls and women have been forcibly married to members of armed groups. Forced marriage is now recognized as a war crime.⁶⁵ An 18 yearold woman who fled Mogadishu in March 2010 said that she was beaten for refusing to marry an al-Shabab member: [...]

ALLEGATIONS OF RECRUITMENT AND USE OF CHILDREN IN THE TFG ARMED FORCES

Notwithstanding the TFG commitments to end the recruitment and use of children in its forces, Amnesty International is concerned at reports that there were recruits aged below 18 among persons recruited by the TFG to undergo military training abroad by donor countries. French government officials told Amnesty International in a meeting that they had sent back to Somalia several recruits for a TFG military training program they organized in Djibouti in late 2009, because they appeared to be under 18 years old.⁷¹

Amnesty International also received reports that some recruits in the ongoing training of TFG armed forces by the European Union in Uganda were sent away as they appeared to be under 18 years old.

According to Somali civil society groups, children currently associated with the TFG are often used by clan militia allied with the TFG to do menial tasks such as buying food for soldiers; others are seen manning some TFG checkpoints. Children used for such purposes by an armed force are considered to be child soldiers, under the Cape Town Principles (Cape Town Principles and Best Practices on the Recruitment of Children into the Armed Forces and on Demobilization and Social Reintegration of Child Soldiers in Africa).

[...] CHILDREN ASSOCIATED WITH PRO-TFG MILITIA

Pro-TFG forces have also been accused of enlisting children and using them for military purposes. According to the UN Special Representative of the Secretary-General, ASWJ reportedly recruited children in central Somalia in 2009 and 2010, and clan militias fighting alongside the TFG also use child soldiers.⁷⁹ Several organizations, including Human Rights Watch, the UN Monitoring Group on Somalia, the UN Special Representative of the Secretary-General on children and armed conflict and Amnesty International have expressed concern at reports that in late 2009, young Somali refugees and Kenyans of Somali ethnicity were lured and recruited by Somali agents and trained by the Kenyan security forces in Kenyan military training camps with the aim to fight for the TFG in Somalia.⁸⁰ [...]

TFG'S TREATMENT OF CHILDREN RECRUITED BY ARMED GROUPS

In January 2011, the TFG announced that fighters defecting from armed opposition groups to the TFG would benefit from an amnesty, as part of the TFG efforts to foster peace and reconciliation. Among those said to have so far defected to the TFG are children, who should be identified as such, have their rights protected and undergo a child-sensitive process of reintegration into society.

The TFG has several times exposed to the media children it says defected or escaped from armed groups. For instance, on 25 March 2011, Somali journalists were invited to talk to nine such children by a TFG police spokesman. Some media reports reproduced the photographs and names of the children.⁸⁴

This could endanger the children's safety and expose them to reprisals by armed groups. Local sources and the UN have reported that some 80 people said to have defected from alShabab, including children, are currently held by the TFG in a house in Mogadishu. TFG representatives have told Amnesty International that they acknowledged international monitors' concerns that the conditions under which the defectors, including children, were held were not adequate.

The TFG has also reportedly detained children suspected to be associated with al-Shabab in Mogadishu's central prison, alongside adults. The treatment of such detainees is not known, but local sources report that prison conditions there are very poor. Other child soldiers captured from al-Shabab may be detained by the TFG in unknown locations, according to local sources. The exact number and fate of children previously associated with armed groups and detained by the TFG is not known.

UNICEF also highlighted cases of child soldiers from al-Shabab factions in southern Somalia who were captured by pro-TFG militia in Belet Hawo, on the border between Somalia, Ethiopia and Kenya. UNICEF called on the militia holding them to ensure their protection and humanitarian needs and to give them access to an impartial humanitarian body.⁸⁵ [...]

➤ [U.S. Department of State, Trafficking in Persons Report 2011 SOMALIA \(Special Case\), 27/06/2011](#)

[...] According to the UN, the recruitment and use of children in armed conflict has been increasing over the past two years; although the exact figure is unknown, UN sources estimate that there are several hundred children in the forces of the TFG or its associated militias, and several thousand among the insurgent groups. Youth under the age of 18 continued to be recruited, including by force and deception, for direct participation in hostilities in central and southern Somalia. During the reporting period, extremist groups al-Shabaab and Hisbul Islam merged and jointly used systematic force and deception to target vulnerable children, sometimes as young as eight years old, for membership in their militias. These forces reportedly increased recruitment at schools and other educational facilities during the reporting period; al-Shabaab threatened to punish teachers and parents who refused to send their children to the training camps. The groups used children to plant roadside bombs and other explosive devices in addition to carrying out assassinations, portering, and domestic servitude. In Kismayo, Baidoa, and Merka, al-Shabaab obligated all boys 15 years of age and older to fight or face death; in November, al-Shabaab executed two children in Hurwaa District of Banadir region. Al-Shabaab also continued to forcibly recruit young girls who were then "married" to its militia leaders and used for sexual servitude, logistical support, and intelligence gathering. While the TFG's military reportedly improved its recruitment practices to prevent conscription of child soldiers into government ranks, UN sources reported that the TFG and its allied militias continued to unlawfully use children throughout the reporting period in their fighting forces. Without established birth registration systems, it remained difficult to determine the exact age of persons conscripted into armed groups. [...]

➤ [Amnesty International, World Report 2011, 13/05/2011](#)

[...] Child soldiers

Armed Islamist groups, in particular al-Shabab, increased their forced recruitment of boys as young as nine years old, alongside young men, into their forces. Girls were sometimes reportedly recruited to cook and clean for al-Shabab forces or forced to marry al-Shabab members.

In June, the TFG President ordered the Army Chief to investigate media reports that child soldiers were used in TFG forces. The findings of the investigation were not made available by the end of the year. In November, the new TFG Prime Minister pledged to the UN Special Representative on children and armed conflict to work towards an action plan to end the recruitment and use of child soldiers. [...]

➤ [United Nations, Report of the Secretary-General on Somalia, 28/04/2011](#)

[...] F. Child protection

33. The widespread and systematic recruitment and use of children in armed conflict in southern central Somalia continues to be of serious concern. Child recruitment patterns are significantly more aggressive on the part of Al-Shabaab. At the time of writing, 80 defectors from Al-Shabaab, half of them children, were reportedly held in a Government "cantonment" area in Mogadishu. A mission of the task force on defectors to Mogadishu from 19 to 26 March was granted access to meet the defectors. UNICEF is seeking the Government's support to allow access for child protection partners to ensure that the humanitarian needs and basic international standards for protection are met, including the immediate separation of children from adults.

35. As a follow-up to the visit to Somalia and Kenya in November 2010 of my Special Representative for Children and Armed Conflict, a State Minister was appointed focal point for child protection and human rights on 18 December 2010. However, children remain present within the Transitional Federal Government security forces and its allied militias. UNPOS is taking measures to establish its child

protection capacity, which, among other things, should assist the Transitional Federal Government to put in place vetting standards and procedures to assess the age of recruits. [...]

➤ [UN Human Rights Council, National report submitted in accordance with paragraph 15 \(a\) of the annex to Human Rights Council resolution 5/1 Somalia*, 11/04/2011](#)

[...] V. Child soldiers

81. The fighting in Somalia has been marked by widespread and systematic use of children as soldiers. The Government is aware of its international obligations prohibiting the use children in hostilities. It therefore does not, as a policy, recruit children or allow the recruitment of children into its security forces and is committed to eradicating the practice of child soldiering in Somalia.

82. After a meeting with the Special Representative of the Secretary-General for Children and Armed Conflict Radhika Coomaraswamy on 3 November 2010, Prime Minister Mohamed Abdullahi Mohamed appointed the State Minister at the Office of the Prime Minister, Madame Zahra Mohamed Ali Samantar as focal point for child protection and human rights and issued strict guidelines prohibiting the recruitment of children into the armed forces.

83. The Government is committed to implementing a comprehensive policy to prevent the use of children as soldiers. However, in areas held by Al-Shabaab, children are currently forcefully recruited. This is because they are losing the war. The Government is in contact with traditional and religious leaders to see how the matter can be addressed.

84. However, it is worth noting that some children are joining Al-Shabaab voluntarily for a number of reasons. Poverty and survival, particularly children orphaned by the war, is one of the primary reasons for them into joining Al-Shabaab. Parents because of poverty and lack of livelihood allow their children to join Al-Shabaab.

85. The only way to stop this is ensuring other opportunities such as access to educational opportunities, vocational training and income generating opportunities. [...]

➤ [U.S. Department of State, County Reports on Human Rights Practices, 08/04/2011](#)

[...] Child Soldiers

The recruitment and use of children in militias and other fighting forces was a longstanding practice in the country and continued during the year. Without established birth registration systems, it was often difficult to determine the exact age of persons, including recruits to armed groups. The July 2009 report of the UN Security Council Working Group on Children and Armed Conflict cited the TFG, Ahlu Sunna wal Jama'a, al-Shabaab, Hisbul Islam, clans, and the Puntland regional administration as continuously recruiting children into their militias. In May the UN Children's Fund (UNICEF) and the Office of the Special Representative of the Secretary General (SRSG) for Children and Armed Conflict reported an increase in the recruitment of children, some as young as nine, in armed conflict in Somalia. In response, TFG Prime Minister Mohamed Abdullahi Mohamed committed his government to eradicating the practice in a meeting with this SRSG and agreed to designate a focal point to work with the UN to pave the way towards the signing of an action plan and an official agreement to secure and verify the release of child soldiers.

The TFG did not conscript or condone the recruitment of child soldiers for use by its National Security Force or allied fighting units. However, there were reports that a small number of under-age persons remained associated with TFG forces, and the TFG pledged to address this issue comprehensively. Children were most heavily recruited and forcibly conscripted by clan militias and antigovernment groups. Al-Shabaab conscripted children into armed conflict and military operations in addition to using them to plant roadside bombs and other explosive devices. According to the UN, al-Shabaab recruited children as young as eight from schools and madrassas and trained them to plant bombs and carry out assassinations for financial reward. In May 2009 TFG police arrested 11 minors who had been kidnapped in Lower Shabelle Region and forced into al-Shabaab militias. All of the children were subsequently released to their parents or guardians. In Kismayo, Baidoa, and Merka, al-Shabaab forced boys 15 and older to fight as "mujahedeen" or face execution. In 2009 al-Shabaab killed an estimated 16 teenagers after they refused to become al-Shabaab fighters.

Because of the risk in intervening directly with militia groups, UNICEF protection partners engaged in low-profile condemnation of child recruitment while undertaking public education and youth empowerment initiatives. UNICEF also assisted the TFG in preparing an action plan that would include measures to screen its troops, as well as establish mechanisms to prevent further child recruitment.

The Somaliland constitution contains no minimum age for recruitment into the armed forces, but there were no reports of minors in its forces. [...]

➤ [IRIN, Recruitment of child soldiers on the increase, 21/03/2011](#)

[...] With the escalation of fighting across Somalia since January, armed groups have reportedly recruited more child soldiers to their ranks, some even forcing teachers to enlist pupils. [...]

"The TFG [Transitional Federal Government] forces, their allies, the Ahlu Sunna Wal Jama, and Al-Shabab are all engaged in the recruitment. Al-Shabab [the largest armed opposition group] is the biggest culprit," said an official working with an NGO that monitors the state of children in the country. The official, who asked not to be named, did not suggest the African Union's TFG-supporting military mission in Somalia, AMISOM, was also using children.

He said although the exact number of child soldiers was unknown, his group suspected between 2,000 and 3,000 children were in different armed groups. [...]

The NGO official said children who were not recruited faced other problems as government security forces in the capital, Mogadishu, were reportedly picking up children on suspicion that they "may be working for Al-Shabab".

"There are a large number of children in government jails, simply because someone suspected that the child could be a militant," he said. [...]

➤ [UN Human Rights Council, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(c\) of the annex to Human Rights Council resolution 5/1, 21/02/2011](#)

[...] Summary of stakeholders' information to the Working Group on the Universal Periodic Review on the promotion and protection of human rights

[...] 28. JS4 stated that recruitment of child soldiers was highly rampant.⁴⁵ STP stated that the recruitment of children as soldiers by militias and the regular army was facilitated by the plight of IDPs, the humanitarian crisis and increasing poverty.⁴⁶

29. SSWC indicated that children were being recruited, trained and used in the armed conflict. While recruitment of girls was rare and was generally regarded as socially unacceptable, there were documented accounts of girls working for armed opposition groups, particularly for cooking and cleaning. Girls also transported detonators, for logistics, and engaged in intelligence collection.⁴⁷

30. ARM stated that there was compelling evidence of widespread recruitment of children by the warring factions, and that the TFG was accused of recruiting children many of whom have been found to be openly serving in combat in Mogadishu.⁴⁸ It recommended that the recruitment of child soldiers should stop.⁴⁹ AI recommended that the TFG establish effective and impartial vetting procedures to ensure that the TFG armed forces and the police do not recruit persons under the age of 18.⁵⁰ HRW recommended that the TFG conduct rigorous screening and take other active measures to ensure that no children were recruited in its armed forces. HRW also called for the release all previously recruited children.⁵¹ [...]

➤ [United Nations, Report of the Secretary-General on Somalia, 30/12/2010](#)

[...] F. Child protection

37. The recruitment and use of children for direct participation in hostilities in southern and central Somalia continues to be of major concern. Partners on the ground consistently reported extensive forced recruitment of children by Al-Shabaab, with an estimated 2,000 children being trained in camps in southern Somalia. There were also a few reported cases of children captured by the Government/AMISOM forces, as well as cases of children who defected. [...]

➤ [United Nations Security Council, Report of the Secretary-General on children and armed conflict in Somalia, 09/11/2010](#)

[...]A. Recruitment and use of children in armed forces and groups

21. Evidence gathered by monitors during the reporting period suggests a considerable increase in the scale of recruitment and use of children by all parties to conflict during the past two years. This has been confirmed following field research conducted by the United Nations in May and June 2009. Recruitment has also become more systematic in the past year. Although the total number of children being recruited and used in the conflict is unknown, estimates suggest that there are several hundred children in the forces of the Transitional Federal Government or its associated militias, and several thousand among the

insurgent groups. Children are being trained in basic arms techniques as well as more sophisticated skills such as assassination, intelligence collection, use of improvised explosive devices and suicide missions. Continued displacement, abandonment, neglect, orphanhood and destitution have made children, especially those living on the streets and in internally displaced settlements, particularly vulnerable to recruitment. Revenge and radical teachings also play a role in some children's decision to join an armed group. [...]

23. The forces of the Transitional Federal Government, Hizbul Islam, Al-Shabaab and Ahlu Sunnah Wal Jama'a, and clan-based armed groups throughout central and southern Somalia have all been accused of recruiting and using children in the conflict. From May 2008 to March 2010, United Nations partner organizations interviewed 208 boys and 2 girls who had been recruited and used in armed conflict or policing activities. All but six of those children were between 13 and 17 years old. These numbers are indicative, but do not reflect the considerable scope of the problem. It is difficult to reach affected children, and monitors have been concerned that the reporting of recruitment activities might endanger their safety, following death threats against them. 24. Children are typically recruited from schools and madrasas and from internally displaced settlements in Somalia and refugee camps in neighbouring Kenya. Children are often told it is their duty to fight or to avenge a family member's death, or they are offered money or are directly threatened. Forcible recruitment has also become much more common during 2009 and 2010, with teachers and parents under pressure to send children to the frontline to support the cause. There is evidence that increasing numbers of families are fleeing the country to avoid this widespread and aggressive recruitment. Civil society and local non-governmental organizations have consistently reported that it has become more difficult to prevent recruitment because of the increasingly aggressive attitude of the various armed groups.

25. Children as young as 11 are used by insurgent groups and are paid between US\$ 3 and \$35 per operation (attacks, assassination, intelligence gathering). In June 2009, UNICEF partners received reports that some children were given up to \$80 to join. In July 2009, a 14-year-old boy, whose father died in crossfire and who fled Mogadishu with his family to Kalagooye internally displaced person camp, was recruited by Al-Shabaab. He was transferred to Beledweyne to fight against the Transitional Federal Government. A UNICEF partner met his mother and asked why he joined. She said: "We were starving to death, so he could not resist the offer from Al-Shabaab to be a soldier and be paid."

26. While recruitment of girls has been rare and is generally regarded as socially unacceptable, there are documented accounts of girls working for armed groups, particularly in cooking and cleaning. Girls are also brought in to transport detonators, provide logistics support and collect intelligence, as well as receiving weapons. An Al-Shabaab training camp for about 120 girls is located near Kismaayo, where girls learn intelligence-gathering techniques, transport of explosives and driving. Girls are reported also to be recruited for marriage to young combatants.

Al-Shabaab

27. Available information indicates that Al-Shabaab has undertaken the most systematic and widespread recruitment and use of children in the conflict. While very active in the central and southern region, the group is also reportedly recruiting children in Puntland and Somaliland, and training them in Bay, Bakool, Galgaduud, Hiraan, Mogadishu and Raas Kaambooni. [...]

Hizbul Islam

31. Hizbul Islam reportedly had 30 people dedicated to recruiting children, and the group is estimated to have about 500 active children in its ranks, as at 31 March 2010. In February 2009, at an internally displaced camp in Mogadishu, monitors came across two boys aged 15 and 16 years who had been fighting as members of Hizbul Islam. In March 2009, monitors interviewed a 15-year-old boy who had been recruited as a fighter with Hizbul Islam in Mogadishu. Monitors revealed that there were many other children at the Hizbul Islam base but they could not interview them for security reasons.

32. It has also been reported that the KM 60 militia, an independent militia group, had about 80 to 100 children in its ranks. This militia has now been absorbed into Hizbul Islam.

Ahlu Sunnah Wal Jama'a and other militia groups

33. Additionally, Ahlu Sunnah Wal Jama'a reportedly recruited children, in their hundreds, mostly within the Hiraan and Galgaduud regions of Somalia, early in 2009. Eighteen children newly recruited to the ASWJ armed group have been interviewed since January 2010 by monitors. Some children cited better salaries as a

reason for voluntarily switching from one insurgent group to ASWJ.

Transitional Federal Government

34. The new Transitional Federal Government is reportedly recruiting children between the ages of 14 and 18 years. Some of them are sent to what is officially called a “rehabilitation centre” located in Harunta Xisbiga, near the stadium in Mogadishu, which is allegedly a training base for children who had previously fought for other armed groups. [...]

- [UNICEF, After alarming rise, UNICEF calls for release of Somali child soldiers, 07/10/2010](#)
[...] As the fighting in Somalia has intensified recently, so have the number of children being recruited into the country’s numerous armed groups. According to UNICEF Representative in Somalia Rozanne Chorlton, the country’s dire economic situation could be exacerbating the situation by forcing some children to undertake desperate measures. [...]
Recent reports indicate that children as young as nine years of age are being used by multiple armed groups across Somalia, and that some schools are being used as recruitment centres.
UNICEF has also received reports of children being beaten or executed once captured by opposing parties to the conflict. The use of children by armed forces and groups is a war crime under any circumstances. In its statement, UNICEF called on all parties to immediately end the practice and release or discharge all child soldiers immediately. [...]
- [United Nations High Commissioner for Refugees \(UNHCR\), UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Somalia, 05/05/2010](#)
[...] There are reports that increasing numbers of young Somali males are leaving southern and central Somalia due to the possibility of being forcibly recruited into the ranks of the various militia groups involved in the conflict.¹²⁵
Forced recruitment, including of children, has been reported on a regular basis.¹²⁶ UNICEF has documented the extensive recruitment and training of children, primarily by Islamist armed opposition groups such as al-Shabaab and Hizbul Islam, but also by TFG or TFG-allied forces, some as young as nine years old.¹²⁷ Young males arriving at the border with Kenya have stated that they feared forced recruitment into the ranks of Islamic militias as the reason for their flight.¹²⁸ The recruitment, training and use of children in the fighting have reportedly caused parents to move to other areas or to seek refuge in neighbouring countries.¹²⁹
There are reports that al-Shabaab has killed relatives of deserters who do not cooperate in their efforts to try and locate the deserter.¹³⁰ Furthermore, there are reports of parents, who went looking for their children who were forcibly recruited, being killed by the militias.¹³¹
UNHCR considers that an individuals’ refusal to join, or remain in, the Islamic militias would be perceived as an expression of political/religious opinion (opposition to fundamentalist Islamic beliefs and/or support for the TFG) and would, therefore, place them at risk. [...]

Forced Labour and Child Trafficking

- [UNICEF, Somalia Statistics, undated \(accessed 26/10/2011\)](#)
[...] Child Protection
Child labour 2000-2009*, total 49
Child labour 2000-2009*, male 45
Child labour 2000-2009*, female 54 [...]
- [U.S. Department of Labor, 2010 Findings on the Worst Forms of Child Labor, 03/10/2011](#)
Somalia
[...] During the reporting period, the Transitional Federal Government established a Focal Point for Human Rights and Child Protection to address child soldiering issues and other forms of child labor. However, there is currently no clear minimum age for employment, no compulsory education, and no instruments for monitoring or combating child labor. Children engage in the worst forms of child labor in agriculture and continue to be recruited by armed groups for use in conflict, including the Transitional Federal Government’s armed forces.
Prevalence and Sectoral Distribution of the Worst Forms of Child Labor
Children are engaged in the worst forms of child labor in Somalia,⁵²⁶⁹ many of them in agriculture, including caring for livestock. Children also reportedly work in the production of bananas, lemon,

mangoes, sesame and maize.⁵²⁷⁰ Children's work in agriculture commonly involves using potentially dangerous machinery and tools, carrying heavy loads and applying harmful pesticides. Furthermore, children handling livestock are vulnerable to kicks, crushes, falls and infectious diseases transmitted from animals to humans.⁵²⁷¹ Children also work on the streets selling cigarettes, washing cars and shining shoes.⁵²⁷² Children working on the streets may be exposed to many dangers, including severe weather, vehicle accidents and criminal elements. Children are forced to break rocks for gravel, work in quarries and perform construction.⁵²⁷³ here are also reports of children being forced into prostitution.⁵²⁷⁴

Armed groups and militias, including al-Shabaab and Hizbul Islam, systematically recruit children. here are also reports that the Transitional Federal Government (TFG) continues to recruit and use children in military operations. Some of the conscripted children plant roadside bombs, operate checkpoints and are trained to conduct assassinations.⁵²⁷⁵

Somalia is believed to be a source, destination and transit country for child trafficking.⁵²⁷⁶ Children are reportedly trafficked for forced labor and sexual exploitation by armed militias. here have also been reports that children are trafficked from Somalia to Djibouti, Malawi, Saudi Arabia, Yemen and Tanzania for commercial sexual exploitation and exploitative labor, and to South Africa for prostitution.⁵²⁷⁷ [...]

➤ [U.S. Department of State, Trafficking in Persons Report 2011 SOMALIA \(Special Case\), 27/06/2011](#)

[...] Information regarding trafficking in Somalia remains extremely difficult to obtain or verify; however, the Somali territory is believed to be a source and transit country for men, women, and children who are subjected to conditions of forced labor and sex trafficking. As in previous years, trafficking victims were primarily trafficked within the country, from Somalia's south and central regions to the Puntland and Somaliland regions. Sources note a rise in reported trafficking cases during the reporting period. Somali women and girls may have been subject to sex trafficking in Garowe, the Puntland-administered part of Las Anod (Sool region), and pirate towns such as Eyl and Harardheere. Sources report a clearer link between piracy and human trafficking during the reporting period; girls are reportedly taken from coastal regions, particularly Bossaso, and placed in pirates' homes to be exploited in domestic and sexual servitude. Some female brothel owners, who can profit as much as \$50 per client, kept victims in harsh conditions and meted out physical abuse as a means of compelling victims to work. There was reportedly an increase in the use of drugs to render victims unconscious during transport. In Somali society, certain groups are traditionally viewed as inferior and are marginalized; Somali Bantus and Midgaan are sometimes kept in servitude by more powerful Somali clan members as domestic workers, farm laborers, and herders.

Due to an inability to provide care for all family members, some desperate Somalis willingly surrender custody of their children to people with whom they share family relations and clan linkages; some of these children may become victims of forced labor or sex trafficking. While most child laborers work within their households or family business, some children may be forced into labor in agriculture, herding livestock, or in the construction industry.

Human smuggling is widespread in Somalia and evidence suggests that traffickers utilize the same networks and methods as those used by smugglers. Men, women, and children in internally displaced persons (IDP) camps or congregated along coastal areas hoping to be smuggled to Europe or the Middle East remained particularly vulnerable to trafficking. There were reports of trafficking offenders preying on young women and children, mostly IDPs from South and Central Somalia, at marketplaces and in the streets, falsely promising them lucrative jobs outside Somalia. Dubious employment agencies facilitate human trafficking, targeting individuals desiring to migrate to the Gulf states for employment. Somali women are smuggled, sometimes via Djibouti, to destinations in the Middle East, including Yemen and Syria, as well as to Sudan and South Africa, where they are subjected to conditions of domestic servitude and forced prostitution. Somali men are subjected to conditions of forced labor as herdsmen and menial workers in the Gulf states. Somali children are reportedly smuggled to Saudi Arabia through Yemen for forced begging. Members of the Somali diaspora use fake offers of marriage to lure unsuspecting victims, many of whom are relatives, to Europe or the United States, where they are forced into commercial sexual exploitation. For example, in November 2010, U.S. authorities indicted 29 Somali gang members for prostituting four girls – including one 12-year-old – in several U.S. states. Ethiopian women are smuggled

through Somalia to Yemen and onward to other destinations in the Middle East where they are forced into domestic servitude and prostitution. [...]

- [UN Human Rights Council, Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(b\) of the annex to Human Rights Council resolution 5/1, 21/02/2011](#)

[...] Compilation of UN information to the Working Group on the Universal Periodic Review on the promotion and protection of human rights [...]

36. ILO noted that child labour is a key concern in Somalia, with cases of child soldiers, domestic child labour and street begging. Studies indicated that at least 45 per cent of male and 54 per cent of female children, between the ages of 5 and 14 years, were considered to be involved in child labour.⁷⁹ [...]

- [UN Human Rights Council, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(c\) of the annex to Human Rights Council resolution 5/1, 21/02/2011](#)

[...] Summary of stakeholders' information to the Working Group on the Universal Periodic Review on the promotion and protection of human rights

[...] 51. JS1 stated that child labour was prohibited by Islamic law, formal law and customary law. 105 However, due to factors such as poverty, displacement and negligence, thousands of children worked under exploitative conditions for means of survival. Some of these children were given hazardous tasks.¹⁰⁶ [...]

Child abuse and sexual violence

- [UNICEF, Somalia web pages, undated \(accessed 26/10/2011\)](#)

[...] Communication, protection and participation

In Somalia's fragmented environment, children and women continue to be the most vulnerable groups with their rights to survival, protection, development and participation consistently violated. Absence of meaningful participation by a critical mass of Somali children and women has deprived them of the opportunity to contribute to social development initiatives.

Beyond deprivation, this has manifested itself in a range of abuses, violations and both petty and large-scale tyranny, practised for the most part with impunity. The spread of HIV/AIDS, the further perpetuation of violence, abuse, exploitation and discrimination against children, particularly girls, and the deepening disenfranchisement of young people are among the high societal prices to be paid. [...]

Children the foremost victims

Children and youth are among the most vulnerable Somalis, and many have known nothing but conflict and hardship. Many have suffered displacement and have observed, experienced and sometimes participated in violence. A majority have never experienced normal, stable social relationships and systems of governance, had no opportunity for education, or have had their education interrupted. Many are exposed to weapons, khat (a plant stimulant) chewing and other social ills.

This isolation has resulted in the formation of loose youth groups that are struggling to express their need to be involved in community development activities. Among them are growing categories of children who are in need of special care and protection. These categories include the internally displaced, children from minority groups, the very poor, orphans, disabled children, working children, children living in the streets, militia children and children in conflict with the law. Girls are especially disadvantaged in most of these categories. [...]

- [IRIN Plus News, Refugees at risk of sexual violence, 08/09/2011](#)

[...] CARE International in July said reported cases of sexual and gender-based violence (SGBV) in Kenya's Dadaab refugee camp had increased from 75 between January and June 2010 to 358 during the same period in 2011. Originally established in 1991 to house 90,000 refugees, the camp's population exceeds 460,000, and aid workers warn that women and girls are increasingly vulnerable to violence either on their way to the camps or inside them.

"New arrivals that live on the outskirts where security is never assured are even more vulnerable," Sinead Murray, gender-based violence programme manager for the IRC in Dadaab, told IRIN/PlusNews.

Women and girls inside the camp have access to protection mechanisms, including firewood safety patrols, community patrols and safe spaces for girls and women, but those in the outposts are largely on their own.

Many new arrivals awaiting registration have to live in outposts, or refugee settlements outside the designated camps. These unplanned settlements - which agencies say are largely occupied by women and children - tend to be poorly lit and insecure.

A July assessment by the IRC of gender-based violence in Dadaab found that victims of sexual violence were usually reluctant to report out of shame, or for fear that their families would blame them or their communities would reject them as unmarriageable.

Participants in the assessment identified sexual violence and rape as the biggest concern for women and girls while fleeing Somalia; they reported women and girls being raped in front of their husbands, at the insistence of "bandits" or "men with guns", or being forced to strip naked and being raped by multiple perpetrators. [...]

➤ [United Nations, Report of the Secretary-General on Somalia, 30/08/2011](#)

[...] E. Human rights and protection of civilians [...]

32. The ongoing conflict has increased the risk of sexual violence for women and children. There are reports of Al-Shabaab recruiting girls for forced marriage to fighters, and allegations of rape by militias allied to the Government in southern central Somalia. Although the United Nations has not been able to confirm widespread cases of sexual violence during flight among newly arrived refugees in Dadaab, Kenya, it is acknowledged that there are high risk areas on the outskirts of the camps and en route to Kenya where women and children may be more exposed to sexual violence by "bandits" or "men with guns".

➤ [Amnesty International, In the line of fire: Somalia's children under attack, 20/07/2011](#)

[...] 6. OTHER TARGETED HUMAN RIGHTS ABUSES AGAINST CHILDREN

In addition to being specifically targeted for recruitment into armed groups, Somali children and young people have been victim to, or witnessed other horrific targeted human rights abuses. Children have seen parents and friends being deliberately killed or tortured by parties to the conflict. They have also witnessed and been themselves victims of unlawful killings and torture and other ill-treatment, including stoning to death, amputations and floggings, imposed by armed Islamist groups in areas under their control. [...]

TORTURE AND OTHER ILL-TREATMENT OF CHILDREN UNDER AL-SHABAB RULE

As described above, when taking over villages and cities, al-Shabab factions impose strict rules on residents in order to enforce the group's control through fear and violence. Children have described suffering floggings by al-Shabab members, often because they did not conform to specific dress codes and rules imposed by al-Shabab. In most areas under al-Shabab control, women and girls have been forced to wear the hijab (Islamic headscarf), or the abaya (a traditional Islamic over-gown). Women and girls found not wearing such clothing have been punished with flogging, often on the spot. [...]

➤ [United Nations, Report of the Secretary-General on Somalia, 28/04/2011](#)

[...] 34. As a result of the hostilities, 8 children were reportedly killed and 69 maimed, mostly in Mogadishu. Fifty-three cases of rape and sexual violence against children were also reported, mostly in "Somaliland", where monitoring capacity and access are much greater. [...]

➤ [U.S. Department of State, County Reports on Human Rights Practices, 08/04/2011](#)

[...] Children

[...] Child abuse and rape were serious problems, although no statistics on their prevalence were available. UNICEF reported that throughout Somalia, "Rape and other grave sexual violence against children continued to be a major protection concern." There were no known efforts by regional governments to combat this practice. Children remained among the chief victims of continuing societal violence. UNICEF and other international NGO child-protection monitors verified that hundreds of children were killed or injured during the year as a direct result of conflict. [...]

Militia members raped children during the conflict and departure of civilians from Mogadishu.

Child prostitution was practiced, and like all other forms of prostitution, was legally prohibited in all areas. In al-Shabaab areas, the penalty was flogging or even death by stoning. There is no formal statutory rape law or minimum age for consensual sex. Child pornography is not expressly prohibited. [...]

[...] The practice of "asi walid," a custom whereby parents placed their children in prison for disciplinary purposes and without any legal procedure, continued. Many of these juveniles were incarcerated with adults.

UNICEF and the UNDP started a project to provide abandoned children and child prisoners with legal and other protection assistance. The juvenile justice program also educated justices and lawyers about human rights problems for children. [...]

➤ [UN Human Rights Council, Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(b\) of the annex to Human Rights Council resolution 5/1, 21/02/2011](#)

[...] Compilation of UN information to the Working Group on the Universal Periodic Review on the promotion and protection of human rights [...]

32. The independent expert stated that rape and other grave sexual violence against children continued to be a major protection concern. Impunity for the perpetrators of crimes against children, including sexual violence, remained common in all parts of Somalia.⁷⁰ [...]

➤ [UN Human Rights Council, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(c\) of the annex to Human Rights Council resolution 5/1, 21/02/2011](#)

[...] Summary of stakeholders' information to the Working Group on the Universal Periodic Review on the promotion and protection of human rights [...]

23. JS4 stated that women and girls that were engaged in "pastoralism", were at risk of attacks from militia groups and armed gangs, mainly in southern Somalia.³⁶

24. SSWC stated that even though women were essentially neutral when it came to clan affiliation they were still the targets of clan-related reprisals and attacks.³⁷ [...]

➤ [United Nations, Report of the Secretary-General on Somalia, 30/12/2010](#)

39. During the reporting period, 27 children were reportedly killed and 68 maimed, mostly in Mogadishu, as a result of the hostilities. Eleven cases of rape and sexual violence against children committed by parties to the conflict were reported in southern central Somalia. [...]

➤ [United Nations Security Council, Report of the Secretary-General on children and armed conflict in Somalia, 09/11/2010](#)

[...] C. Sexual violence

42. The number of reported cases of rape and other sexual assaults has significantly increased during the past 18 months to a total of 576 during the reporting period, compared to 128 cases in the last reporting period (20.6 per cent in the southern and central region, 23.6 per cent in "Puntland" and 55.7 per cent in "Somaliland"). The total number of reported victims is not indicative of the scope of the problem, as a lack of child protection workers and related services, as well as the associated social stigma, prevent most victims from seeking justice or support. Most cases were recorded in "Somaliland", reflecting a more robust system available in that region to identify and process rape victims.

43. Of the rape cases reported by child protection monitors, less than 5 per cent are alleged to have been carried out by parties to the conflict. Nonetheless, the continued fighting has rendered women and children more vulnerable to sexual violence because of displacement, destitution, the breakdown of the rule of law and

the re-emergence of armed groups and freelance militias — all as a result of the ongoing conflict. There are reports of victims as young as 18 months. Most at risk are women and girls living on the streets and in open and unprotected internally displaced settlements (such as those in Bousaaso, Gaalkacyo, Hargeyoo and along the Afgoye corridor), particularly those who belong to minority clans in the area where they are living. Some examples include:

- On 24 September 2008, a 15-year-old girl was reportedly captured and taken to a deserted building and raped in turn by three Ethiopian soldiers along the Maka-Almukarama Road in Mogadishu.
- On 7 December 2008, an 8-year-old girl was gang-raped by an unknown number of uniformed men, reportedly members of Transitional Federal Government and Ethiopian forces in the Huriwaa district of Mogadishu.

- A 14-year-old girl was raped allegedly by Transitional Federal Government soldiers in Hamar-jajab, Mogadishu, on 18 December 2008.
- On 20 July 2009, a 16-year-old girl was raped by two armed gunmen in the Ceelasha internally displaced camp.

44. As I reported in 2009, rapes and other sexual assaults are often carried out with impunity. Traditional and community justice mechanisms (Xeer) frequently ignore the victim and negotiate with members of the perpetrator's clan, proposing a financial settlement to the family or clan of the victim by the perpetrator, or marriage of the victim to the perpetrator.[...]

Forced Marriage

- [UNICEF, Somalia Statistics, undated \(accessed 26/10/2011\)](#)
[...] Child Protection
[...] Child marriage 2000-2009*, total 45
Child marriage 2000-2009*, urban 35
Child marriage 2000-2009*, rural 52
- [U.S. Department of State, County Reports on Human Rights Practices, 08/04/2011](#)
[...] Child marriage was prevalent throughout Somalia. In rural areas parents often married off their daughters as young as age 12. [...]
- [UN Human Rights Council, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(c\) of the annex to Human Rights Council resolution 5/1, 21/02/2011](#)
[...] Summary of stakeholders' information to the Working Group on the Universal Periodic Review on the promotion and protection of human rights
[...] 25. JADO stated that many under age young girls in Jubaland were forced to marry "Mujahidin of Alshabab (Jihadist: Holy warrior)" against the will of their parents. Resistance to such marriages resulted in execution.³⁸ This was also stated by JS4.³⁹ [...]

Impact of the humanitarian situation on children

- [UNICEF, Response to the Horn of Africa emergency: a crisis affecting life, livelihoods and ways of life, 20/10/2011](#)
[...] 13.3 million people need assistance. More than 450,000 Somalis have fled to the refugee camps around Dadaab in northeastern Kenya, including 100,000 since June. Another 183,000 Somalis have fled to Ethiopia, including more than 120,000 to the refugee camps in Dollo Ado, 20,000 refugees went to Djibouti.
Thousands of children have already died, and more than 320,000 – half of them in Central and South Somalia - are so severely malnourished that they may perish as well in the coming weeks and months, if relief operations are not scaled up rapidly. [...]
- [UNICEF, Long-awaited rains cause further displacement and child deaths in Mogadishu, 14/10/2011](#)
[...] The long awaited Deyr rains have finally arrived in the south central region of Somalia, bringing much relief to those who have suffered through a drought which has lasted as many as two years in some areas. Unfortunately, the sudden precipitation is having a devastating impact in several Internally Displaced Persons (IDP) camps in and around Mogadishu. The makeshift huts serving as the primary shelter for hundreds of thousands of Somali refugees are made from polythene paper, sticks and cardboard, which simply cannot withstand the rain. As a result, thousands have been stranded without shelter.
Risk of waterborne diseases
Hypothermia and an increased risk of waterborne diseases such as malaria and cholera and acute water diarrhoea are serious dangers which accompany the rains, and with many Somalis already suffering from hunger and malnutrition, these dangers can often lead to death.
In the camps located in the Soona-Key neighborhood of the Hodan district in Mogadishu, many shelters have been completely washed away, and several children have died from the cold.

One devastated father recently buried the last of his seven children, all of whom died since arriving in the Soona-Key IDP camp just 40 days ago.

"My last two children have died of cold and hunger," he said solemnly. "Just like my other five children before them." [...]

Many other camps, such as in the Hamar-Bille neighborhood of Wardigley District are experiencing the same devastation, with many suffering from cold and continued hunger, without any warm clothing or blankets to protect them from the elements. [...]

➤ [Save the Children, Children swept away by deluge in Mogadishu camps as rains threaten drought-displaced families, 13/10/2011](#)

[...] Heavy rains have flooded the meagre shelters of nearly 2,800 people living in the Sigale camp. Two children were killed by surging waters, another is missing, and a pregnant mother died in the chaos as families sought shelter from the downpour.

Thousands of hungry and desperate people have arrived in the Somali capital over recent months, fleeing food shortages caused by a terrible drought in East Africa. Many have settled in makeshift camps in areas vulnerable to flooding.

Over half of the children in the Somali capital are malnourished due to the food crisis, and aid workers fear that their weakened state will leave them vulnerable to deadly diseases associated with unclean water.

The arrival of the autumn rains in Mogadishu signals an alleviation of the drought, but will pose new threats to families living without adequate shelter in atrocious conditions. [...]

Children have been hit particularly hard by the crisis. According to FSNAU, the official organisation that evaluates malnutrition in Somalia, the child mortality rate in Mogadishu is estimated to be at seven-and-a-half times the emergency threshold. [...]

➤ [UNICEF, Saving children in Southern Somalia must be first priority, 29/07/2011](#)

[...] With an estimated 1.25 million children across Southern Somalia in urgent need of life saving interventions and 640,000 acutely malnourished, UNICEF called for all actors to make saving children's lives the top priority and to urgently support all efforts to reach children in need.

"The children of Southern Somalia desperately need our help. Too many of them have already died and many others are at great risk unless we act now," said Rozanne Chorlton, UNICEF Somalia Representative. "Families shouldn't have to leave their homes, mothers and their children shouldn't have to endure days of perilous journey in search of food and water and then face a life of uncertainty in a camp." [...]

➤ [Amnesty International, In the line of fire: Somalia's children under attack, 20/07/2011](#)

[...] 7. CHILDREN DENIED ACCESS TO HUMANITARIAN AID

Access to humanitarian aid by populations in need of assistance has drastically reduced in the past four years in South and Central Somalia, with devastating effects for children, who are among the most vulnerable, particularly to food insecurity and diseases. The operations of aid agencies have been curtailed by indiscriminate and disproportionate attacks by all parties to the conflict and the general insecurity reigning in the country. Military operations do not only impede humanitarian access and expose aid operations to danger, they also result in more civilian killings and injuries and displacement, generating further humanitarian needs. [...]

Somaliland

Arbitrary detention and abuse of children

➤ [IRIN, Failing law leaves children unprotected in Somaliland, 24/10/2011](#)

[...] Child rights activists have expressed concern over the stagnation of a juvenile justice law in Somalia's self-declared independent Republic of Somaliland, where officials say an average of 200 children are detained every month by police.

According to Khadar Nour, a child protection activist in the capital, Hargeisa, children are regularly detained for minor offences and "end up being detained with adults because there are no rehabilitation centres for children or prisons for children".

Somaliland passed a juvenile justice law in 2007 but is yet to implement it due to what government officials say are financial constraints and lack of knowledge of the law by the responsible institutions and their staff.

The law puts the age of criminal liability at 15, and requires that punishment be proportionate to the circumstances of the child and the gravity and nature of the offence. It limits maximum punishment to 15 years and prohibits corporal punishment, life imprisonment and the death penalty. The law also sets out protective measures relating to the child's record, and ensures clear child participation and child rights during proceedings.

But according to an assessment conducted in August by Somaliland's ministry of justice, just 5 percent of the average 200 children detained monthly are processed through the judicial system; children are often arrested and freed arbitrarily. [...]

The assessment found that more than half of Somaliland's police stations did not apply the juvenile justice law. [...]

- [UN Human Rights Council, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(c\) of the annex to Human Rights Council resolution 5/1, 21/02/2011](#)

[...] Summary of stakeholders' information to the Working Group on the Universal Periodic Review on the promotion and protection of human rights

[...] 17. JS1 [Somaliland Civil Society Coalition for the Universal Periodic Review, comprising Nagaad Umbrella, Comprehensive Community Based Rehabilitation in "Somaliland", Hargeisa University Legal Clinic, Somaliland Women Lawyers association, "Somaliland" youth development association, "Somaliland", Somalia] stated that in "Somaliland" there were reports of children being detained for minor cases, such as parental disobedience, with hard-core criminals, which exposed these children to abuse, physical and psychological trauma. Almost all of the police stations and local prisons in "Somaliland" lacked separate cells for child offenders.²⁸ [...]

- [UN Human Rights Council, Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 \(c\) of the annex to Human Rights Council resolution 5/1, 21/02/2011](#)

[...] Summary of stakeholders' information to the Working Group on the Universal Periodic Review on the promotion and protection of human rights

[...] 17. JS1 stated that in "Somaliland" there were reports of children being detained for minor cases, such as parental disobedience, with hard-core criminals, which exposed these children to abuse, physical and psychological trauma. Almost all of the police stations and local prisons in "Somaliland" lacked separate cells for child offenders.²⁸ [...]

[...] 31. JS1 stated that there were many children in "Somaliland" living on the streets, often begging and sometimes engaged in criminal activity for survival. Some children have little or no contact with their families and cope without adult support. JS1 stated that there was an increase in orphaned children in "Somaliland" and that institutions to care for these children were virtually non-existent.⁵² Presently, there is only one operational institution located in Hargeisa and that the conditions in this institution were poor.⁵³

32. GIEACPC stated that, pursuant to Article 439 of the Penal Code (1962), corporal punishment was lawful in the home⁵⁴ and in schools.⁵⁵ In the penal system, there was no provision for corporal punishment as a sentence for crime, but it was lawful under Somali Islamic Law.⁵⁶ In alternative care settings, corporal punishment was lawful.⁵⁷ In "Somaliland" corporal punishment was unlawful in the home,⁵⁸ in schools,⁵⁹ and in alternative care settings.⁶⁰ [...]

- [United Nations Security Council, Report of the Secretary-General on children and armed conflict in Somalia, 09/11/2010](#)

[...] 19. The availability of large numbers of small arms inside Somalia has led to widespread violence by military personnel and militia, as well as civilians, in a climate of impunity, which has exacerbated grave violations of children's rights. Violations against children have occurred in the context of the conflict, but individuals are also taking advantage of the lack of rule of law and the availability of arms to commit violent crimes against children and other vulnerable members of the population. This is borne out by

evidence of rising levels of acts of sexual violence against children, including in “Puntland” and “Somaliland”. [...]

Landmines

➤ [IRIN, Rising number of child landmine victims in Somaliland, 02/02/2011](#)

[...] Somalia's self-declared independent region of Somaliland has experienced an increase in landmine and unexploded ordnance (UXO) explosions in the recent past, with officials calling for mine awareness education in schools, as children have been the main victims.

"Child victims of land mines have increased in Somaliland in the past two months," Ahmed Ali Maah, director of the Somaliland Mine Action Center (SMAC), told IRIN. "Some 93 children have been killed by landmines in the past three years." [...]

Puntland

Situation of orphans

➤ [Somalia Report, 40,000 Kids are Orphans in Puntland, Says PASWE, 20/10/2011](#)

While the world focuses on Kenya's incursion into southern Somalia and the fight against al-Shabaab militants, tens of thousands orphans are suffering from lack of food, guidance, healthcare, education, and shelter in Somalia's semi-autonomous region of Puntland. Of the approximately 40,000 orphans in Puntland, only 2,200 are getting help from one of ten orphan centers scattered across the region, according to Puntland Agency for Social welfare (PASWE). The remaining 37,800 orphans are living without food, health, or education, PASWE Director General Abdi Shakur Mohamud Gurey, told Somalia Report. "40,000 orphans are living in all regions of Puntland including those who are internally displaced people. They are typically between the ages of 6-10 but some are over 16. During our study we found that only 2,200 orphans were getting help and that is because they are living at one of ten orphan centers in Puntland," explained the director. The six main centers are located in Galkayo, Garowe, Baran, Qardo, Galdogob and Bursalah with the other four scattered throughout the region. "Somali Diaspora and organizations from Saudi Arabia and Kuwait are financially supporting the ten centers and we appreciate that. Sometimes they also get support from Puntland's Minister for Health but it is not enough," he said.

APPENDIX 1

Note on the tribunal's decision in *AMM and others (Somalia) CG*

The humanitarian situation in southern Somalia

1. The T concluded that 'the generality of those hypothetically removed to southern and central Somalia at the present time will face Article 3 violations by reason of the humanitarian conditions prevailing in the area' (para. 487).
2. However, 'there may be cases where the evidence indicates that a person is from, say, a town in southern and central Somalia (other than Mogadishu) where the drought is having less of an impact than in the countryside, and where a person has family or clan support. If the town in question is under Al Shabab control, there are likely to be other problems...But purely by reference to the humanitarian position, such a person would, nevertheless, be returnable without Article 3 breach. Judicial fact-finders will need to be satisfied that the evidence supports such a conclusion' (para. 487).
3. The T rejected the Secretary of State's argument that the ECtHR, which reached similar conclusions in *Sufi and Elmi v UK* had thereby departed from established principle. The Court had held that the humanitarian crisis was 'predominantly due to the direct and indirect actions of the parties to the conflict' so that it was not necessary to prove the kind of exceptional case that had to be shown to demonstrate that the effects of a natural phenomenon, such as disease (*N v UK*) or drought would breach art. 3. The T said of the Court's analysis that 'the test of "predominant cause", upon analysis, seems to us to be part of the settled jurisprudence of the ECtHR' (para. 130).
4. Whilst endorsing the ECtHR's legal reasoning, the T disagreed with the ECtHR's factual finding that the actions of the parties to the conflict were the predominant cause of the humanitarian crisis. It was entitled to do so because the ECtHR is not to be treated as the 'supreme maker of country guidance for the purposes of our tribunals' (para. 117). Instead, the T held that removal to southern and central Somalia would breach art. 3 because 'the widespread famine, unique to our planet at the present time, coupled with the exacerbating factors [e.g. AS exclusion or obstruction of humanitarian assistance; the breakdown of clan support owing to the conflict and activities of AS] discloses a situation of sufficient exceptionality to cross the threshold set in *N'* (para. 482).

The situation in Mogadishu

5. On the evidence as it stood in July 2011, there was an article 15(c) risk throughout the whole of Mogadishu 'for most returnees from the UK, having to live or stay for a significant period of time in Mogadishu' (para. 339). The T rejected the Secretary of State's case that in TFG controlled areas of the city there was no such risk (para. 340).
6. Notwithstanding the withdrawal of Al Shabaab from Mogadishu in August 2011 'an Article 15(c) risk continues to exist for the majority of those returning to Mogadishu after any significant period of time spent abroad' (para. 344 and 350) because:
 - a. looking at the evidence in October 2011, the withdrawal of AS could not yet be said to amount to a 'durable' change of circumstances (para. 345);
 - b. it was impossible to find no real risk that a returnee would not end up in one of the areas of the city where significant fighting is still occurring or of being affected e.g. by IEDs, unexploded ordinance, criminals, Al Shabaab elements (para. 347);
 - c. the risk of robbery by or being caught up in in-fighting among 'rogue elements' of the TFG forces (para. 349)
7. A returnee belonging to 'a category of middle class or professional persons in Mogadishu who can live to a reasonable standard, in circumstances where the Art. 15(c) risk...does not apply' which includes 'those whose socio-economic position provides them with the requisite protection, without running the risk of assassination faced by those in or associated with the TFG' (para. 357). However, the significance of this category should not be overstated and 'a fact-finder would need to be satisfied that there were cogent grounds for finding that the claimant fell within such a category' (para. 358).
8. Moreover, 'as time passes...it may well be that judicial fact finders are able to conclude that the necessary element of durability has been satisfied. How, if at all, that impacts on the assessment of risk on return will, of course, depend on all the other evidence' (para. 363).
9. On the other hand, before and certainly following the Al Shabaab withdrawal, the situation in Mogadishu ceased to be one in which, as the T had found in *AM and AM* there was an article 3 risk to civilians generally in Mogadishu (para. 366).
10. There could be an article 3 risk depending on the individual's particular circumstances: 'a returnee could face a real risk of a violation of art. 3 by reason of his or her vulnerability' in the context of the

humanitarian situation in Mogadishu, e.g. a woman and children without family or social support may be at risk owing to increased susceptibility to opportunistic attack (para. 369).

Article 15(c) risk outside Mogadishu

11. Large areas of the south were 'relatively peaceful' (para. 448). Whether there was an art. 15 (c) risk would depend on the situation in the particular place to which the individual would be expected to go (para. 449). Indirect forms of harm e.g. having to become an IDP would be relevant, provided the armed conflict was 'an operative cause' (para. 450).

Risk from Al Shabaab

12. Al Shabab 'regularly behaves in a way which seriously violates fundamental human rights' (para. 457). Those who 'are of the same ideological affiliation' as Al Shabab (para. 458) would not be at real risk from them. The ECtHR in *Sufi and Elmi* also concluded that those who could 'play the game' of manifesting compliance with Al Shabab requirements would not be at real risk of art. 3 harm so that an individual's capacity to 'play the game' which depended upon having had recent experience of living in Somalia was important to assessing risk.
13. Like the ECtHR in *Sufi and Elmi*, the T concluded that 'in general, a returnee with no recent experience of living in Somalia would be at real risk of being subjected to treatment proscribed by Article 3 in an Al Shabab controlled area. We consider that "no recent experience" in this context means that the person concerned left Somalia before the recent rise of Al-Shabab, and its territorial gains in the region, which occurred in 2008' (para. 471).
14. A person with recent experience of living in an Al Shabab area may also be at risk if identified as returning from the UK (para. 471) because 'the fact of having come from the UK is, as a general matter, likely to elevate the risk to a person of being branded a spy [by Al Shabab] which carries the very real risk of serious ill-treatment or death' (para. 464).
15. Those travelling through, as well as those going to settle in Al Shabab areas would be exposed to these risks (para. 473); 'the combination of the unpredictability of Al Shabab behaviour and the evidence of their brutality, when they take against an individual, is such as to constitute a real risk' for those travelling through an Al Shabab area (para. 517).
16. Moreover, an individual who would have to 'play the game' of complying with AS requirements in order to avoid punishment that would otherwise result because of AS's perception of the transgression being religiously significant would have well founded fear for reason of religion (para. 213). Applying *RT*

(Zimbabwe) v SSHD [2010] EWCA Civ 916 ‘every person living under Al-Shabaab control in central and southern Somalia, who could show that they do not genuinely adhere to that organization’s ethos, would have a good claim to Refugee Convention Protection’ (para. 217).

17. The T said (para. 493) ‘It is abundantly plain from the evidence, that Al-Shabab’s reasons for imposing its requirements and restrictions are religious. It is also plain from the evidence that those who transgress and are punished are regarded by Al-Shabab, not merely as people who have transgressed what it sees as its laws, but who have thereby demonstrated that they remain in a state of kufr (apostasy)...This is not to say that every such punishment by every Al-Shabab member in every place will be so motivated; but it is, on the evidence, likely enough to constitute a real risk.’
18. There is thus the required nexus to religion, i.e. imputed religious opinion (para. 494). There is a real risk that punishments inflicted for non-compliance would be sufficiently serious to amount to persecution (para. 495). Those who would ‘play the game’ to avoid the risk that would otherwise eventuate are refugees, given the principle stated in *RT (Zimbabwe)*.

Internal relocation

19. Expecting a person to relocate to Mogadishu would ‘plainly be unreasonable’ in the light of the findings about art. 15(c) risk (para. 499). The declared famine for IDPs would also make it unreasonable to expect a person to relocate there unless he or she had sufficient contacts to avoid having to be an IDP (para. 500).
20. It would, ‘as a general matter’ be unreasonable to expect a returnee to live in an IDP camp ‘unless there was evidence that he or she would be able to achieve the lifestyle of those better-off inhabitants of the Afgoye Corridor settlements’ which would depend on the returnee ‘having family or other significant connections with such better off elements’. In their absence ‘the risks inherent in IDP camps, including threats against the person’, particularly for women, could not be eliminated (para. 501).
21. Relocation to an Al Shabab controlled area is ‘out of the question’ (para. 502).
22. Relocation to a non AS controlled area may be possible for a person ‘who has a clan or strong family connection’ with an area in southern or central Somalia may have an internal relocation alternative, but ‘in the light of the present humanitarian crisis, the cogency of the indicators pointing to such a position would need to be powerful’ (para. 507).

Female genital mutilation

23. 'The prevalence of FGM in Somalia is, we find, so great that an uncircumcised, unmarried Somali woman, up to age 39, will in general be at real risk of suffering FGM' (para. 560). A mother whose daughter was subjected to FGM against the mother's wishes would thereby suffer persecution or treatment in breach of art. 3 (para. 558). In addition, the Refugee Convention would also be 'engaged in the case of a mother who was genuinely strongly opposed to inflicting or procuring FGM on her daughter but who, on the evidence, was reasonably likely, sooner or later, to countenance it, as the lesser of two evils' (para. 567).

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25th November 2011

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