



OCTOBER 2005

SOMALIA

Country of Origin Information Report (COI Report) are produced by the Science & Research Group of the Home Office to provide caseworkers and others involved in processing asylum applications with accurate, balanced and up-to-date information about conditions in asylum seekers' countries of origin.

They contain general background information about the issues most commonly raised in asylum/human rights claims made in the UK.

The reports are compiled from material produced by a wide range of recognised external information sources. They are not intended to be a detailed or comprehensive survey, nor do they contain Home Office opinion or policy.

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1. Scope of document

- 1.01 This Country of Origin Information Report (COI Report) has been produced by Research Development and Statistics (RDS), Home Office, for use by officials involved in the asylum/human rights determination process. The Report provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. It includes information available up to 31 August 2005.
- 1.02 The Report is compiled wholly from material produced by a wide range of recognised external information sources and does not contain any Home Office opinion or policy. All information in the Report is attributed, throughout the text, to the original source material, which is made available to those working in the asylum/human rights determination process.
- 1.03 The Report aims to provide a brief summary of the source material identified, focusing on the main issues raised in asylum and human rights applications. It is not intended to be a detailed or comprehensive survey. For a more detailed account, the relevant source documents should be examined directly.
- 1.04 The structure and format of the COI Report reflects the way it is used by Home Office caseworkers and appeals presenting officers, who require quick electronic access to information on specific issues and use the contents page to go directly to the subject required. Key issues are usually covered in some depth within a dedicated section, but may also be referred to briefly in several other sections. Some repetition is therefore inherent in the structure of the Report.
- 1.05 The information included in this COI Report is limited to that which can be identified from source documents. While every effort is made to cover all relevant aspects of a particular topic, it is not always possible to obtain the information concerned. For this reason, it is important to note that information included in the Report should not be taken to imply anything beyond what is actually stated. For example, if it is stated that a particular law has been passed, this should not be taken to imply that it has been effectively implemented unless stated.
- 1.06 As noted above, the Report is a collation of material produced by a number of reliable information sources. In compiling the Report, no attempt has been made to resolve discrepancies between information provided in different source documents. For example, different source documents often contain different versions of names and spellings of individuals, places and political parties etc. COI Reports do not aim to bring consistency of spelling, but to reflect faithfully the spellings used in the original source documents. Similarly, figures given in different source documents sometimes vary and these are simply quoted as per the original text. The term 'sic' has been used in this document only to denote incorrect spellings or typographical errors in quoted text; its use is not intended to imply any comment on the content of the material.
- 1.07 The Report is based substantially upon source documents issued during the previous two years. However, some older source documents may have been included because they contain relevant information not available in more recent

documents. All sources contain information considered relevant at the time this Report was issued.

- 1.08 This COI Report and the accompanying source material are public documents. All COI Reports are published on the RDS section of the Home Office website and the great majority of the source material for the Report is readily available in the public domain. Where the source documents identified in the Report are available in electronic form, the relevant web link has been included, together with the date that the link was accessed. Copies of less accessible source documents, such as those provided by government offices or subscription services, are available from the Home Office upon request.
- 1.09 COI Reports are published every six months on the top 20 asylum producing countries and on those countries for which there is deemed to be a specific operational need. Inevitably, information contained in COI Reports is sometimes overtaken by events that occur between publication dates. Home Office officials are informed of any significant changes in country conditions by means of Country of Origin Information Bulletins, which are also published on the RDS website. They also have constant access to an information request service for specific enquiries.
- 1.10 In producing this COI Report, the Home Office has sought to provide an accurate, balanced summary of the available source material. Any comments regarding this Report or suggestions for additional source material are very welcome and should be submitted to the Home Office as below.

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ADVISORY PANEL ON COUNTRY INFORMATION

- 1.11 The independent Advisory Panel on Country Information was established under the Nationality, Immigration and Asylum Act 2002 to make recommendations to the Home Secretary about the content of the Home Office's country of origin information material. The Advisory Panel welcomes all feedback on the Home Office's COI Reports and other country of origin information material. Information about the Panel's work can be found on its website at www.apci.org.uk
- 1.12 It is not the function of the Advisory Panel to endorse any Home Office material or procedures. In the course of its work, the Advisory Panel directly reviews the content of selected individual Home Office COI Reports, but neither the fact that such a review has been undertaken, nor any comments made, should be taken to imply endorsement of the material. Some of the material examined by the Panel relates to countries designated or proposed for designation for the Non-Suspensive Appeals (NSA) list. In such cases, the Panel's work should not be

taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

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2. Geography

2.01 As recorded in Europa Regional Surveys of the World 2005 on-line version:

‘The Somali Democratic Republic lies on the east coast of Africa, with Ethiopia to the north-west and Kenya to the west. There is a short frontier with Djibouti to the north-west. Somalia has a long coastline on the Indian Ocean and the Gulf of Aden, forming the ‘Horn of Africa.’ Europa added: “The national language is Somali, but Arabic is also in official use. English and Italian are widely spoken. The state religion is Islam, and the majority of Somalis are Sunni Muslims. There is a small Christian community, mostly Roman Catholics. The national flag (proportions 2 by 3) is pale blue, with a large five-pointed white star in the centre. The capital is Mogadishu.” [1a] (Location, Climate, Language, Religion, Flag, Capital)

2.02 The Economist Intelligence Unit (EIU), in its Somalia Country Profile for 2005 noted that the population was 10.4m, and that the main towns were the capital Mogadishu, Hargeisa, Gaalka’yo, Kismayu, Bossasso [Bossaso, Bosaso], Laascaanood, Berbera, and Borama. [17a] (p3)

2.03 As noted in the report of the joint Danish-British Fact-Finding Mission based in Nairobi, Kenya, published in December 2000 (JFFMR December 2000), Somali society is characterised by membership of clan-families, which are sub-divided into clans, and many sub-clans; in addition there are a number of minority groups, many of which are also divided into sub-groups. The clan structure comprises the four major “noble” clan-families of Darod, Hawiye, Isaaq and Dir. “Noble” in this sense refers to the widespread Somali belief that members of the major clans are descended from a common Somali ancestor. Two further clans, the Digil and Mirifle (also collectively referred to as Rahanweyn), take an intermediate position between the main Somali clans and the minority groups. Large numbers of ethnic Somalis also live in neighbouring Ethiopia, Kenya and Djibouti. [7a] (p80-7)

2.04 The New Internationalist’s World Guide 2003/4 noted that Somali is the national language, and that its alphabet was adapted in 1973 using a modified Roman alphabet. [15a] (p502) The JFFMR December 2000 indicated that in addition to these languages some minority groups speak their own language; the Bajuni, for example, speak Ki-Bajuni. However in all contacts with the Somali – speaking population there would be a need to speak at least some Somali. [7a] (p29)

(For more information please see Section 6b, [Ethnic Groups](#))

2.05 While not as severely affected as many coastal Asian countries by the tsunami of December 2004, EIU, in its Somalia Country Profile for 2005, noted:

“An estimated 54,000 Somalis were affected by the tsunami that hit the Indian Ocean coastline on December 26th 2004, a natural disaster that caused damage valued at US \$24m in Somalia. Puntland was identified as the worst hit region in eastern Africa. The UN estimated that at least 150 people died along the Somali coast as a result of the tidal wave, although regional authorities in Puntland put the figure at 298. Around 2,600 fishing boats were destroyed by the wave.

The UN launched a flash inter-agency appeal on January 6th [2005] for US \$10.2m to help those Somalis affected. The Somali appeal was part of a larger request for US \$977m for all the countries hit by the tsunami. Dahabshiil, the largest Somali money transfer company, made an immediate cash donation of US \$5,000 to the victims and other money transfer companies promised to waive charges for those sending funds to affected relatives” [17a] (p19)

For further information on geography, refer to Europa World online, source [1a].

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3. Economy

- 3.01 The Economist Intelligence Unit (EIU), in its Somalia Country Profile for 2005, reported:

“The economy has long been heavily dependent on livestock and agriculture. Stock rearing is practised throughout the country and accounted for about 40% of GDP and 65% of export earnings in 2000, according to World Food Programme (WFP) estimates. Most of the farmland lies between the Jubba and Shabeelle rivers in the south of the country. The small manufacturing sector is based on the processing of agricultural products. In the south, the absence of a central government has meant that no economic data have been produced by national sources since 1990. In Somaliland, by contrast, the government collects tax and duties levied on trade.” [17a] (p17-18)

- 3.02 The EIU in its Profile added:

“There is little formal economic policy beyond the collection of duties and tax. In Somaliland, duties levied at the port of Berbera generate an estimated 85% of government revenue, although these duties were depleted severely during the ban on livestock imports by Saudi Arabia and other Gulf states ... Consequently, Somaliland’s government budget, which is largely destined for the armed forces and civil service salaries, has been extremely modest in recent years. The US\$25m total for 2005 was an increase of 13% over the 2004 budget of US\$22m. Elsewhere in the country, clan factions collect tax. In many areas, duties on the import of a mild narcotic, qat, represent a significant source of this type of income. Most of the proceeds from the tax and duties are used for wages, paid to conventional government employees in Somaliland and to clan faction militias in most of the rest of the country. Private entrepreneurs are reported to have paid for some minor rehabilitation work on the basic infrastructure. The Transitional National Assembly (TNA) had intermittent success in collecting some taxes from the main markets in Mogadishu.

In Somaliland, where the Bank of Somaliland (the central bank) has been established, the Somaliland shilling became legal tender in February 1995 at the official rate of SolSh50:US\$1. It was devalued five months later to SolSh80:US\$1. However, money changers operate legally and freely on the streets of Hargeisa where the exchange rate is currently around SolSh6,000-6,500:US\$1. In the south, at least two forms of Somali shilling circulate. Hussein Mohamed Aideed’s administration imported several million dollars’ worth of new bank notes in 1997 and 1999. The Puntland administration imported new notes in April and November 2000 and several similar deliveries arrived in Mogadishu under the TNA between 2000-03. Multiple currencies continue to circulate.” [17a] (p17)

- 3.03 The EIU in its profile noted:

“The pre-war manufacturing sector was small and was confined mostly to the public sector. Some private food-processing and boat-building businesses in a few of the larger settlements are now all that remain. A Coca-Cola bottling plant opened in the capital in 2004, marking a return to Somalia for the soft drinks company after a 15-year absence.” [17a] (p20)

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4. History

COLLAPSE OF CENTRAL GOVERNMENT AND CIVIL WAR 1990-1992

4.01 As recorded in Europa Regional Surveys of the World 2005, on-line version:

“Anti-Government demonstrations in Mogadishu in July 1989, in protest at the arrest of several leading Muslim clerics, were violently suppressed by the armed forces, resulting in the deaths of more than 400 demonstrators. Two recently created opposition groups, the United Somali Congress (USC – composed of Hawiye clan intellectuals) and the National United Front of Somalia (allegedly dominated by disaffected army officers), were thought to have orchestrated the demonstrations. In August, amid reports that the ruling Marehan clan had lost the crucial support of the Ogadeni clan, the President offered to relinquish power and announced that the next elections would take place in the context of a multi-party system. At the same time there were reports of fighting between government troops and members of the Ogadeni clan in southern Somalia, and Western sources claimed that the only areas of the country that remained under government control were Mogadishu, parts of Hargeysa and Berbera. In September [1989] it was reported that Ogadeni deserters from the army had formed two new opposition groupings: the Somali Patriotic Movement (SPM) in the south and the Somali National Army in central Somalia. Meanwhile, the USC gained support in the south, where its forces were fighting alongside those of the SPM. In the north the emergence of the Somali Democratic Alliance (SDA), led by Mohamed Farah Abdullah, intensified the challenge to Siad Barre’s authority. The President responded to these pressures by dismissing the Government in January 1990 and offering posts (which were refused) in a successor administration to prominent opposition leaders. A new Government, headed by Samater, took office in February.”

[1a] (Recent History)

4.02 Europa noted:

“On 1 January 1991 the USC announced that it had captured most areas of Mogadishu and that it had besieged the home of Siad Barre. It rejected offers by Egypt and Italy to mediate in the conflict. On 27 January [1991] Siad Barre was reported to have fled the capital with those forces remaining loyal to him, and the USC took power. It immediately invited all former opposition groups to participate in a national conference to discuss the democratization of Somalia. On 29 January [1991] the USC appointed Ali Mahdi Mohamed (a government minister in the 1960s) as President, in a temporary capacity, and he, in turn, invited Umar Arteh Ghalib (a former foreign affairs minister) to form a government that would prepare the country for democracy. The provisional Government was approved by the President on 2 February [1991]. However, both the SNM and the SPM opposed the appointment of Ali Mahdi as interim President.”

[1a] (Recent History)

4.03 Europa recorded:

“In June 1991 a major rift developed within the USC, and supporters of President Ali Mahdi clashed with those of the USC’s military commander, Gen. Mohamed Farah Aidid, in Mogadishu. Aidid objected to Ali Mahdi’s assumption of the presidency, since he had commanded the military campaign to overthrow

Siad Barre. In July [1991] Aidid was elected Chairman of the USC. The internal conflict appeared to have abated following Ali Mahdi's inauguration as President in August [1991]: Aidid pledged to support the new President, and the two signed a co-operation agreement. However, in October [1991] Aidid rejected the legitimacy of the Government appointed earlier that month, and in November [1991] his faction launched a major offensive on the President's positions in the capital (which largely represented the extent of Ali Mahdi's control of the country), capturing most of the city and forcing Ali Mahdi to flee. Aidid claimed to have overthrown the President, but by late November [1991] Ali Mahdi appeared to have regained control of much of the north of Mogadishu. The fighting subsequently intensified, and in December [1991] Ali Mahdi appealed to the UN to send a peace-keeping force to intervene in the conflict. The UN responded by sending a special envoy to Mogadishu in January 1992. However, the envoy's attempts to negotiate a cease-fire were thwarted by Aidid's refusal to agree to UN involvement in Somalia's internal affairs, and the mission was followed by an escalation in violence. In mid-January [1992] Aidid appointed his own, 21-member administration. By the end of March [1992] it was estimated that 14,000 people (mostly civilians) had been killed and 27,000 wounded in the hostilities in Mogadishu." [1a] (Recent History)

4.04 Europa noted:

"In April 1992 the SNF [Somali National Front] advanced on Mogadishu, with Siad Barre apparently intent on recapturing the capital. Forces of the SNF came to within 40 km of the capital, but Gen. Aidid's militias decisively repelled them, pursuing them to the south of the country. At the end of April [1992] the USC captured the town of Garba Harre, in the south-west, which had served as Siad Barre's base since his overthrow. Siad Barre fled, with some 200 supporters, to Kenya. (Siad Barre was refused political asylum in Kenya, and in May [1992] he moved to Nigeria, where he died in exile in January 1995.) In May [1992] Aidid's forces and those of the SPM, the SDM and the Southern Somali National Movement (SSNM), with which he had formed a military alliance known as the Somali Liberation Army (SLA), captured Kismayu, which had been held by the SNF, a rival faction of the SPM and the SSDF [Somali Salvation Democratic Front]. By June [1992] the SLA was in control of the majority of central and southern Somalia, making Aidid the most powerful of the country's warlords." [1a] (Recent History)

4.05 Europa stated:

"Also in August 1992 the coalition of Gen. Aidid's faction of the USC with the SPM, the SDM and the SSNM was consolidated with the formation of the Somali National Alliance (SNA), of which Aidid was the leader. Meanwhile, Ali Mahdi strengthened ties with other armed groups hostile to Aidid, notably the SSDF and a faction of the SPM, and forged links with the SNA's main opponent in the south, Gen. Mohamed Siad Hersi 'Morgan' (who had led the SNF since the departure of his father-in-law, Siad Barre)." [1a] (Recent History)

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UN INTERVENTION 1992-1995

4.06 As reflected in Europa:

“In January 1992 the UN imposed an embargo on the sale of armaments to Somalia. In the following month the UN, the Organization of African Unity, now the African Union – AU, the League of Arab States (the Arab League) and the Organization of the Islamic Conference (OIC) issued a joint appeal for a cease-fire, stating that it was a prerequisite for the granting of humanitarian aid to Somalia. Representatives from the rival factions in Mogadishu subsequently joined the conference and agreed to the terms of a cease-fire accord devised by the international organizations. In March [1992], in discussions with a joint mission of the UN, the OAU, the OIC and the Arab League in Mogadishu, Aidid agreed to some form of monitoring of the cease-fire by a foreign observer mission. The terms of the cease-fire accord (signed by both Aidid and Ali Mahdi) provided for a visit, in late March [1992], by a UN technical team, to survey the situation in Mogadishu, in advance of the dispatch of an unarmed observer mission. In April [1992] the UN Security Council approved the establishment of a ‘UN Operation in Somalia’ (UNOSOM), to comprise a 50-strong observer mission to monitor the cease-fire, while it also agreed, in principle, to the dispatch of a peace-keeping force to protect UN personnel and supplies at Mogadishu’s port, and to escort food supplies to distribution points. However, the Security Council needed to obtain consent for the peace-keeping force from both parties involved in the conflict, and Aidid was opposed to the deployment of foreign military personnel in Somalia.” [1a] (Recent History)

4.07 Europa recorded:

“In January 1993 14 of Somalia’s political organizations attended peace negotiations in Addis Ababa, Ethiopia, held under the auspices of the UN. The talks resulted in agreements on an immediate cease-fire, disarmament under UN supervision and the holding of a conference of national reconciliation in March [1993]. Despite the cease-fire agreement, hostilities were resumed in various parts of the country almost immediately. In February 1993 UNITAF [Unified Task Force] repulsed attacks on Kismayu, launched by Gen. ‘Morgan’, but later in the month the SNF made gains in the city, prompting violent anti-UNITAF demonstrations by SNA supporters in Mogadishu, who accused UNITAF of assisting Gen. ‘Morgan’. Fighting between UNITAF troops and armed Somali youths continued in the capital for several days: at least seven Somalis were shot dead by the international force. In the battle for Kismayu more than 100 people were killed in late February [1993]. Gen. ‘Morgan’ finally yielded to demands by UNITAF to withdraw from the city at the end of the month, and in early March [1993] both the SNF and SNA surrendered heavy weapons to UNITAF. In mid-March [1993] the national reconciliation conference opened in Addis Ababa, but proceedings were adjourned almost immediately, when Aidid withdrew in protest at a renewed SNF attack on Kismayu. Discussions subsequently resumed, and in late March the leaders agreed to an accord providing for the establishment of a Transitional National Council as the supreme authority in Somalia, with a mandate to hold elections within two years. The Council was to comprise 74 members: one from each of the 15 organizations represented at the conference, three from each of the 18 proposed administrative regions (inclusive of ‘Somaliland’) and five from Mogadishu. Agreement on the future government of Somalia was reached hours after the UN Security Council approved the establishment of UNOSOM II, which was to take over responsibility for maintaining security from UNITAF by 1 May 1993. UNOSOM II was to be the UN’s largest ever peace-keeping operation, comprising 28,000 military personnel and 2,800 civilian staff, and its first where peace-enforcement without consent from parties within the country

was authorized. UNOSOM II was, in addition, to be responsible for overseeing the rehabilitation of the country and the repatriation of Somali refugees. By April [1993] Gen. 'Morgan' appeared to be in control of Kismayu, with the SNA accusing UNITAF of supporting the SNF by failing to oppose its advances (a claim that was not wholly refuted by the Belgian forces responsible for the city)." [1a] (Recent History)

4.08 Europa stated:

"In May [1993] the USA transferred responsibility for international efforts in Somalia to UNOSOM II whose forces embarked on a series of armed initiatives, including air strikes, against suspected strategic positions of the SNA. Despite the increased scale of UNOSOM operations, Aidid avoided injury or capture during June [1993], prompting the Security Council to issue a formal warrant for his arrest. The violent deaths of three Italian UNOSOM soldiers in July [1993] provoked Italian media claims that the military emphasis of the mission, promoted by the USA in pursuit of Aidid, was threatening the security of UN personnel and jeopardizing diplomatic initiatives undertaken by the Italian Government. The situation was exacerbated by a US helicopter attack on a suspected pro-Aidid command centre, which resulted in the deaths of 50-100 Somalis, and the murder, in retaliation, of four foreign journalists by enraged Somali crowds." [1a] (Recent History)

4.09 Europa recorded:

"Uncompromising media coverage of the aftermath of the deaths of three US soldiers in September 1993, and a violent exchange in the capital in October (which resulted in the deaths of some 300 Somalis, 18 US servicemen and the capture, by local militiamen, of a US helicopter pilot and a Nigerian soldier), prompted widespread public outrage in the USA and encouraged US congressional demands for a reassessment of the US role in Somalia. The US President, Bill Clinton, subsequently announced that all US troops were to be withdrawn by the end of March 1994, regardless of the outcome of attempts to negotiate a political settlement to the conflict by that date. (In the mean time the US military presence was to be increased significantly.) Clinton's decision, announced in October [1993], to withdraw the US Ranger elite forces (which had actively sought to apprehend Aidid) prompted speculation that the release of the US pilot and the Nigerian soldier, secured in mid-October [1993] following lengthy discussions between representatives of the US Government and Aidid, had been achieved as part of an undisclosed bilateral agreement. Despite Aidid's declaration of a unilateral cease-fire prior to the talks, and subsequent indications of his willingness to enter into negotiations with the USA (in preference to the UN), fighting between pro-Aidid and pro-Mahdi factions escalated." [1a] (Recent History)

4.10 Europa noted: "In December [1993] Aidid and Ali Mahdi (who in November [1993] reportedly assumed the leadership of the Somali Salvation Alliance – SSA, a coalition of 12 factions opposed to Aidid) attended negotiations in Addis Ababa, but discussions disintegrated with little progress." [1a] (Recent History)
Europa added:

"In February 1994, in the context of the imminent withdrawal of UNOSOM contingents from the USA and several other Western nations, the UN Security Council revised UNOSOM's mandate, reducing the troop strength of the

mission to a maximum of 22,000. In March [1994], following protracted negotiations, initiated by the UN, an agreement on the restoration of peace was signed by Aidid and Ali Mahdi (on behalf of the SSA) in Nairobi, Kenya, committing both sides to a cease-fire, disarmament and the organization of a conference of national reconciliation in May [1994] to elect a president, vice-presidents and a prime minister. (A similar agreement, concluded in Nairobi days later between community leaders from the lower Juba region, sought to restore order to the port of Kismayu, where fighting between factions had intensified in February [1994].) Electoral procedures and a future legislative structure were to be decided at a meeting of all signatories to the 1993 Addis Ababa agreement and the SNM, to be convened in April [1994]. By mid-1994, however, no such meeting had taken place, with accusations of failure to adhere to the terms of the Nairobi agreement proceeding from both Aidid and the SSA." [1a] (Recent History)

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RESURGENCE OF MILITIA RIVALRY 1995-2000

4.11 As reflected in Europa:

"In early February 1995 UN troops left their compound in Mogadishu, which had served as UNOSOM's headquarters, and withdrew to positions in the port and airport. Although Aidid and Ali Mahdi reached agreement on joint management of the port and airport, as well as a cessation of hostilities, including the removal of weapons from the streets of the capital during the UN withdrawal, in late February [1995] fighting was reported around both the port and airport areas. At the end of February [1995] 1,800 US and 400 Italian marines landed on Mogadishu's beaches, and command of the remaining 2,400 UN troops and of the whole operation was passed from the UN to the US commander. The marines secured the port and airport, and evacuated the remaining UN soldiers. The departure of the last UN personnel on 2 March [1995] (almost one month ahead of schedule) was closely followed by that of the US and Italian marines themselves. Somali looters overran the airport, but armoured cars from Aidid's faction, reportedly accompanied by UN-trained police-officers, took control of the area. Ali Mahdi's Abgal clansmen gained control of the eastern section of the airport, and skirmishes were reported between the two sides. Aidid and Ali Mahdi subsequently agreed on the reopening of the port and set out detailed terms for the 'technical peace committee' that was to administer the port and airport; however, the terms of the agreement were promptly violated by both sides, and fighting for control of the crucial sites resumed." [1a] (Recent History)

4.12 According to Europa:

"Fighting between Gen. Aidid's supporters and those loyal to Ali 'Ato' intensified in early 1996. In July [1996] pro-Aidid factions clashed with supporters of Ali Mahdi in Mogadishu, resulting in some 90 fatalities. Aidid was wounded during the skirmishes, and on 1 August [1996] he died as a result of his injuries. Despite initial hopes that Aidid's death might result in a cessation of hostilities and the resumption of peace negotiations, on 4 August [1996] one of his sons, Hussein Mohamed Aidid (a former US marine and hitherto Aidid's chief of security), was appointed interim President by the SNA leadership council. Hussein Aidid (who was subsequently elected Chairman of the SNA) vowed to

continue his father's struggle, and factional fighting quickly resumed.”
[1a] (Recent History)

4.13 As noted in Europa:

“International mediation efforts continued, and in March 1997 representatives of Somali factions participated in talks in Cairo, Egypt, under the auspices of the Egyptian Government and the Arab League. In May Ali ‘Ato’ and Hussein Aidid were reported to have reaffirmed their commitment to the Nairobi agreement, during a meeting held in San’a, Yemen. Later in the month Aidid and Ali Mahdi signed a reconciliation agreement in Cairo. In December [1997], moreover, at the culmination of negotiations that began in November, 26 Somali faction leaders (including Aidid and Ali Mahdi) signed an accord in Cairo, establishing an end to all hostilities and providing for the eventual formation of a transitional government, charged with holding a general election within three years. A condition of the accord was that a national reconciliation conference be held in Baidoa in February 1998 in order to elect a 13-member presidential council (three representatives from each of Somalia’s four principal clans and one from a minority group), a prime minister and a 189-seat legislature. The conference was later postponed on two occasions, not least because troops loyal to Aidid remained stationed in Baidoa.” [1a] (Recent History)

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PEACE INITIATIVES 2000-2005

ARTA PEACE CONFERENCE AND THE FORMATION OF THE TNG, 2000

4.14 As reflected in Europa:

“The Somali national reconciliation conference opened in Arta, Djibouti, on 2 May 2000, with some 400 delegates, representing various Somali clans and political and armed groups, in attendance. By mid-June [2000] the number of delegates attending the discussions had risen to around 900, although notably only one of the principal Somali faction leaders, Ali Mahdi Mohamed, was present. Later that month it was reported that the ‘Puntland’ administration had announced its rejection of the peace conference initiatives and stated that it would not recognize the outcome of the conference. In early July [2000] the conference produced a draft national charter, which envisaged the Somali Republic adopting a federal system of government, after a three-year interim period, comprising 18 regional administrations. Furthermore, it provided for the creation of the Somali Transitional National Assembly (TNA), which would consist of 225 members, of whom 25 would be women. In mid-July [2000] the Charter was approved by 638 votes to four and the process of electing members to the TNA began. The Charter, which was to serve as the Somali constitution for the three-year interim period, guaranteed freedom of expression and association for all Somali citizens, as well as free access to health and education services. The Charter also distinctly separated the executive, legislative and judiciary and guaranteed the independence of the latter. By late July [2000] the commission appointed by the peace conference participants to apportion the parliamentary seats among the various Somali clans had submitted its report. Each of the four major Somali clans (Dir, Hawiye, Darod and Oigil and Mirifle) was allocated 44 seats, and an alliance of small clans was to receive 24 seats; the remaining 25 seats were reserved for women from the

four major clans and the alliance of small clans, each of which would receive five seats. However, disagreements between clans and sub-clans over the distribution of seats ensued, and in early August [2000] President Gelleh intervened, suggesting the appointment of a further 20 members to the assembly, thus increasing the total number to 245. Gelleh's proposal was accepted, and on 13 August [2000] the TNA held its inaugural session in Arta, which was attended by 166 members. On 26 August [2000] it was announced that Abdulkasim Salad Hasan, a member of the Hawiye clan, who had held several ministerial positions in the Siad Barre administration, had been elected President of Somalia by the members of the TNA. Hasan obtained 145 of the 245 votes, defeating his nearest rival, Abdallah Ahmed Addow, who gained 92. Hasan was sworn in as President on the following day at a ceremony in Arta, attended by numerous regional leaders, including the Ethiopian Prime Minister, Meles Zenawi, and the Sudanese President, Omar Hassan Ahmad al-Bashir." [1a] (Recent History)

According to the JFFMR December 2000, Somaliland and Puntland authorities and armed faction leaders such as Hussein Aideed and Musa Sude stayed away from the conference. [7a] (p11)

4.15 Europa stated:

"On 30 August 2000 President Hasan returned to Mogadishu, where he was greeted by tens of thousands of Somalis. At the same time several Mogadishu faction leaders opposed to the outcome of the Djibouti conference, including Hussein Aidid, Ali 'Ato' and Hussein Haji Bod, met in San'a for talks with Yemeni President Ali Abdullah Saleh, who attempted to persuade them to lend their support to Hasan's administration. However, on his return to Somalia, Aidid implored the international community not to recognise the legitimacy of Hasan's appointment. Furthermore, the authorities of both 'Somaliland' and 'Puntland' subsequently issued directives ordering the immediate arrest of those elected to the TNA should they enter either territory. On 8 October 2000 President Hasan appointed Ali Khalif Galaydh, a former Minister of Industry in the Siad Barre regime, to the post of Prime Minister; later that month Galaydh announced a 32-member Cabinet. Hussein Aidid immediately expressed his dissatisfaction at the appointment of Galaydh, and Ali 'Ato' and another Mogadishu faction leader, Muse Sudi Yalahow, both publicly stated that the members of the new Government would not be welcome in the areas under their control. Galaydh's appointment was also rejected by the 'Somaliland' and 'Puntland' authorities." [1a] (Recent History)

4.16 Europa noted:

"In early May 2001 Galaydh appointed 25 members to a Peace and Reconciliation Committee (PRC), chaired by former Prime Minister Abd ar-Razak Hussein, which was charged with obtaining recommendations from a cross-section of Somali factions for ways of accelerating the reconciliation process, defining the most suitable means of establishing a federal system in the country and addressing property and land issues. In mid-June Mohamed Abdi Gas, a member of the TNA, was kidnapped in Mogadishu. This followed the abduction earlier in the year of another member of the TNA, Abdirahman Du'ale Ali. The two incidents were believed to be linked to the failure of the deputies to repay debts owed to militia groups. Gas was released in September [2001], but Ali remained in captivity. Meanwhile, in mid-July [2001] violent

clashes were again reported to have taken place in Mogadishu between followers of Aidid and Ali 'Ato' and troops loyal to the TNG, resulting in numerous fatalities. In late July [2001] the new administration suffered a further major set-back after Abd ar-Razak Hussein resigned as Chairman of the PRC, claiming that Galaydh had demonstrated a lack of co-operation with the committee and had failed actively to support its work. Abdiqadir Muhammad Adan Zope was subsequently appointed acting Chairman of the PRC. In mid-October 2001 a group of dissatisfied TNA members proposed a motion of 'no confidence' in the TNG, citing the administration's failure to promote the reconciliation process and its lack of progress regarding the constitution of regional administrations. Later that month 141 of the 174 TNA members participating in the vote approved the motion to dismiss the Galaydh administration, with just 29 deputies indicating their support for the TNG; four members abstained. Galaydh's deputy, Uthman Jama' Ali, became acting Prime Minister. In early November [2001] talks, sponsored by President Moi of Kenya, took place in Nairobi between a delegation of TNA members, headed by President Hasan, and moderate members of the SRRC. Aidid declined to attend. Nevertheless, following the conclusion of discussions, both sides reported that some progress had been made and agreed to meet again to continue the rapprochement process." [1a] (Recent History)

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SOMALIA NATIONAL RECONCILIATION CONFERENCE, 2002-2004

4.17 Europa recorded:

"In late June 2002 the TNG confirmed that it would attend an IGAD-[Intergovernmental Authority on Development] sponsored reconciliation conference scheduled to be held in Kenya in July [2002]. The conference was subsequently postponed until September [2002], and early that month the authorities in 'Somaliland' announced that they would not attend the talks. Following a further postponement, the conference, which was expected to continue for several months, opened in the Kenyan town of Eldoret in mid-October [2002] in the presence of representatives of the Governments of Ethiopia, Kenya, Uganda, Sudan, Djibouti and Eritrea. Some 350 delegates from various Somali factions attended the opening sessions, including a delegation from the TNG led by Prime Minister Farah. The conference was to be conducted in three phases and in late October [2002], following the conclusion of the first phase, the TNG and a number of Somali factions signed a temporary cease-fire and agreed to abide by the final outcome of the conference; to establish an all-inclusive federal system of government; to combat terrorism; and to enhance the safety of aid workers in the country. Further progress was slowed by continuing deadlock over the allocation of seats to the plenary session of the conference. However, by early December [2002] it appeared that the impasse had been overcome, and the TNG and Mogadishu-based faction leaders Aidid, Mohammed Qanyare Afrah, Yalahow and Ali 'Ato' signed a declaration committing themselves to ending violence in the Somali capital. In January 2003, however, Yalahow announced that he would no longer participate in the conference. Yalahow's departure followed the earlier withdrawal of Qanyare Afrah from the proceedings. In February [2003] the conference was moved to Nairobi, and, despite a number of cease-fire violations, in the following month the TNG and the remaining faction leaders

provisionally agreed on the formation of an administration for Mogadishu and further measures to bring peace to the capital.” [1a] (Recent History)

4.18 Europa noted:

“In March 2003 faction leaders Qanyare Afrah and Ali ‘Ato’, along with representatives of the TNG, the RRA and the Juba Valley Alliance (JVA), led by Bare Adan Shire, agreed to establish a new administration for the Banaadir region, which encompasses Mogadishu and its environs. They also expressed their lack of confidence in the IGAD-sponsored peace talks in Kenya and pledged to convene a new national reconciliation conference. In June [2003] violent clashes between followers of Yalahow and troops loyal to his former deputy, Umar Mahmud Muhammad Finish, were reported, during which seven people were killed and many more injured. In early July 2003 delegates at the Nairobi conference reached a provisional agreement on the formation of an interim government. The arrangement provided for a transitional unicameral parliament, whose 351 members would be selected by political leaders, and which would remain in operation for four years. The nomination of members of parliament was to be made by the signatories of the December 2002 cease-fire declaration and politicians who were originally, and officially, invited to the conference. However, President Hasan rejected the agreement, which had been signed by Farah, stating that it would divide the country, and in August 2003 divisions between Hasan and Farah intensified. Later that month, just days before the expiry of the three-year mandate of the TNG, Hasan reportedly dismissed Farah and the Speaker of the TNA. Hasan insisted that the current governing institutions would remain in place, despite the expiry of their mandate, until a new President, government and parliament had been installed. Dr Abdi Guled Mohamed, the Minister of Air and Land Transport, was appointed premier, in an acting capacity.” [1a] (Recent History)

4.19 As recorded in the UN Security Council Report on Somalia (UNSCR) of October 2003, by mid-September 2003 there was an impasse over the contested adoption of a Transitional Charter. The TNG, JVA, RRA and faction leaders Ali Ato and Musa Sude rejected the adoption, and returned to Somalia. [3c] (p3) As noted by the UNSCR February 2004, on 30 September 2003, a group of them announced the formation of the Somali National Salvation Council (SNSC). On 7 October 2003, the SNSC signed a memorandum of understanding with the TNG, in which it acknowledged the continuance in office of the TNG. [3d] (p1) As reflected in the joint Nordic-British Fact-Finding Mission report published in March 2004 (JFFMR March 2004) and HornAfrik article of 25 November 2003, on 2 November 2003 the Vice Chairman of the SNSC vowed to boycott any further talks in Nairobi. The negotiations deteriorated further on 30 November 2003 when, following the resignation of TNG deputy Prime Minister Usman Jama Ali, the TNG’s foreign minister Yusuf Deg stated that his Government would not support the outcome of the conference. [7c] (p9) [37c]

4.20 The US State Department in their Background Note of April 2005 noted:

“In 2000, Djibouti hosted a major reconciliation conference (the 13th such effort), which in August [2000] resulted in creation of the Transitional National Government (TNG), whose 3-year mandate expired in August 2003. In early 2002, Kenya organized a further reconciliation effort under IGAD auspices known as the Somalia National Reconciliation Conference, which concluded in October 2004. In August 2004, the Somali Transitional Federal Assembly (TFA)

was established as part of the IGAD-led process. Abdullahi Yusuf Ahmed was elected Transitional Federal President of Somalia on October 10, 2004 and Ali Mohamed Gedi was approved by the Transitional Federal Assembly as Prime Minister on December 24, 2004 as part of the continued formation of a Transitional Federal Government (TFG).” [2d] (p7)

- 4.21 The Economist Intelligence Unit (EIU), in its Somalia Country Report August 2005, noted:

“The most immediate issue facing the president, Abdullahi Yusuf Ahmed, and his new transitional government is the split in the cabinet over the interim government’s location in Jowhar rather than Mogadishu. If a solution to the impasse is not found soon, a risk of violent confrontation between forces loyal to Mr Yusuf in Jowhar and those loyal to his rivals in Mogadishu, particularly the speaker of Somalia’s new Federal Transitional Parliament (FTP), Sharif Hassan Sheikh Aden, cannot be discounted. Over the forecast period sporadic fighting is expected to continue between the clans in some regions over a variety of issues. No international peacekeepers are expected to be deployed until the impasse over the government’s location is resolved. Economic prospects will remain bleak, although better security in some areas should revive some economic activity. Somaliland’s September [2005] legislative election is expected to be smooth, boosting its bid for international recognition.” [17b] (p2)

- 4.22 EIU in the same report added:

“The new interim government has been established in Jowhar. Some cabinet members have refused to serve outside Mogadishu. In June talks to resolve the split in the cabinet over the interim government’s location failed to produce an agreement. Plans to deploy international peacekeepers have been put on hold.” [17b] (p2)

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‘SOUTH WEST STATE OF SOMALIA’ (BAY AND BAKOOL) 2002-2003

- 4.23 Europa recorded:

“The reconciliation process in Somalia was further endangered in early April 2002, when the RRA announced that it had established a new autonomous region in south-western Somalia, based in Baidoa, to be known as the ‘State of South-western Somalia’. The Chairman of the RRA, Mohamed Hasan Nur, was elected as ‘President’ of the new region for a four-year period.” [1a] (Recent History)

‘PUNTLAND’ REGIONAL ADMINISTRATION 1998-2004

- 4.24 Europa noted:

“In July 1998 Col Abdullahi Yussuf Ahmed, a former leader of the SSDF, announced the formation of ‘Puntland’, a new autonomous administration in north-eastern Somalia. In August [1998] Abdullahi Yussuf, as President of the new administration, appointed a cabinet, which was subsequently approved by the recently inaugurated 69-member parliament (empowered to act as the legislature for a three-year transitional period, prior to the holding of regional

elections). A charter for 'Puntland', released shortly afterwards, precluded 'Puntland' from seceding from Somalia, while it envisaged the adoption of a federal system of national government, with similar regional governments emerging around the country. Hussein Aidid declared his opposition to the administration, accusing the Ethiopian authorities of encouraging 'Puntland' to secede. In late June 2001 Yussuf's mandate was controversially extended for a further three years by the 'Puntland' parliament, at the behest of clan elders. The constitutionality of the decision was challenged by several opposition figures, and the 'Puntland' High Court issued a decree, effective from 1 July, placing all security services and other government institutions under its supervision. The Chief Justice of 'Puntland', Yussuf Haji Nur, subsequently proclaimed himself President of the territory; senior clan elders confirmed Haji Nur as acting President until 31 August [1998]. However, Yussuf rejected this decision, and heavy fighting ensued between followers of Yussuf and Haji Nur." [1a] (Recent History)

4.25 According to Europa:

"In late August [1998] a general congress, attended by representatives of all major 'Puntland' clans, opened in Garowe, the region's capital, to elect a new President and Vice-President, as well as members to a new 'Puntland' assembly, and in mid-November [1998] Jama Ali Jama and Ahmad Mahmud Gunle were sworn in as President and Vice-President, respectively. Just days later violent clashes were reported to have taken place in Garowe between troops loyal to Yussuf and Ali Jama. In April 2002 Yussuf and Ali Jama met for talks in Ethiopia, but no agreement was reached. Fighting continued in 'Puntland' during 2002 and early 2003, with numerous casualties reported on both sides. In May 2003 Yussuf sought to stabilize 'Puntland' by concluding a power-sharing agreement with opposition forces, under the terms of which opposition members were granted a number of ministerial portfolios. In July 2004, following a presidential decree which reduced the Government's term in office from two years to six months, Yussuf formed a new 15-member Government. In October Yussuf was elected President of Somalia ... and Mohamed Abdi Hashi succeeded him as President of 'Puntland' in an acting capacity. In early January 2005 Gen. Mohamud Muse Hersi 'Adde', a former Somali diplomat, secured the support of 35 members of the 'Puntland' parliament, thus defeating Hashi, who won 30 votes, and was elected President of 'Puntland'. Hassan Dahir Afqurac was elected Vice-President. Meanwhile, from September 2004 it was reported that armed forces from 'Puntland' were engaged in heavy fighting with troops from 'Somaliland' on the border of the two regions." [1a] (Recent History)

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THE 'REPUBLIC OF SOMALILAND' 1991-2005

4.26 Europa recorded:

"In May 1991 the SNM announced its official support for the secession of the former territory of British Somaliland, and later that month the SNM Central Committee elected Abd ar-Rahman Ahmed Ali 'Tur' as President of the self-proclaimed 'Republic of Somaliland'. In June [1991] the Committee approved a 17-member government to administer the territory for a period of two years, after which free elections were to be held." [1a] (Recent History)

4.27 Europa noted:

“In May 1993 Egal, who had been Somalia’s Prime Minister in 1967–69, was elected as the new President of ‘Somaliland’. In June [1993] Egal announced the composition of a 14-member council of ministers for ‘Somaliland’. By late September [1993] a two-year transitional programme for reconstruction had been approved by a 47-member bicameral parliament (comprising a council of elders and a council of representatives). The administration’s hopes that the prevailing atmosphere of peace in the north-western region would inspire the international community’s prompt recognition of ‘Somaliland’ were largely frustrated, in October [1993], by the OAU Secretary-General’s rejection of the territory’s independent status. Relations between the Egal administration and UNOSOM officials improved in late 1993, following the assurances of the UN Secretary-General that the mission would not interfere in the region’s affairs but would provide funding for reconstruction and the rehabilitation of the police force. Nevertheless, in August 1994 Egal expelled UN representatives from ‘Somaliland’, accusing them of interfering in internal affairs. This was apparently precipitated by talks between the new UN Special Representative to Somalia, James Victor Gbeho (appointed in July), and Ahmed Ali ‘Tur’, who was courted by both the UN and Gen. Aidid following his disavowal of secession for ‘Somaliland’. In October [1994] the rift between Egal and Ahmed Ali ‘Tur’ culminated in violent confrontations in Hargeysa between military units remaining loyal to Egal and those defecting to support Ahmed Ali ‘Tur’. By mid-December [1994] it was estimated that three-quarters of the population of Hargeysa had fled, many thousands of them seeking refuge in Ethiopia (see below). The rebel militias continued launching attacks on government positions in Hargeysa during 1995. Fighting spread to other parts of ‘Somaliland’, and in April [1995] government forces were in conflict with fighters from the Garhadji clan who had recently formed an alliance with Issa militiamen belonging to the anti-secessionist USF [United Somali Front]. Despite Egal’s weakened position, he persevered with the introduction of a new currency for the territory, the ‘Somaliland shilling’.” [1a] (Recent History)

4.28 According to Europa:

“In August 1995 four sub-committees were established to draft a new constitution for ‘Somaliland’. A provisional document was published in March 1996. Peace talks between the territory’s warring factions were conducted in December 1995, and in May 1996 it was reported that rebel armed forces had surrendered their weapons at an official disarmament ceremony in Hargeysa. In February 1997, shortly after it was announced that the constitution had become effective for a three-year interim period, Egal was re-elected (by an electoral college) President of ‘Somaliland’ for a five-year term. In October [1997] Egal appointed a new Minister of the Interior, and in December [1997], in an apparent attempt to rally support, Egal offered his resignation to parliament, citing lack of co-operation from government ministers. Parliament rejected the resignation offer. In May 1999 Egal reorganized the ‘Somaliland’ government. In September Egal reiterated that ‘Somaliland’ would never reunite with Somalia, and in October [1999] Egal visited the USA in an attempt to persuade the UN to confer observer status on ‘Somaliland’ and to gain US support for the idea of a peace conference.” [1a] (Recent History)

4.29 Europa stated:

“At a referendum held in late May 2001, according to official results, 91.7% of the voters in ‘Somaliland’ approved a new constitution for the territory, which contained a clause confirming the self-declared state’s independence. However, the outcome appeared unlikely to persuade the international community to grant recognition to ‘Somaliland’. In mid-January 2002 Egal’s term of office, which had been due to expire at the end of February, prior to scheduled presidential and parliamentary elections, was extended for one year by the council of elders. In early May, however, Egal died from complications following surgery at a military hospital in South Africa; a seven-day period of national mourning was declared, and the Vice-President, Dahir Riyale Kahin, was inaugurated as President of ‘Somaliland’. Kahin appointed Ahmed Yusuf Yassin as Vice-President later that month, and in July Kahin announced that a presidential election would be held in January 2003. The election was delayed on a number of occasions, but finally proceeded on 14 April [2003]. According to results published by the ‘Somaliland’ Election Commission, Kahin defeated his nearest rival, Ahmad Muhammad Silanyo, by just 80 votes, securing 205,595 (42.1%) of the total 498,639 votes cast around the country. A third candidate, Faysal Ali Warabe, received 77,433 votes (15.5%). An estimated 800,000 of the population of ‘Somaliland’ were eligible to vote. Silanyo immediately contested the result of the election and announced his intention to appeal against the outcome. However, in the following month the ‘Somaliland’ constitutional court confirmed the legitimacy of Kahin’s victory, and he was sworn in as President on 16 May [2003].” [1a] (Recent History)

4.30 Europa reported:

“In October 2003 Kahin announced that all foreigners not in possession of a legal resident’s permit would be expelled from ‘Somaliland’. The decision followed the recent murders of four international aid workers, who the President maintained had been killed by ‘outsiders’ with the aim of discrediting ‘Somaliland’. During 2004-05 ‘Somaliland’ continued its attempts to secure international recognition and reiterated that it would not participate in ongoing peace negotiations taking place in Kenya ... Indeed, following the election of Yussuf to the Somali presidency in mid-October 2004, Kahin again stated the readiness of ‘Somaliland’ to defend its territorial integrity and that it would seek to retain its independent status. Parliamentary elections were scheduled to be held in ‘Somaliland’ in late March 2005, however, the elections were postponed until later in the year.” [1a] (Recent History)

For further information on history, refer to Europa World online, source [1a].

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5. State Structures

THE CONSTITUTION

5.01 As recorded in Europa Regional Surveys of the World 2005, on-line version:

“The Constitution promulgated in 1979 and amended in 1990 was revoked following the overthrow of President Siad Barre in January 1991. In July 2000 delegates at the Somali national reconciliation conference in Arta, Djibouti, overwhelmingly approved a national Charter, which was to serve as Somalia’s constitution for an interim period of three years. The Charter, which is divided into six main parts, guarantees Somali citizens the freedoms of expression, association and human rights, and distinctly separates the executive, the legislature and the judiciary, as well as guaranteeing the independence of the latter.” [1a] (The Constitution)

‘PUNTLAND STATE OF SOMALIA’ CHARTER

5.02 US State Department Report on Human Rights Practices covering 2004 (USSD) recorded that the autonomous ‘Puntland State of Somalia’ also has a Charter. As noted by the USSD, it provides for freedom of expression and prohibits torture except where this is imposed by Shari’a courts. [2a] (Section 1c & 2a)

‘REPUBLIC OF SOMALILAND’ CONSTITUTION

5.03 As reflected in the USSD report and Europa, in 2000 the self-declared “Republic of Somaliland” adopted a new Constitution based on democratic principles but continued to use the pre-1991 Penal Code. The constitution provides for the right to freedom of expression and association, but these are restricted in practice. [2a] (Section 1e & 2a)

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CITIZENSHIP

5.04 The requirements for Somalian citizenship are given in Law No 28 of 22 December 1962 – Somali Citizenship. [23e] As this legislation is not being applied, we can provide no information on the acquisition of citizenship. There are reports that Somali passports can be readily acquired, and the BBC in an article dated 18 November 2004 stated:

“Similarly, the printing of passports has been privatised. For just \$80 and in less than 24 hours, I became a Somali citizen, born in Mogadishu. As I had omitted to travel with any passport-sized photos, my supplier kindly left the laminate for that page intact, for me to stick down at home. For a slightly higher fee, I was offered a diplomatic passport, with my choice of posting or ministerial job.” [14k]

(Please see Section 6a [Citizens’ access to identity documents/passports](#) for more information.)

POLITICAL SYSTEM

GENERAL

5.05 International Crisis Group (ICG), in its report of May 2004, stated that:

“Somalia remains the only country in the world without a government, a classic example of the humanitarian, economic and political repercussions of state collapse, including a governance vacuum that terrorist groups can take advantage of for safe haven and logistical purposes.” [25a] (p1)

5.06 USSD and the Report of the Joint UK - Danish Fact-Finding Mission to Somalia of July 2002 (JFFMR July 2002) noted that in some areas, notably Puntland and Somaliland, local administrations function effectively in lieu of a central Government. In these areas the existence of local administrations, as well as more traditional forms of conflict resolution such as councils of clan Elders, helps to prevent disputes degenerating rapidly into armed conflict. [2a] (Section 1e) [7b] (p6)

5.07 The USSD noted:

“Somalia has been without a central government since its last president, dictator Mohamed Siad Barre, fled the country in 1991. In 2000, the Djibouti Conference, made up of local and regional leaders, established a Transitional National Government (TNG) and selected a 245-member Transitional National Assembly (TNA), which elected Abdiqassim Salad Hassan as Transitional President. Administrations in the northwest (Somaliland) and northeast (Puntland) of the country did not recognize the results of the Djibouti Conference, nor did several Mogadishu-based factional leaders. Since October 2002, the Inter-Governmental Authority for Development (IGAD) has sponsored the Somalia National Reconciliation Conference (SNRC), which was led by Kenya in association with Ethiopia, Djibouti, Eritrea, and Uganda. Representatives of the self-declared Republic of Somaliland did not participate in the SNRC; however, all other major political and military leaders attended the conference, as well as elders, religious leaders, and members of civil society. The SNRC concluded in October [2004], following the August 29 [2004] selection of a 275-member clan-based Transitional Federal Assembly (TFA), which replaced the TNA, and the October 10 election of Abdullahi Yusuf Ahmed as Transitional Federal President. In December, Yusuf Ahmed appointed Ali Mohammed Ghedi as Prime Minister. All transitional institutions, which were based in Kenya, had 5-year terms. During the year, the TFA adopted but did not implement the Transitional Federal Charter, which replaced the 1990 Constitution; however, for the many issues about which the Charter is silent, the Constitution still applies.” [2a] (p1)

5.08 As reflected in the UN Security Council Report on Somalia (UNSCR) of February 2004, on 29 January 2004, following negotiations that had begun in October 2002, the Somali faction leaders signed an agreement on proposed amendments to the Transitional Federal Charter of September 2003. It was agreed in the Transitional Federal Charter of the Somali Republic that the name of the Government would be Transitional Federal Government; its term would last five years; and that the Transitional Federal Parliament would consist of 275 members, 12 per cent of whom would be women. [3d] (p3) As noted in the Report of the Joint UK-Nordic Fact-Finding Mission of March 2004 (JFFMR March 2004), following the recognition of the agreement by UN Secretary-General Kofi Annan, TNG leader Abdiqassim Salad Hassan stated that he was

ready to move aside in anticipation of the appointment of a new President and Prime Minister. [7c] (p10) On 22 August 2004, a British Broadcasting Corporation (BBC) article noted that members of a new nominated Parliament were being sworn in after lengthy talks between rival factions. [14k] By the end August 2004, further BBC and UN Integrated Regional Information Networks (IRIN) articles confirmed that 258 of the 275-member Parliament had been sworn in, with the remaining 17 seats to be allocated at a later date. [10u] [14j] [14l]

5.09 The BBC in an article dated 6 July 2005 reported:

“President Abdullahi Yusuf has told the BBC he is to head south through Somalia from his northern stronghold collecting troops and militia as he goes. He plans to go to the town of Jowhar, which is 90km north of the capital, Mogadishu, and is his preferred temporary base for the new government. The warlords in control of Mogadishu have threatened to attack Jowhar if the president establishes himself there.

Observers say the president’s announcement could trigger fighting. Since President Yusuf left his exiled home in Kenya last month he has been based in Bossaso in his home region of Puntland preparing to venture south to Jowhar.” [14m]

5.10 The Economist Intelligence Unit (EIU), in its Somalia Country Report August 2005, observed:

“The establishment of Somalia’s interim government, under the auspices of the interim president, Abdullahi Yussuf Ahmed, and his prime minister, Ali Mohamed Ghedi, at Jowhar in June [2005] marks a significant step for the new administration. The move to Somalia from the Kenyan capital, Nairobi, which came after several false starts, has sparked a fresh confrontation between Mr Yusuf and the speaker of Somalia’s new Federal Transitional Parliament (FTP), Sharif Hassan Sheikh Aden, who has emerged at the head of a cabinet faction keen on Mogadishu as the seat of government and as a serious rival to Mr Yusuf. Mr Ghedi and Mr Yusuf have said that the base in Jowhar is temporary, and that there is no intention of changing the country’s capital – the interim constitution stipulates that it must be Mogadishu – and have established a liaison office in Mogadishu. However, when Mr Ghedi visited Mogadishu in early May [2005] the speech he was due to deliver was interrupted by an explosion that killed 15 people. It may or may not have been an assassination attempt, but he has not been back since. Mr Yusuf’s arrival in Jowhar from Bossasso in July [2005] – collecting militiamen on his way – is viewed ominously by many in Somalia as an indication that armed confrontation with his rivals in Mogadishu may ensue, from which a return to all-out civil war could result.” [17b] (p5)

5.11 EIU, in the same Report, noted:

“Allegations of Ethiopian incursions into central regions has further undermined the fragile trust between Mr Yusuf, who is seen as an ally of Ethiopia, and his rivals. The possibility of Ethiopian involvement in an international peace-keeping force under the auspices of the Intergovernmental Authority on Development (IGAD) has been averted, at least temporarily, but the decision by the UN Security Council to uphold its arms embargo in Somalia means that peacekeepers are unlikely to arrive in the country before 2006. Meanwhile,

IGAD will have to look for other ways to help ensure the safety of Mr Ghedi's interim administration in Jowhar." [17b] (p5)

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Mogadishu

- 5.12 As noted in the JFFMR July 2002, the Transitional National Government (TNG) leaders were highly dependent on the pro-TNG business cartel in Mogadishu, comprising Habr Gedir and Abgal businessmen. The TNG reportedly paid some warlords to ensure the continued support of their militias. [7b] (p19) On 2 October 2003, HornAfrik News online reported that the TNG opened an office to deal with land disputes in Mogadishu. Muhammad Siyad Barqadle, the deputy mayor of Mogadishu, said that the office would work with the courts in the Benadir region. [37b]
- 5.13 In March 2003, the IRIN and HornAfrik reported that agreement had been reached between the TNG, the Juba Valley Alliance (JVA) and the Rahanweyn Resistance Army (RRA) over the creation of a new administration for the Benadir region. [10c] [37a] The JFFMR March 2004 noted, however, that in early 2004, the threat to security in Mogadishu remained constant and that it was not possible to identify stable areas in the city. It was emphasised that no improvement in the situation took place during 2003. UN sources stated that the Mogadishu area is split between the SRRC and Musa Sude, there is no single authority and the TNG hardly controls any part of the city. In spite of this Mogadishu is an expanding town. [7c] (p20)
- 5.14 The EIU, in its Somalia Country Report August 2005, noted:
- "Members of Somalia's new Federal Transitional Parliament (FTP) approved the interim government's relocation plan during a meeting in the Kenyan capital, Nairobi, on May 11th [2005]. Of 152 MPs present, 141 voted in favour of the proposal to first relocate to Baidoa and Jowhar, before eventually moving to Mogadishu, when the security situation there has improved – violence in Baidoa has left Jowhar as the only viable option. About 50 members of the 275-seat FTP were in Mogadishu during the vote. In an attempt to restore security to the city, an operation to remove some of the capital's numerous roadblocks manned by armed militia began in early June [2005] following an agreement between several Mogadishu-based faction leaders who are also members of Mr Ghedi's cabinet. The deal was brokered by the speaker of the FTP, Sharif Hassan Sheikh Aden, who is widely seen as a rival to the interim president, Abdullahi Yusuf Ahmed. A number of roadblocks were dismantled on June 7th [2005] but most of them were re-erected within days. The violence that has long characterised Mogadishu has continued sporadically in recent months. A Mogadishu-based radio journalist was shot dead on June 5th [2005] while investigating a story about a roadblock on the strategic road linking Mogadishu and Afgoye, 30 km west of the capital. A prominent local peace activist was killed by unknown gunmen at his Mogadishu home on July 10th [2005] [N.B. Reuters AlertNet report this as occurring on the Monday i.e. 11 July 2005], and a few hours later an Islamic militia leader, Hersi Abdi Cilmi, was also murdered, although no connection between the two killings was immediately apparent. These incidents followed an explosion that killed 15 people and injured many more during a visit by Mr Ghedi in early May [2005]. The blast occurred in a football stadium as Mr Ghedi began to make a speech." [17b] (p7)

- 5.15 IRIN in an article dated 9 February 2005, reported the Government's intention to relocate to Mogadishu in late February 2005:

"Somalia's transitional federal government plans to start relocating from Nairobi, Kenya, to Mogadishu on 21 February [2005], Prime Minister Ali Muhammad Gedi said on Wednesday [9 February 2005]. 'We will begin relocating on that date depending on support from the donor community,' Gedi said in Nairobi at the signing of a declaration of principles for cooperation with the international community. 'A budget for relocation has been drawn up and handed over to donors.' The declaration of principles, signed by Gedi and the special representative of the UN Secretary-General for Somalia, Winston Tubman, lays out the obligations of the transitional government and the international community in their dealings with each other." [10v]

- 5.16 On 12 July 2005 Reuters AlertNet reported the death of a leading Somalia's peace activist. The report stated:

"Monday's [i.e. 11 July 2005, EIU report this as occurring on 10 July 2005] killing of Abdulkadir Yahya Ali was unlikely to be the last of a politically prominent activist, experts said, because divisions inside the government have made it incapable of stabilising the lawless country or building reconciliation. "The killing is a horrific omen," Somali political scientist Abdi Ismail Samatar said of the unsolved shooting by masked gunmen at Yahya's Mogadishu home. "What his killing signifies is how intent people are on (using) the barrel of a gun." Residents said the unexplained killing hours afterwards of an Islamic militia chief, Hersi Abdi Cilmi, further fuelled fears of a deterioration in Mogadishu's security." [19b] (p1&2)

The report added:

"Yahya, in his late 40s, the co-founder of the Centre for Research and Dialogue think tank, was the latest in a line of peace activists, humanitarian workers, teachers and former policemen who have been assassinated in the past three years. He was shot five times at home in front of his wife. Theories of who is responsible range from al Qaeda-linked extremists to Ethiopian-backed gunmen intent on wrecking the peace process by removing one of its most talented proponents. Peace activists and their foreign associates said Yahya's contacts and energetic mediation would be missed at a time when many fear the political crisis could degenerate into war." [19b] (p1&2)

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OTHER AREAS IN CENTRAL AND SOUTHERN SOMALIA

- 5.17 As noted in the JFFMR March 2004, the political situation in many areas of central and southern Somalia remained unresolved. Large parts of central and southern Somalia were much less homogeneous in clan terms than Puntland and Somaliland, which is reflected in the large number of clan-based militia, some of which controlled only small areas. There were several regional clan-based administrations, some of which co-operate with neighbouring authorities that permitted free movement of people and trade across regional boundaries. Many authorities were comprised of councils of Elders, often heavily influenced by a dominant local militia. Rival Hawiye factions controlled much of central and

southern Somalia. Given the fluidity of the situation in most of the regions, control of many of these areas was liable to sudden change. [7c] (p11-12)

Lower and Middle Juba (including Kismayo)

- 5.18 According to the JFFMR July 2002, a new administration for Kismayo was established in June 2001 by the JVA, consisting of an 11-member council drawn from the region's clan groups. The new administration allied itself with the TNG established in Mogadishu in late 2000. [7b] (p20) The JFFMR July 2002 and an IRIN article of 2 September 2003 noted that the JVA is funded by taxes on trade on goods such as charcoal through Kismayo's sea and air ports, though the Somali Ruunkinet website reported allegations in August 2003 that the revenue was not used to benefit local people. [7b] (p20) [10n] [36a] The JFFMR March 2004 indicated that there is the strong likelihood of further conflict in Kismayo. The Marehan owned most of the land and properties in the city. The situation there is described as "very dangerous". However, the JVA appeared to have control and had initiated disarmament campaigns. The JVA claimed that they provide security in Kismayo. It was stated that the JVA oversees the management of resources only. There is still no formal administration in the city. [7c] (p25)

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Lower and Middle Shabelle

- 5.19 As reflected in the JFFMR July 2002, the TNG had some control along the coast south of Mogadishu. In February 2002 it was reported that TNG officials had been working with local leaders to help establish a local administration in Merka. [7b] (p19) According to Somalia-based Somaaljecel website on 18 November 2003, the TNG military was dislodged from the Lower Shabelle region by militias of the Ayr and Sa'ad subclans of the Habr Gedir. The military power of the TNG army, which had a strong military presence in Lower Shabelle, diminished in the region as its commanders abandoned the area for Mogadishu. [41a] According to the JFFMR March 2004, though the region had no single authority the new 'strong man' Indha-Adde, of the Habr Gedir (sub-clan Ayr), had taken over control of Merka and the uppermost part of Lower Shabelle. [7c] (p23)
- 5.20 According to the JFFMR July 2002, the Abgal (Hawiye) clan dominated the Middle Shabelle region north of Mogadishu where Mohamed Dherek controlled an administration since the early 1990s. Though there was also a large Bantu population in the region, they were reportedly excluded from participation. The Dherek administration received revenue from taxation of regional trade passing through Jowhar and Mahaday and reportedly enjoyed a moderate level of support from the local population and Abgal Elders, who wished to maintain the strength of the clan in the region. [7b] (p18) According to the JFFMR March 2004, Jowhar seemed to have stabilised during 2003. Mohammed Dherek maintained control of the areas down to Balad and towards Mahaday at the coast. [7c] (p20)

Hiran

- 5.21 As reflected in the JFFMR July 2002, since the collapse of central government in 1991, traditional Elders were the main legitimate authority in Belet Weyne

and the Hiran region. Local Elders stated that there were six or seven 'Ugas' (kings) in the region. The Elders explained the civil administration in place was very nominal. The Ugas, or king, of each clan had the backing of the people. Elders stood between the Ugas and the community and resolved conflicts within and between the main clans in the region: the Hawadle and the Galje'el. [7b] (p16-17)

- 5.22 The Shari'a court established in January 2002 to collect tax on small businesses had, according to the JFFMR March 2004, run out of money. The report also indicated that there was currently no single administration in the town. [7c] (p19-20) On 20/21 June 2004, the Swedish-based website Somaliweyn and Puntland-based Radio Midnimo reported that two rival administrations called Midland and Hiranland had been established in the region. The former, headed by Abdikarim Husayn Farah "Laqanyo", and the latter, headed by Abdi Idow Sabriye, a regional administrator, were quick to denounce the other as a "weak entity". [43b] [28b]

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Galgudud

- 5.23 As reflected in the JFFMR July 2002, the Galgudud region had no formal administrative structure and no regional authority. It was inhabited by a number of clans of which the Habr Gedir Clan dominated numerically; however, the source indicated that most Habr Gedir had left the area long ago. There were reportedly no armed militias, and councils of Elders who controlled the region constituted each individual clan's highest authority. [7b] (p20) As reflected in the JFFMR March 2004, the region is characterised by serious insecurity and there continued to be no single administration in place. [7c] (p19)

Gedo

- 5.24 As reflected in the JFFMR July 2002, the Marehan clans dominated the Gedo region, though Rahanweyn dominated the town of Bardera. The Somalia National Front (SNF), led by Colonel Abdirazzaq Isaq Bihi, had been the main Marehan faction operating in the region, which had also been strongly influenced by the Islamic Al-Itihaad movement. [7b] (p20) The JFFMR March 2004 noted that Gedo remained a very difficult region since no single group or clan was in charge and the region was very poor. Furthermore, it received hardly any support from the outside. It was stated that the region was still split between rival factions. [7c] (p25)

'SOUTH WEST STATE OF SOMALIA' (BAY AND BAKOOL)

- 5.25 As reflected in the JFFMR July 2002, the South West State of Somalia (SWS) was established in late March 2002 at a meeting in Baidoa of the RRA's central committee and over 70 Elders from the Digil and Mirifle clans. RRA chairman, Colonel Hasan Mohammad Nur 'Shatigadud', was elected inaugural President for an initial four-year period. The SWS administration laid claim to the Bay, Bakool, Gedo, Middle Juba, Lower Juba and Lower Shabelle regions. However, in practice the administration only has effective control over Bay and Bakool. Compared to other areas of the country, as of May 2002, the administration in Bay and Bakool was reported to be least influenced by Al-Itihaad and free from infiltration by the business community. [7b] (p13)

- 5.26 The UN sources consulted in the JFFMR March 2004 stated that Baidoa was still insecure because of the leadership conflict within the RRA, which broke out in the summer of 2002. It had developed into a clan dispute, which reflected the national peace process, with support for the different sides. There was a ceasefire in Baidoa for the last two to three months of 2003, but there has been no real reconciliation since the Leysan clan has not participated in the negotiations. [7c] (p24)

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PUNTLAND

- 5.27 As recorded in the USSD:

“In 1998, Puntland declared itself a regional government during a consultative conference with delegates from six regions, including traditional community elders, the leadership of political organizations, members of legislative assemblies, regional administrators, and civil society representatives. Representatives of Puntland-based sub-clans chose Abdullahi Yusuf as President. Puntland has a single chamber quasi-legislative branch known as the Council of Elders, which played a largely consultative role. Political parties were banned in Puntland. Regional elections in Puntland were held during 2001; however, President Yusuf refused to step down. In November 2001, elders elected Jama Ali Jama as the new President of Puntland, and he assumed power in Garowe. Yusuf refused to accept the decision and militarily seized Garowe, which forced Jama to flee to Bosasso. In 2002, Yusuf occupied Bosasso and declared himself President of Puntland in 2002. During 2003, General Adde Musse, a former army general, organized Jama Ali Jama’s militiamen, drawn primarily from the Majerten Osman Mohamoud sub-clan, and established a base in Somaliland. General Musse’s forces attacked Puntland twice from their base in Somaliland without success. Puntland traditional elders then intervened and brokered a peace agreement between Musse and Yusuf, which was signed in May 2003. In May 2003, the two joined their forces and began sharing power. Mohammed Abdi Hashi, Yusuf’s vice president, assumed the presidency of Puntland after Yusuf’s election in October [2003] as TFG President.” [2a] (Section 3)

- 5.28 As reflected in the JFFMR July 2002, as of mid-2002 Yusuf was reportedly re-establishing his former administration but excluding the Osman Mahmud clan, which was effectively excluded from state functions. Given that the Puntland administration had previously operated for over three years, it was expected to survive the period of unease caused by the constitutional crisis. All major clans, including the Osman Mahmud clan, were reportedly committed to the continuation of a functioning administration in Puntland, [7b] (p21-22) According to an African Research Bulletin (ARB) in January 2003, in December 2002 Puntland moved its Parliament from Bossaso to Garowe, the headquarters of Yusuf’s administration. [11a] As noted in an IRIN article of 19 May 2003, in May 2003 Yusuf and his opponents signed a peace deal which provided the opposition with a number of key positions within the governing administration, including three ministerial posts, two vice-ministerial and two mayoral. [10e]

- 5.29 The EIU, in its Somalia Country Profile 2005, reported:

“The lack of progress towards a peaceful solution to differences among southern groups prompted north-eastern-based clan factions to declare regional autonomy for Puntland in July 1998, under the presidency of Abdullahi Yussuf Ahmed, following a 70-day conference at Garoe. Colonel Abdullahi stepped down from his post during the conference of reconciliation between Somali factions in Kenya. Representatives of Puntland’s 65 districts elected a new president, General Adde Muse Hirsi, for a three-year term in Garoe in January 2005. Puntland claims to comprise the Bari, Nugaal and Mudug regions and the Sanaag and Sool regions, which Somaliland also claims. Somaliland disputes any territorial claims arising from the new administration, and armed clashes between forces from Puntland and Somaliland occurred in December 2003 and again in October 2004.” [17a] (p12)

SOMALILAND

- 5.30 The Foreign and Commonwealth Office (FCO), in their Country Profile on Somalia dated 9 May 2005, noted:

“In May 1991, the north-western region of Somalia (ie: the former British Protectorate of Somaliland) declared unilaterally its independence as the ‘Republic of Somaliland’. A government was elected for an initial 2-year period at a conference of elders and in May 1993 former Somali Prime Minister Mohamed Ibrahim Egal was elected President. Egal was re-elected for a five-year term by the National Communities Conference in Hargeisa in February 1997. A Parliament composed of members nominated by their clans was established, a new government was formed and a Constitution approved. A referendum on the Constitution took place on 31 May 2001. 97% of those voting supported the new constitution, which confirmed the region’s unilateral secession from the rest of Somalia. Municipal elections were held in January 2003.” [16a] (Somaliland)

- 5.31 The FCO in their Profile also noted:

“After the death of Egal in May 2002, Vice-President Dahir Riyale Kahim was sworn in as President. Presidential elections were held in May 2003 in which Riyale narrowly beat his opponent. Parliamentary elections are due in 2005. Somaliland’s stability has been widely acknowledged but it has not received formal recognition from the international community. It has stood aside from wider reconciliation processes but indicated its readiness to discuss relations with Somalia on a basis of equality once a new government is established in Mogadishu.” [16a] (Somaliland)

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JUDICIARY

- 5.32 As recorded in Europa Regional Surveys of the World 2005, on-line version:

“Following the withdrawal of the UN peace-keeping force, UNOSOM, in early 1995, most regions outside of Mogadishu reverted to clan-based fiefdoms where Islamic (Shari’a) law (comprising an Islamic Supreme Council and local Islamic high courts) prevailed. In October 1996 Ali Mahdi Mohamed endorsed a new Islamic judicial system under which appeals could be lodged on all sentences passed by Islamic courts, and no sentence imposed by the courts

could be implemented prior to an appeal court ruling. In August 1998 the Governor of the Banaadir administration announced the application of Shari'a law in Mogadishu and its environs thenceforth." [1a] (Judicial System)

5.33 As noted in the USSD:

"The unimplemented Transitional Federal Charter provides for an independent judiciary; however, there is no national judicial system. The Charter also provides for a High Commission of Justice, a Supreme Court, a Court of Appeal, and courts of first reference. Some regions established local courts that depended on the predominant local clan and associated factions for their authority. The judiciary in most regions relied on some combination of traditional and customary law, Shari'a, the Penal Code of the pre-1991 Siad Barre Government, or some elements of the three. For example, in Bosasso and Afmadow, criminals were turned over to the families of their victims, who then exacted blood compensation in keeping with local tradition. Under the system of customary justice, clans often held entire opposing clans or sub-clans responsible for alleged violations by individuals." [2a] (Section 1e)

5.34 As reflected in the UN Security Council Reports (UNSCR) on Somalia of October 2003, UN agencies helped authorities in Somalia to improve the administration of justice by developing the rule of law, building their capacity to enforce the law and improving the application of human rights standards. Until recently, such programmes were being implemented in the relatively peaceful area in the northwest of the country, mainly in "Somaliland". The UN was planning to extend such programmes to less stable regions in the north-east, centre and south of Somalia. [3c] (p9)

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SOUTHERN SOMALIA

5.35 According to the Freedom House Report on Somalia covering 2004:

"Somalia's charter provides for an independent judiciary, although a formal judicial system has ceased to exist. In Mogadishu, Sharia (Islamic law) courts have been effective in bringing a semblance of law and order to the city. Efforts at judicial reform are proceeding slowly. The Sharia courts in Mogadishu are gradually coming under the control of the transitional government. Most of the courts are aligned with various subclans." [24a] (p578)

5.36 Following reports from the Shabele website in December 2003 that Islamic courts in Mogadishu intended to form a joint military force [42a], in January 2004 it was reported by the Swedish-based Somaliweyn website that Musa Sude had opened an Islamic court which operates in the areas under his control. [43a]

5.37 According to numerous reports from Mogadishu-based radio website sources, the Shari'a courts that operated in the capital had established some authority by mid-2004. On 3 June 2004, Mogadishu-based Radio Shabeelle reported that in a much-publicised case, Shirkole Islamic court ruled in favour of a doctor who removed a woman's uterus. [27a] In spite of reports by the Somaaljecel website on 28 June 2004 that the court was condemned by local Islamic groups [41b], and further accusations reported by HornAfrik website on 29 June 2004 that Shari'a courts were undermining the efforts of the ongoing peace negotiations

in Nairobi [37i], the Somaliweyn website reported on 24 July 2004 that IGAD guaranteed that religious leaders, including those running Shari'a courts, would participate fully in the final phase of the peace negotiations in Kenya. [43c]

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PUNTLAND

- 5.38 As reflected in the USSD, the 'Puntland' Charter provided for an independent judiciary; however, the judiciary was not independent in practice. The Puntland Charter provided for a Supreme Court, courts of appeal and courts of first reference; however, the Charter had not been enforced by the end of 2004. In practice, clan Elders resolved the majority of cases using traditional methods; however, those with no clan representation in Puntland were subject to the Administration's judicial system. [2a] (Section 1e)

SOMALILAND

- 5.39 The USSD stated that the Constitution provided for an independent judiciary; however, the judiciary was not independent in practice. There was a serious lack of trained judges, which caused problems for the administration of justice. [2a] (Section 1e) As noted in the UNSCR's October 2003 and February 2004, the UN assisted local authorities in "Somaliland" to improve the administration of justice by supporting the establishment of the rule of law, local capacity-building for law enforcement agencies and improving the application of human rights standards. The training session for members of the judiciary, which began in August 2003, was completed on 21 November [2003] and provided training for 50 legal professionals in substantive law and procedure fundamental to the functioning of the judiciary. [3c] (p9) [3d] (p8)

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LEGAL RIGHTS/DETENTION

- 5.40 As reflected in the US State Department Report on Human Rights Practices covering 2004 (USSD), dated 28 February 2005:

"The unimplemented Transitional Federal Charter provides for the right to be represented by an attorney. The right to representation by an attorney and the right to appeal did not exist in those areas that apply traditional and customary judicial practices or Shari'a. These rights more often were generally respected in regions that continued to apply the former government's Penal Code, such as Somaliland and Puntland; however, during the year [2004], Somaliland police tried a 16-year-old girl as an adult, denied her legal representation, and sentenced her to 5 years' imprisonment." [2a] (Section 1e)

- 5.41 Amnesty International, (AI) in their annual report covering events in 2004, stated:

"There was no effective or competent system of administration of justice to uphold the rule of law and provide impartial protection of human rights. The TNG and faction leaders failed to protect citizens. Abuses by faction militias, including child soldiers, were committed with impunity. Some Shari'a (Islamic

law) courts functioned on a local basis, but did not meet international standards of fair trial.” [6a] (p2)

DEATH PENALTY

5.42 The death penalty is retained in Somalia. AI reported that during 2004:

“Official courts, including Islamic courts and informal clan “courts”, continued to impose the death penalty and executions were carried out in several areas. Compensation (diya) was paid in some murder cases as an alternative to execution. In Somaliland in July [2004], two men were sentenced to death (one in absentia) for involvement in an armed attack on Hargeisa airport in March 2003 in support of Jama Mohamed Ghalib, a government opponent who was briefly detained and then deported. The appeal against the death sentence and prison sentences imposed on 11 others had not been heard by the end of 2004.” [6a] (p3)

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INTERNAL SECURITY

5.43 As reflected in the US State Department’s Report on Human Rights Practices covering 2004 (USSD):

“Clan and factional militias, in some cases supplemented by local police forces, continued to function with varying degrees of effectiveness throughout the country. Police and militia members committed numerous, serious human rights abuses throughout the country.” [2a] (p1)

ARMED FORCES

5.44 As reflected in Europa Regional Surveys of the World 2005, on-line version:

“Of total armed forces of 64,500 in June 1990, the army numbered 60,000, the navy 2,000 and the air force 2,500. In addition, there were 29,500 members of paramilitary forces, including 20,000 members of the People’s Militia. Following the overthrow of the Siad Barre regime in January 1991, there were no national armed forces. Somalia was divided into areas controlled by different armed groups, which were based on clan, or sub-clan, membership. In March 1994 the UN announced that 8,000 former Somali police-officers had been rehabilitated throughout the country, receiving vehicles and uniforms from the UN. Following the UN withdrawal from Somalia in early 1995, these police-officers ceased receiving payment and their future and their hitherto neutral stance appeared uncertain. In December 1998 a 3,000-strong police force was established for the Banaadir region (Mogadishu and its environs). An additional 3,000 members (comprising former militiamen and police-officers) were recruited to the force in early 1999; however, the force was disbanded within months. Following his election to the presidency in August 2000, Abdulkasim Salad Hasan announced his intention to recruit former militiamen into a new national force: by December [2000] some 5,000 Somalis had begun training under the supervision of Mogadishu’s Islamic courts. In August 2004 the total armed forces of the self-proclaimed ‘Republic of Somaliland’ were estimated to number 7,000.” [1a] (Defence)

(For more information please see Section 5, Military Service)

- 5.45 IRIN reported on 19 May 2003 that part of the deal that brought peace to neighbouring Puntland made provision for opposition militia members to be integrated into the Puntland security forces and the position of commander of either the army or the police to go to the opposition. [10e]

POLICE

- 5.46 As reflected in the USSD:

“Corruption within the various police forces was endemic. Police forces throughout the country engaged in politics. The former TNG had a 3,500-officer police force and a militia of approximately 5,000 persons. In Somaliland, more than 60 percent of the budget was allocated to maintain a militia and police force composed of former troops. Abuses by police and militia members were rarely investigated, and impunity was a problem.” [2a] (Section 1d) As noted in the Joint UK-Danish Fact-Finding Mission to Somalia (JFFMR) of July 2002, the forces remained in place but were largely confined to their posts and were unlikely to challenge warlord militias. [7b] (p39)

As recorded in the UN Security Council Report on Somalia (UNSCR) of February 2003, training in human rights was provided to 44 police officers in Puntland during 2002. [3a] (p8)

- 5.47 As noted in the UNSCR of February 2004, the United Nations supported and assisted the establishment of a functional police headquarters at Hargeisa, the graduation of 130 cadets from the Mandera Police Academy, the training of the judiciary and the establishment of a legal clinic at Hargeysa University. [3d] (p8) The UNSCR of June 2004 noted that in ‘Somaliland’ a further 160 trainee police officers would graduate at the end of July 2004, while basic training for police officers had started in ‘Puntland’ and Jowhar in the south. [3e] (p9)
- 5.48 Reuters Alertnet reported the murder of BBC journalist Kate Peyton in February 2005 on 10 February 2005. The same report gave an insight into the problems facing the police: “The Somali police boss investigating the murder of BBC journalist Kate Peyton has no force to patrol his perilous beat and no money to pay them even if he had.” The article also noted:
- “Three years ago Awale headed Mogadishu’s beleaguered police, and he then told Reuters he would dearly like technical help and training from foreign police forces to restore law and order. ‘I ask them to come here and assist us,’ Awale said in 2002. ‘We welcome international assistance with our policing.’ His appeal was never heeded, amid suspicions in Washington in the wake of the September 2001 attacks that the administration he worked for harboured radical Muslims. That government collapsed in 2003, unlamented by the Western nations that had repeatedly brushed aside its requests for help. Siad Barre’s old security chief, Ahmad Jilow Adow, told Reuters in Nairobi lack of trained police meant ordinary people were effectively held hostage by people with guns. ‘We can restore order if we have 10,000 trained policemen,’ Jilow, currently living in Nairobi, said. ‘But we cannot do this without the financial support of the international community. They have to invest the funds.’” [19a] (p1-2)

- 5.49 The article added:

“In 2000 Jilow came out of retirement to serve as security chief for the same ill-fated government that employed Awale. He watched in consternation as Western nations spent money patrolling the coasts in an expensive counter-terror operation but failed to train his men or fund disarmament. Now Awale is helping a similarly penniless successor administration by using his informal network of unpaid police to find the men who gunned Peyton down in the capital on Wednesday [9 February 2005].” [19a] (p2)

The report also observed:

“As Awale’s contacts went about their work – some of them greying holdovers from Siad Barre’s era – Somalis expressed sadness at Peyton’s death and doubts about the abilities of the new government formed last year in the relative safety of Kenya.” [19a] (p2)

- 5.50 The United Nations Commission on Human Rights, in its report by its independent expert Ghanim Alnajjar dated 11 March 2005, noted:

“While in Hargeisa, the independent expert received reports that police brutality was increasing, as many officers were using harsher methods. The case of Ahmed Shamadle was raised. On 2 January 2005, police allegedly shot and killed two unarmed persons and wounded two others near the Ministry of Public Works. The Police Unit Leader as well as a policeman have been arrested and are being detained awaiting trial. In another recent case on 30 January 2005, police allegedly shot and killed one person who was clearing roads for the municipality, reportedly at the instigation of a resident. The police officer in question was being held and the incident was being investigated by authorities. These cases were later raised with the Vice-President, the Minister for the Interior and the Minister of Justice. Despite these incidents, it was also reported that since October 2004, the Minister for the Interior was more cooperative on a variety of issues raised with him. The importance of tackling police behaviour through training and sensitization was emphasized.” [4a] (p15)

- 5.51 The United Nations Secretary General, in his situation report on Somalia to the Security Council dated June 2005 (UNSCR), noted the following:

‘The United Nations has undertaken the construction of the Armo police academy in “Puntland”, which will have the capacity to train 300 cadets, including 60 women. In addition, the rule of law programme has rehabilitated and equipped two police stations in “Somaliland” (in Berbera and Dhoqoshey). In “Somaliland”, training has also been conducted for the Internal Control Unit, the Special Protection Unit and the Criminal Investigations Department. The Special Protection Unit continues to provide protection to staff and the premises of humanitarian and development organizations in “Somaliland.”’ [3g] (p11)

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CLAN-BASED MILITIAS

- 5.52 As noted in the Joint UK-Nordic Fact-Finding Mission Report of March 2004 (JFFMR March 2004), there were three types of militia operating in Somalia: those that were supported and run by the business community; those that are controlled by warlords; and freelance militias. The basis for recruitment into all three was

clan affiliation. [7c] (p31) According to the JFFMR July 2002, Musa Sude was the only faction leader who could effectively raise and maintain a militia. Musa Sude achieved this and thus retained the loyalty of his militia by distributing money fairly equitably across his forces. Ali 'Ato' and Hussein Aideed had militias that fought for them but they had to provide for themselves on a day-to-day basis. [7b] (p39)

PRISONS AND PRISON CONDITIONS

5.53 As reflected in the US State Department Report on Human Rights Practices covering 2004 (USSD), prisons within Somalia were run by a combination of the TNG, together with the de facto administrations of Puntland, Somaliland and other regional administrations. Warlords also operated prisons in areas under their control [2a] (Section 1c)

5.54 As reflected in the USSD:

“Prison conditions remained harsh and life threatening. Hareryale, a prison built to hold 60 inmates, reportedly held hundreds of prisoners during the year [2004], including children. Overcrowding, poor sanitary conditions, a lack of access to adequate health care, and an absence of education and vocational training persisted in prisons throughout the country. Tuberculosis was widespread. Abuse by guards reportedly was common in many prisons. The detainees’ clans generally paid the costs of detention. In many areas, prisoners were able to receive food from family members or from relief agencies. Ethnic minorities made up a disproportionately large percentage of the prison population. Men and women generally were held separately; however, juveniles frequently were held with adults in prisons. A major problem continued to be the incarceration of juveniles at the request of families who wanted their children disciplined. Pretrial detainees and political prisoners were held separately from convicted prisoners. The Puntland Administration permitted prison visits by independent monitors. Somaliland authorities permitted prison visits by independent monitors, and such visits occurred during the year [2004]. The DIJHRC [Dr. Ismael Jumale Human Rights Center] visited prisons in Mogadishu during the year [2004].” [2a] (Section 1c)

5.55 The Amnesty International (AI) Annual Report covering 2004 stated: “Conditions in the TNG’s central prison in Mogadishu were harsh. In Somaliland there were arbitrary arrests, allegations of torture, and unfair political trials.” [6a] (p2)

5.56 As reflected in the USSD, pre-trial detainees and political prisoners were held separately from convicted prisoners. Men and women were reportedly housed separately in prisons visited by observers. Convicted juveniles continued to be kept in jail cells with adult criminals. [2a] (Section 1c) In addition, the United Nations Commission on Human Rights (UNCHR) in its report by its independent expert Ghanim Alnajjar dated 11 March 2005, and the USSD both cited the practice of parents having their children incarcerated when they want them disciplined; these children were also reportedly held with adults. [2a] (Section 1c) [4a] (p12 & 17)

5.57 The UNCHR in its report dated 11 March 2005 stated:

“From his discussions with prison inmates, the independent expert noted that prisoners seem, in general, to be treated adequately in Somalia’s prisons. The

main problem identified during this mission, and acknowledged by prison officials, concerns the lack of basic care and amenities (medicines, nutrition, etc.) vocational training, and cramped conditions, which could be accounted for by lack of finances rather than a lack of willingness to improve the conditions of those incarcerated. For example, while in Hargeisa, the mission again visited the main prison, which was built in the 1940s to hold about 150 prisoners, but today houses over 800 inmates. The independent expert noted that, compared to his previous visits in 2002 and 2003, the prison had deteriorated to an appalling condition. In this regard, the independent expert notes that support from the international community and NGOs working on prison conditions and treatment would be welcomed. During his mission, the independent expert raised the issue of the treatment of female prisoners in Somalia. Following the independent expert's request in an earlier mission to establish a special unit in each police station staffed by women, and the success of such experiments thus far, he calls upon all authorities in Somalia to follow such a model." [4a] (p9-10)

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MILITARY SERVICE

5.58 According to a War Resisters' International (WRI) survey in 1998, a national service programme existed until 1991 under the Siad Barre administration; since the collapse of his Government this has ceased to apply. Conscription had been introduced in Somalia in 1963 but was not implemented until 1986. All men aged between 18 and 40 years old, and women aged between 18 and 30 years old, were liable to perform national service for a two-year period. There were reports of forced conscription under Barre's administration, including recruitment of minors. It is not clear whether women were also conscripted. [33a]

CONSCIENTIOUS OBJECTORS AND DESERTERS

5.59 According to WRI in 1998, there were no provisions for conscientious objection during the time conscription was in force. However, it is not clear whether the law was enforced systematically. The source stated that conscientious objectors were considered to be deserters and were forced into the armed forces, or were imprisoned. [33a]

RECRUITMENT BY CLAN MILITIAS

5.60 According to WRI in 1998, there was no tradition of forced recruitment in the various armed Somali clan militias. Militias were apparently able to recruit their members on a voluntary basis. Refusal to join a clan militia would reportedly not have any negative consequences. [33a] It was indicated in the JFFMR March 2004 that joining one's own clan militia was considered obligatory. [7c] (p31-32)

DEMOBILISATION INITIATIVES

5.61 The United Nations Secretary General, in his situation report on Somalia to the Security Council dated June 2005 (UNSCR), noted the following:

"During the reporting period, the United Nations has developed policy and operational plans for disarmament, demobilization and reintegration countrywide, including the provision of technical assistance through the Somalia

Strategic Demilitarization Planning Unit, which worked closely with the Transitional Federal Government, the donor community and the African Union. The Unit also provided technical assistance and planning support for security sector transformation and the establishment of a police force.” [3g] (p11)

5.62 According to the UNSCR of June 2005:

“In preparing for disarmament, demobilization and reintegration, security sector reform has been specifically supported by the United Nations in strong partnership with the “Puntland” and “Somaliland” authorities. The United Nations is in the process of registering and surveying over 15,000 security forces and militia in both locations. The demobilization and reintegration of several thousand forces in “Somaliland” and “Puntland” is under way, while pilot projects and planning will continue to be undertaken in Central/South Somalia pending large-scale demobilization in partnership with the Transitional Federal Government. Apart from economic reintegration, the United Nations also provides strong psychosocial assistance to address widespread drug addiction, trauma and mental illness among the ex-combatants entering the programme.” [3g] (p11-12)

5.63 The UNSCR of June 2005 noted that these efforts had extended into Somaliland and Puntland:

“Small arms and light weapons control strategies, including the development of a legal framework, strengthened police controls and advocacy on “gun safety”, have been undertaken in “Somaliland”, and efforts now focus on assisting “Puntland” and the central/southern regions to curtail the proliferation of weapons in the country.” [3g] (p12)

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MEDICAL SERVICES

OVERVIEW

5.64 As stated in the Report of the Joint UK-Nordic Fact-Finding Mission of March 2004 (JFFMR March 2004), Doctors Without Borders/Médecins Sans Frontières (MSF) officials noted that the overall level of healthcare and possibilities for treatment in central and southern Somalia were very poor. There was a lack of basic medical training amongst the personnel (doctors and particularly nurses) operating at the limited number of hospitals and clinics in the region. It was estimated that up to 90 per cent of the doctors and health staff in hospitals were insufficiently trained. It was stated that for those with sufficient funding to pay for treatment, primary healthcare was available in all regions. MSF indicated that women and children had a better chance of receiving treatment on the grounds that they were less likely to be the target of militias. It was explained that women and children were in a position to move more freely because they could cross clan borders more easily than single men whose clan affiliation may hinder their freedom of movement. It was added that single men, without the financial backing of their clan, would find it very difficult to access medical treatment. It was also noted that, due to the distance, security situation, and poor road networks in most regions, referral cases were difficult to arrange without sufficient financial support from clans. [7c] (p47-49)

5.65 As noted in the UN Development Programme's (UNDP) Human Development Report for Somalia 2004, access to health care is poor. The report stated that less than half of the population had access to adequate health care. The report added that the infant mortality rate was 133 per 1,000 live births. [39b] (Sections 7-9)

5.66 The JFFMR of March 2004 noted an interview with Ayham Bazid, Representative of MSF:

"It was stated that for those with the sufficient funding to pay for treatment, primary healthcare was available in all regions. Bazid indicated that women and children had a better chance of receiving treatment on the grounds that they are less likely to be the target of militias. It was explained that women and children are in a position to move more freely in Somalia, because they can cross clan-borders much easier than single men whose clan affiliation may hinder their freedom of movement. Querol and Bazid added that single men, without the financial backing of their clan, would find it very difficult to access medical treatment. It was also noted that, due to the distance, security situation, and poor road networks in most regions, referral cases are difficult to arrange without sufficient financial support from clans". [7c] (p47)

5.67 MSF in their report of January 2005, entitled "Top 10 Most Underreported Humanitarian Crises of 2004", gave the following overview:

"Fourteen years of violence have dramatically affected Somalia's population of nine million, with approximately two million people displaced or killed since civil war erupted in 1990 and close to five million people estimated to be without access to clean water or health care. The collapse of the health-care system, along with most other state services, have hit women and children particularly hard: one in sixteen women dies during childbirth; one in seven children dies before their first birthday; and one in five children dies before the age of five. Natural disasters like flooding in the lower Juba and Shabelle valleys have only worsened the human catastrophe, causing high rates of chronic malnutrition and preventable disease. Even though a recently selected central government offers a glimmer of hope, violence still shatters people's lives as predatory militias and warlords wield power for financial profit. From January to November [2004] in Galcayo, in one of the more stable parts of Somalia, MSF treated nearly 1,000 people for violence-related traumas, including 262 gunshot victims. The continuing insecurity in many areas and a lack of international attention has resulted in a dearth of meaningful emergency assistance, leaving many desperate segments of society abandoned and all but forgotten." [38a]

HOSPITALS

5.68 According to a British Broadcasting Corporation (BBC) report, International Committee of the Red Cross (ICRC) and the JFFMR March 2004, there were two public hospitals in Mogadishu with facilities to perform certain surgical procedures: the formerly 127- now 75-bed Keysaney hospital, a former prison located 7km north of the city, and the 65-bed Medina hospital that served the south of the city. Most surgery was undertaken on the victims of gunshot wounds. [7c] (p48) [14a] [5a] (p6) An update by UNICEF (The United Nations Children's Fund) in January 2003 referred to other hospitals in Mogadishu, including the Benadir and Al-Hayat, which both have larger capacities, and the Forlinini, which treated patients with chronic diseases such as tuberculosis and

leprosy. [22b] On 21 November 2003, Canadian-based Somali Qaranimo website reported that a new hospital, SomRus hospital, staffed with Russian doctors opened in the Taleex [sic] district of Mogadishu. [44a] In early June 2004, Mogadishu-based Radio Shabelle and the BBC reported that the only free hospital in Mogadishu, the SOS hospital, which the BBC reported had been closed by militiamen two weeks previously [14g], would reopen. [14h] [27b] On 15 July 2004, Mogadishu-based Holy Koran Radio reported the opening of a new maternity hospital in the capital. [40a]

PROVISION OF HOSPITAL CARE BY REGION AS REFLECTED IN JFFMR.

5.69 The JFFMR to Somalia of March 2004 gave the following breakdown by region for medical provision:

“Southern Mudug and Galgadud. It was emphasised that the vastness of the region greatly limited the scope for the provision of medical facilities. Bazid referred to two areas: Galkayo (where there is a functioning hospital supported by the International Committee of the Red Cross (ICRC) and the coastal districts around Hobyo where Coordinating Committee of the Organisation for Voluntary Service (COSV) until recently supported the provision of basic medical care. It was noted that this region is particularly susceptible to cholera epidemics. There are no hospitals in Galgadud where other sources of basic healthcare are even more limited due to the prevalence of major clan conflict. Clan conflict severely hampers the freedom of movement in the conflict area and under such circumstances the availability of treatment is closely related to clan affiliation.

“Hiran. The hospital in Belet Weyne has been closed for a considerable length of time. There are very few private clinics. Save the Children Fund (SCF) and International Medical Corps (IMC) have established small dispensary posts in the region.

“Middle Shabelle. It was indicated that this was the most stable of regions in terms of the provision of medical facilities. Basic treatments are available at the large hospital in Jowhar, where surgeons operate. A number of INGOs administer dispensary posts in the region.

“Benadir (Mogadishu). It was stated that most medical facilities in the capital are expensive, private clinics that provide a variable standard of treatment. It was noted that the Islamic community usually establishes these clinics, with Al Islah being the dominating donor. There are two hospitals in Mogadishu; Medina and Keysane. The majority of the patients in the two hospitals are victims of clan conflicts. Bazid suggested that Keysane hospital operated more effectively than Medina, as it is located outside the centre of the city. It was also noted that maternity facilities in these hospitals are limited.

“Lower Shabelle. It was emphasised that access to this strategically important region is obstructed by clan conflicts. COSV provide basic dispensary posts in Merka, though these provide very basic treatments. Persons in this region mainly rely on medical facilities in Mogadishu. The region is also susceptible to cholera epidemics.

“Bay and Bakool. The hospital in Baidoa has been closed since August 2002 but MSF has a basic operation in Bay and ICRC has issued health kits in the

region. However, the prevalence of high profile security incidents since 2002 has prevented these INGOs from maintaining a permanent presence. In Bakool there are a number of small clinics with surgery provision that are supported by MSF and the region has relatively good provision of basic healthcare. It was underlined of those people who have undergone an operation, 50% do not survive the immediate post-operation period.

“**Gedo.** IMC operates dispensary posts in the region, providing basic medical treatments. Bazid also referred to malnutrition treatments provided by CARE International. It was noted that most persons requiring medical treatment travel to Mandera in Kenya.

“**Middle and Lower Juba (Kismayo).** Bazid confirmed that Kismayo hospital was open and provides basic treatments and MSF operates in Marere (on the border between Middle and Lower Juba) where basic healthcare is available. Other INGOs such as ICRC provide similar treatments and TB programmes in Jamame and Kismayo. ICRC operates two to three health dispensaries in Kismayo. A number of doctors operate in private clinics in Kismayo and some are also able to perform surgery.” [7c] (p48-49)

PRIVATE SECTOR AND NGO PROVISION

- 5.70 According to MSF sources in the JFFMR of March 2004, the Somali private health sector had grown considerably in the absence of an effective public sector. Of the population who get any care at all, about two-thirds of them get it from the private health sector. Such growth had thrown up a range of problems. These have included the dispensing of out-of-date drugs, over-the-counter drug prescriptions and inadequately trained staff, which has led to misdiagnoses. Private health care is characterised by high charges for services, pricing the poor out of healthcare. [7c] (p47)
- 5.71 As reflected in a BBC/ICRC article of February 2003, aid agencies attempted to fill the gap in areas where health services and structures had all but collapsed. Sparsely distributed NGOs struggled to provide healthcare in remote areas, where reaching the patients was a major problem. [14a] The ICRC provided support for 2 referral hospitals in Mogadishu, 18 health posts, 3 pre-hospital care facilities and 5 oral rehydration centres. [5a] (p5) It was emphasised by MSF representatives in the JFFMR March 2004, that medical treatment provided by NGOs was restricted to infectious diseases. Treatments for chronic diseases were not available from NGOs. [7c] (p49) As noted in the UN Security Council Report (UNSCR) of June 2003 the UN established over 100 fixed sites offering daily tuberculosis, oral polio and measles vaccinations for children, as well as tetanus toxoid vaccinations for pregnant mothers. Careful planning and training also allowed vaccination drives to take place in regional capitals. In the first half of 2003, the programme was extended to several district capitals for the first time. The progress of these immunisation campaigns continued to advance in the first half of 2004, as detailed in the UNICEF review of August 2004. [3b] (p10) [22e] (p3-4) The UNSCR June 2004 recorded that Somalia was taken off the list of polio-endemic countries in March 2004 after nearly two years without a reported case. [3e] (p11)

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HIV/AIDS

- 5.72 According to sources in the JFFMR March 2004, there were no formal statistics regarding the number of people infected with HIV/AIDS in Somalia. However, a formal study was in the process of being drafted, and was due to be presented within three to six months. It was estimated that the figure would be around one-three per cent. If the figure reached five per cent or more it would be characterised as an epidemic. It was emphasised that there was no access to treatment for HIV/AIDS inside Somalia. In a new development in the past two years, a person might be suspected of having HIV/AIDS simply by contacting a health clinic. [7c] (p35)
- 5.73 The JFFMR March 2004 referred to a representative of Médecins Sans Frontières (MSF) who highlighted that there was no social recognition of the virus in southern and central regions. It was stated that MSF did not provide treatment for the virus. It was emphasised that there was no availability of anti-retroviral medicine in Somalia. According to United Nations High Commissioner for Refugees (UNHCR), medical facilities in all parts of Somalia were not equipped to render the necessary assistance for HIV/AIDS sufferers. Except for those few who could afford to import the drugs, anti-retroviral treatment was not available in Somalia. Accordingly the UNHCR recommended that the involuntary removal of persons with HIV/AIDS should be strictly avoided. [7c] (p36)
- 5.74 The UNSCR February 2004, and UNICEF report of August 2004, stated that the UN began work on the establishment of an HIV/AIDS sentinel surveillance system, combined with prevalence and validation studies on sexually transmitted infections, with the objective of establishing baseline data on HIV/AIDS. UNICEF also reported the establishment of counselling services by religious leaders in Somaliland. [3d] (p10) [22e] (p6) The UNSCR June 2004 confirmed that the first "HIV/AIDS knowledge, attitudes, belief and practice" survey of the experiences of 15 to 49-year-olds had been completed in 21 districts of the country. [3e] (p11)
- 5.75 The UNSCR of June 2005, noted:
- "The United Nations has facilitated coordination meetings of various local Somali HIV/AIDS organizations with a view to strengthening their capacity and mainstreaming their practices. The United Nations Theme Group on HIV/AIDS is currently supporting a health systems assessment for comprehensive HIV/AIDS service delivery, as well as the drafting of national clinical HIV/AIDS management guidelines. This activity supports the development of common modalities to implement priority HIV/AIDS interventions identified by a joint strategic framework." [3g] (p13)

PEOPLE WITH DISABILITIES

- 5.76 As reflected in the US State Department's Report on Human Rights Practices covering 2004 (USSD), in the absence of a functioning central state, the needs of people with disabilities were not addressed. However, there were several NGOs in Somaliland that provided services for people with disabilities. [2a] (Section 5)

MENTAL HEALTH CARE

5.77 In its 2005 Somalia Country Profile, the World Health Organisation (WHO) reported: "The whole mental health set-up of Somalia is based on the efforts of NGOs - GRT-UNA of Italy and General Assistance and Volunteer Association (GAVO), a local Somali NGO. They help in the provision of services to mental patients and street children and provide training for primary health care personnel." [9a] (p2)

5.78 The report added:

"There are only three centres for psychiatry, the mental hospital in Berbera and the general psychiatric wards in Hargesia and Mogadishu. Until the arrival of the NGO from Italy, the condition of the mental hospital was appalling. Patients were kept in chains, and supply of food was largely dependent on charity. UNDP [United Nations Development Programme] is supporting the psychiatric ward in Hargesia in terms of structural facilities and supplies. There is no private psychiatric inpatient facility though there are a few private clinics in Mogadishu and Hargesia. There is no specialized drug abuse treatment centre and there is no mental health training facility in the country. Only limited data about one area of Somalia, Somaliland is available. Psychiatrists have private clinics." [9a] (p1)

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EDUCATIONAL SYSTEM

5.79 As recorded in Europa Regional Surveys of the World 2005, on-line version:

"All private schools were nationalized in 1972, and education is now provided free of charge. Primary education, lasting for eight years, is officially compulsory for children aged six to 14 years. However, in 2002 enrolment at primary schools was equivalent to only 16.9% of the school-age population (boys 20.8%; girls 12.7%). Secondary education, beginning at the age of 14, lasts for four years, but is not compulsory. In 1985 the enrolment at secondary schools included 3% of children (boys 4%; girls 2%) in the relevant age-group. Current expenditure on education in the Government's 1988 budget was 478.1m. Somali shillings (equivalent to 1.9% of total current spending). Following the overthrow of Siad Barre's Government in January 1991 and the descent of the country into anarchy, Somalia's education system collapsed. In January 1993 a primary school was opened in the building of Somalia's sole university, the Somali National University in Mogadishu (which had been closed in early 1991). The only other schools operating in the country were a number run by Islamist groups and some that had been reopened in 'Somaliland' in mid-1991." [1a] (Education)

5.80 UNICEF (the United Nations Children's Fund) Survey of Primary Schools in Somalia 2002/03, noted that gender gaps continued at all levels. Of the total, females comprise 36 per cent of enrolments, 13 per cent of teachers, and 25 per cent of the members of the Community Education Committees (CECs equivalent to Boards of Governors). In the 10 regions of southern and central Somalia, the survey listed a total of 132,711 pupils enrolled at 597 primary schools in which Somali was the medium. It also recorded a total of 5,060 teachers, representing an average of 1 teacher to 26 pupils. In most regions the provision for primary education covered Grades 1 to 8. In Bakool and Middle Juba there was only provision for Grades 1 to 5. Of all regions in Somalia,

central and southern region schools depended most on temporary structures, with only 48 per cent of schools having permanent buildings and only 55 per cent having access to desks and benches. School fees were largely nil or less than the equivalent of one US dollar per pupil per month. Teacher support was mostly in the form of cash, rather than in kind, and was largely provided by the communities or parents and NGOs. [7c] (p50) [22c] (p4-5)

- 5.81 In a press release dated 31 January 2005, UNICEF announced an agreement with the European Commission (EC), under which it would receive a grant of 4.5 million euros to assist in providing education resources over a two-year period. The release stated:

“Currently only about 19.9% per cent of Somali children are in school. According to the 2003/2004 Survey of Primary Schools in Somalia, 285,574 children were enrolled in primary schools. This was a 5.7% increase from the previous year. Of those enrolled only 35% are girls. As per the latest survey there were 9,088 teachers of whom only 1,210 (13%) were female with one teacher having about 31 students per class in average. There are 1,172 operational schools in Somalia. Since 1997 UNICEF, its partners and local authorities have been collecting data on primary education through annual school surveys, made possible in part by funding support from the EC. Without a central government for most of the last 14 years, the task of running schools has mostly fallen on community education committees established in 94% of the schools in Somalia. UNICEF in collaboration with local authorities has trained and will under the new agreement, continue to support the committees.” [22f]

- 5.82 The UNICEF 2002/03 survey also listed a total of 38 Arab medium primary schools in 5 regions (Benadir, Hiran, Lower Juba, Middle Juba and Lower Shabelle) where 19,736 pupils are taught by a total of 624 teachers, representing an average of 1 teacher to 39 pupils. [22c] (p50) As noted in the US State Department’s International Religious Freedoms Report covering 2003 (USSDRRF), the Islamic organisation, Al-Islah, openly operated in Mogadishu. [2b] (Section III) As noted in the Joint UK-Nordic Fact-Finding Mission Report of March 2004 (JFFMR March 2004), according to a UNICEF representative, primary schools in Somalia that used Arabic as a medium were established and supported by various Arab states including Saudi Arabia, Libya and Yemen and also Arabic NGOs. Although these schools were not Koran schools, there was a greater focus on religious affairs than in ordinary primary schools. [7c] (p50)
- 5.83 The US State Department Report on Human Rights covering 2004 (USSD) and JFFMR March 2004 reported that access to secondary education for children aged 14-18, was very limited. [2a] (Section 5) [7c] (p50) In 2004 the US Department of State referred to there being three secondary schools in Somaliland and several more in Mogadishu, where many are externally funded and administered by organisations affiliated to Al-Islah; no details were given in respect to any other areas of the country. [2a] (Section 5) [2b] (Section III) However, as reflected by the USSD, only ten per cent of those children who actually entered primary school went on to graduate from secondary school. [2a] (Section 5)
- 5.84 The USSD and the USSDRRF indicated that while there is no organised higher education system in most of the country, there were two universities in Somaliland and two in Mogadishu. There was also one located in Puntland, the

University of East Africa in Bossaso. [2a] (Section 2a) [2b] (Section III) As reflected in the USSDRRF, Mogadishu University was reportedly externally funded by and administered through organisations affiliated to Al-Islah. [2b] (Section III) According to the USSD, the literacy rate was approximately 25 per cent throughout the country; however, reliable statistics did not exist. [2a] (Section 5)

- 5.85 The United Nations Secretary General in his situation report on Somalia, 18 February 2005 (UNSCR), noted:

“The achievements for the reporting period include the publication of the annual school survey conducted with the active involvement of Somali stakeholders, finalization of gender-sensitive educational policies for the north-eastern and north-western zones with a strong emphasis on life skills, HIV/AIDS and completion of a situation analysis study of education in Somalia from a gender perspective. Curriculum and textbook development for grades 5 to 8 has been completed. While the new grade 7 and 8 books are scheduled for distribution in the first quarter of 2005 UNESCO and UNICEF distributed textbooks to schools throughout the country at the ratio of one textbook to two pupils. A study on Arabic-medium schools was completed and dialogue started to achieve a common curriculum and conduct common public examinations. Teacher training through mentoring continued in addition to 2,500 teachers being given in-service training with the new grade 5 and grade 6 books in north-eastern and south-central Somalia. School improvement activities through provision of water and sanitation facilities were carried out including the provision of locally procured furniture to all new schools in the north-east and the north-west. A pilot WFP school feeding programme was implemented, covering 23 schools and over 6,000 students, which will be extended to 60,000 students, throughout the country in 2005. The programme will target vulnerable groups.” [3f] (p13 and 14)

- 5.86 In the same report, the Secretary General acknowledged the low overall level of enrolment of students in the country, but also observed:

“The number of secondary students in Somalia increased by 20% in 2004. New European Commission funding of about \$10 million, secured by UNICEF and UNESCO [United Nations Educational Scientific and Cultural Organization] will support primary schools and 33 secondary schools in north-western and north-eastern Somalia for a period of two years.” [3f] (p13-14)

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6. Human Rights

6. A HUMAN RIGHTS ISSUES

GENERAL

- 6.01 The US State Department Report on Human Rights Practices (USSD) covering 2004 stated that the country's human rights situation remained poor and serious human rights abuses continued in 2004. [2a] (p1) The United Nations High Commissioner for Refugees (UNHCR) position paper of January 2004 (UNHCR 2004) stated:

"Throughout the country, human rights violations remain endemic. These include murder, looting and destruction of property, use of child soldiers, kidnapping, discrimination of minorities, torture, unlawful arrest and detention, and denial of due process by local authorities. In 2003 a local human rights organization, the Isma'il Jimale Human Rights Centre, documented 530 civilian deaths in armed conflicts between July 2002 and June 2003. A pastoralist conflict in south Mudug in July 2003 claimed an unusually high number of lives for a dispute over rangeland – 43 dead and 90 injured – most of who were civilians. In July 2003, the targeting of young girls for rape and killing was prominent in clan disputes in Baidoa, and kidnappings in Mogadishu reached such alarming proportions that the public took to the streets to protest. Gender-based violence is prevalent, including rape, female genital mutilation and domestic violence. The cultural attitudes of traditional Elders and law enforcement officials routinely result in restrictions on women's access to justice, denial of their right to due process and their inhumane treatment in detention." [23a] (p2)

"The prolonged absence of a central government complicates efforts to address the human rights violations. While the *de facto* authorities are accountable for the human rights situation in the areas they control, many are either not aware of or choose to ignore international conventions, or do not have the capacity to enforce respect for human rights and justice. As a result, an environment of impunity reigns in many areas, which presents a major challenge for UN agencies and NGOs seeking to strengthen measures to ensure the protection of civilians." [23a] (p2)

- 6.02 According to a key research consultant to the UN (Professor Kenneth Menkhaus), in an analysis of November 2003 (Menkhaus, November 2003), and reflected in the Report of the Joint UK-Nordic Fact-Finding Mission of March 2004 (JFFMR March 2004):

"Violations of human rights and humanitarian law have shifted considerably since the period of 1991-92. At this time egregious human rights violations occurred in a wide range of areas. Murder, massacres, rape, and targeting of civilians were all widespread practices in southern and central Somalia. Ethnic cleansing campaigns, especially in Mogadishu and valuable riverine areas of southern Somalia, created massive displacement and suffering. Forced conscription and quasi-enslavement on farms was visited upon weak social groups such as the Bantu; and scorched earth tactics were employed by

retreating militia to render whole communities destitute and vulnerable to famine.” [7c] (p13) [8a] (p10)

“Since 1991/2, important changes have occurred in Somalia with regard to human rights and humanitarian law. Incidents of massacres, rape, and ethnic cleansing are rare (recent examples in Baidoa are the exception rather than the rule). A gradual reintegration of communities has occurred in many areas, including Mogadishu; and there have been no instances of militias intentionally provoking famine to divert food aid. Food aid itself continues to pour into the country, but is less frequently targeted by looters. But one very negative trend has been an increase in attacks on and assassinations of national and international staff members of international relief agencies. Four international aid workers were killed in Somalia in October 2003 alone, making Somalia one of the most dangerous sites for humanitarian work in the world.” [7c] (p13) [8a] (p10)

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TORTURE, INHUMANE AND DEGRADING TREATMENT

6.03 According to the USSD, as of the end of 2004:

“The unimplemented Transitional Federal Charter prohibits torture, and the Puntland Charter prohibits torture “unless sentenced by Islamic Shari’a courts in accordance with Islamic law”; however, there were some reports of the use of torture by the Puntland and Somaliland administrations and warring militiamen against each other or against civilians. Observers believed that many incidents of torture were not reported. Prison guards beat inmates in prison.” [2a] (Section 1c) Amnesty International report covering 2004 also reflected this. [6a]

ARBITRARY OR UNLAWFUL KILLINGS

6.04 According to the USSD:

“Political violence and banditry have been endemic since the 1991 collapse of the central government and the Siad Barre regime. Since that time, tens of thousands of persons, mostly noncombatants, have died in inter-factional and inter-clan fighting. The vast majority of killings during the year [2004] resulted from clashes between militias or from unlawful militia activities; several occurred during land disputes, and a small number involved common criminal activity. Numerous killings continued as a result of inter-clan and intra-clan fighting between the following groups: The RRA [Rahanweyn Resistance Army] sub-factions in Bay and Bakol regions; the Somali National Front sub-factions in north Gedo; the Awlyahan and Bartire sub-clans in Buale; the Dir and Habargidir sub-clans in Galkacyo; the Dir and Marehan sub-clans in Galgudud; the former TNG and gunmen in Mogadishu; Abgal intra-clan fighting in and around Jowhar; Habar Gidir intra-clan fighting in Mudug; Puntland’s forces and those of Somaliland in the disputed regions of Sool and Sanaag; and General Mohammed Said Hersi Morgan’s Somali Patriotic Movement and those of the Juba Valley Alliance in Kismayu.” [2a] (Section 1a)

6.05 The USSD also noted:

“During the year [2004], hundreds of civilians were killed, mostly by militia members. For example, on February 29 [2004], fighting between Marehan and Dir militiamen in Herale village in Galgudud resulted in 12 deaths and numerous injuries; the fighting reportedly was triggered by the April 2003 killing of a Marehan businessman by Dir clansmen. In May, fighting in Mogadishu between 2 militias from the same clan who were loyal to 2 separate businessmen resulted in more than 100 civilian deaths, hundreds of injuries, and thousands of internally displaced persons (IDPs). On September 22 and October 29 [2004], fighting between Somaliland and Puntland forces in the disputed Sool and Sanag regions resulted in more than 200 deaths. Between December 1 and 6, factional fighting in Gelinsor town in Mudug resulted in approximately 100 deaths, numerous injuries, and thousands of IDPs.” [2a] (Section 1a)

6.06 The USSD reported:

“Attacks against humanitarian and NGO workers resulted in at least two deaths during the year [2004]... There were no further developments in the investigations into the 2003 killings of four humanitarian and NGO workers.” [2a] (Section 1a)

6.07 The USSD also observed:

“During the year [2004], there were several apparently politically motivated killings by unknown assailants. In each case, the victim had made statements in support of the deployment of international peacekeeping forces to the country to facilitate the relocation of the Transitional Federal Government (TFG) from Kenya to Mogadishu, a proposal opposed by various armed groups: Some preferred the protection of individual cabinet members’ militias to the imposition of foreign forces, particularly those drawn from neighboring countries; other groups were believed to be allied with domestic Islamist groups opposed to any central government. On November 5 [2004], in Mogadishu, unknown gunmen shot former General Mohamed Abdi Mohamed, who died from his injuries on November 9 [2004]. On November 9 [2004], two masked men shot and killed Mohammed Hassan Takow as he walked from a mosque to his home; Takow was the personal assistant to warlord Mohammed Dere. During the year [2004], four other former senior military commanders from the Siad Barre regime who publicly supported the deployment of peacekeepers were shot and killed. No suspects had been identified in these cases or in other politically motivated cases from previous years.” [2a] (Section 1a)

6.08 The USSD reflected:

“Inter-clan fighting resulted in numerous deaths during the year [2004]. For example, inter-clan fighting during May and June [2004] in Bulo Hawa resulted in approximately 60 deaths, numerous injuries, and more than 3,000 IDPs. Among the dead was Mohammed Hassan Ali, a prominent local doctor, and seven children killed when a bomb they had found exploded. On August 14 [2004], 17 persons were killed and more than 30 others injured as a result of fighting between the Luway and Dabarre sub-clans of the Digil-Mirifle clan in Tuger Hosle village, Dinsor. There were no developments in the reported killings due to inter-clan fighting in 2003 and 2002.” [2a] (Section 1a)

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DISAPPEARANCES

6.09 As stated in the USSD:

“During the year [2004], there were numerous kidnappings by militia groups and armed assailants who demanded ransom for hostages. The Dr. Ismael Jumale Human Rights Center (DKJHRC) [sic] reported that at least 200 abductions occurred in Mogadishu during the year [2004]. For example, on October 31 [2004], gunmen kidnapped a businessman in Mogadishu and demanded a ransom of \$25,000 (385 million shillings); the businessman was released after negotiations between his family and elders representing the kidnappers.” [2a] (Section 1b)

6.10 According to IRIN articles of 22 May and 23 July 2003, a similar pattern of abductions occurred during the first half of 2003 and, according to some reports, increased. [10g] [10m] According to the USSD: “There were no investigations or action taken against the perpetrators of kidnappings that occurred during the year [2004], in 2003, or in 2002.” [2a] (Section 1c)

ABUSES BY MILITIA GROUPS

6.11 IRIN noted that in July 2003, the Isma'il Jimale Human Rights Centre (IJHRC) chief investigator stated that civilians were often killed during factional fighting due to the indiscriminate shelling of residential areas. He asserted that the combatants did not care what happened to civilians. [10m]

6.12 As reported by the USSD, there were continued reports of killings and reprisal killings of clan opponents, cases of kidnapping, detention, and torture or ill treatment of prisoners. Women and minorities were particularly vulnerable to abuses. [2a]

6.13 Amnesty International report covering 2004 reflected this, and stated:

“Over a third of a million internally displaced people survived in extremely poor conditions in camps, where food supplies were often diverted by clan militias, and rape of minority women was common. In Kismayu, minority families were forced to hand over a substantial proportion of relief supplies to clan members and many had to pay clan members to protect them from local factions.” [6a] (p3)

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REGIONAL SITUATION FOR HUMAN RIGHTS ACTIVISTS

6.14 As noted by the USSD, there were several local and international NGOs engaged in human rights activities that operated without official restriction. The source stated that:

“A number of domestic and international human rights groups generally operated without official restriction, investigating and publishing their findings on human rights cases. Authorities were somewhat cooperative and responsive to their views. Several local human rights groups were active during the year [2004], including the Mogadishu-based DIJHRC [Dr. Ismael Jumale Human Rights Center], Isha Baidoa Human Rights Organization in Bay and Bakol regions, and KISIMA in Kismayu. The DIJHRC investigated the continuing

causes of conflict in the Mogadishu area, conducted effective human rights monitoring, protested the treatment of prisoners before the Islamic Shari'a courts, and organized periodic demonstrations for peace. KISIMA monitored human rights and organized peace marches in Kismayu. The Mogadishu-based Somali Journalists Network monitored human rights violations against journalists in Mogadishu. The Mogadishu-based Center for Research and Dialogue, women's NGOs, and other members of civil society also played an important role in galvanizing support in the country for the reconciliation talks in Kenya. Numerous international organizations operated in the country during the year [2004], including the Red Cross, CARE, Save the Children, and various demining agencies such as the Halo Trust. The TNG and Somaliland authorities permitted visits by U.N. human rights representatives during the year [2004]. Security problems complicated the work of local and international organizations, especially in the south. There were reported incidents of harassment against NGOs, resulting in at least two deaths." [2a] (Section 4)

6.15 Reuters Alertnet in an article of 30 August 2005 noted the following:

"Prosecutors in the self-declared republic of Somaliland on Tuesday [30 August 2005] asked a regional court to sentence to death 10 people suspected of killing aid workers between 2002-2004. The 10 suspects were accused of killing award-winning Italian aid worker Annalena Tonelli in October 2003, a British teaching couple Richard Eyeington and his wife Enid in the same month, and a visiting Kenyan aid worker in March 2004. At the close of hearings, Somaliland's prosecutor-general Hussein Dhere said the penal code provided for the death penalty for the accused who he called terrorists. But defence lawyers urged the court to dismiss the prosecutor's stand, arguing it was against Islamic Sharia law to pass a death sentence on the defendants. "As the defendants have admitted to committing two of the crimes they are accused of, the court should be lenient in its judgment," said Mohamed Jama Abdi, one of the defence lawyers. The court has held over 20 hearings in which it received testimony from 33 witnesses from the prosecution and four from the defence. Judge Abdirahman Hayanhe said he would give his verdict on Sept. 25 [2005]. The suspects are also accused of robbing a Somaliland businessman near the Ethiopian-Somaliland border and the attempted ambush of a World Food Programme vehicle in Hargeisa in 2002." [19c] (p1)

Local human rights organisations

6.16 The UN's Consolidated Appeals Process Report 2004 for Somalia (CAP 2004) noted:

"On a more positive note, the year [2003] also saw a vibrant, active and autonomous array of community and business leaders, NGOs and professional groups addressing a wide range of social, economic and political issues. These successes challenge the stereotype of Somalia as helpless and aid dependent. With only modest international assistance, communities have embarked on the enormous task of rehabilitation in the aftermath of years of warfare and political disruption. Although they must often battle opposition from some faction leaders, civil society groups and leaders in 2003 came together in several notable initiatives, including: an unprecedented Somali Civil Society Symposium, at which they produced a document committing to work jointly toward a common vision for Somalia; the so far successful multi-clan peace march led by the renowned Somali poet, Mohamed Ibrahim Warsame

(Hadrawi), which only a few years ago would not have been allowed to take place but today serves as a testament to a groundswell of civil society empowerment; and a 'Bridging the GAP' workshop in Garowe initiated by local authorities to ease tensions with national NGOs operating there, as a result of which they are now able to work, not entirely free from, but with less pressure than previously. Lastly, women's groups remained a powerful force for change, enjoying strong grassroots support, and in many areas clan Elders have been able to reassert some of the authority they traditional held." [39a] (p7)

- 6.17 In the Report of the Joint Nordic-UK Fact-Finding Mission (JFFMR) of March 2004, NOVIB (Oxfam Netherlands) was aware of six local NGOs which operated in southern and central regions with the capacity for monitoring human rights violations. However, the total cases logged by these organisations were estimated to be less than ten per cent of the total number of violations. [7c] (p13)

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International human rights organisations

- 6.18 As reflected in the JFFMR March 2004, according to the Netherlands Organisation for International Development Cooperation (NOVIB) Annual Report, 2003:

"Monitoring human rights violations in a collapsed state is a major challenge. Most Somalis under the age of 30 have no knowledge of democratic structures, and grew up in the culture of impunity. Investigation and documentation of human rights abuses is difficult, given the harsh terrain and isolation of the country. ... Technically, the protection and promotion of the rights of the citizen of a country is the responsibility of the state, therefore a major constraint to human rights observance and protection is the absence of a legitimate government or state institutions." [7c] (p13-14)

- 6.19 According to UNSCR February 2003, the UN women's agency UNIFEM provided training to NGOs and law enforcement agencies on human rights, conventions and access to justice for human rights in Somaliland, Puntland, Mogadishu and the Hiran region. It also referred to a study on the impact of small arms and light weapons proliferation in Somalia. The UN panel of experts severely criticised neighbouring states for breaking the arms embargo. [3a] (p7-8) In December [2003], the UNSC announced it would set up a unit to investigate violations of an arms embargo on Somalia. [14c] On 17 March 2004, IRIN reported that renewed flows of arms to Middle Shabelle and Bakool regions via Ethiopia were a cause of serious concern to IGAD and the UN Monitoring Group. [10r]

- 6.20 As noted in the UNSCR October 2003:

"The lack of local authority [in Gedo and Lower Shabelle] has significantly reduced the frequency of visits by aid workers to places such as Belet Hawa, Luuq and Bardera. ... On 23 July [2003], in Bardera, a gunman fired on a UN aircraft. The airstrip is closed to United Nations operations until adequate security arrangements are in place. On 14 September [2003], a Kenyan national working for the Adventist Development Relief Agency (ADRA) was murdered in the El-Wak district in the Gedo region. ... Insecurity continues to affect humanitarian operations south of Gaalkacyo. ... Groups of armed men harass travellers and transporters without fear of retribution and make many

areas almost inaccessible to United Nations staff. Armed conflict and criminality in Mogadishu also continue to restrict humanitarian access. Nonetheless, several (NGOs) and UN agencies continue minimal operations, primarily in the health and education sectors. ... Insecurity, banditry and the use of landmines in and around Baidoa have continued to displace civilians.” [3c] (p7)

6.21 Freedom House in its report covering 2004 noted:

“Several indigenous and foreign nongovernmental organizations operate in Somalia with varying degrees of latitude. A number of international aid organizations, women’s groups, and local human rights groups operate in the country.” [24a] (p578)

The same report also noted that members of such groups have been targeted:

“Human rights abuses, including extrajudicial killing, rape, torture, beating, and arbitrary detention by Somalia’s various armed factions, remain a problem. Many violations are linked to banditry. Two aid workers with the German Development Agency were killed in Somaliland in 2004 when their car was ambushed. Police arrested five Somalis in connection with the murders. A member of the UN field security team was abducted by a militia group but was released unharmed nine days later.” [24a] (p578)

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FREEDOM OF SPEECH AND THE MEDIA

6.22 According to the US State Department Report on Human Rights Practices covering 2004 (USSD):

“The unimplemented Transitional Federal Charter and the Somaliland Constitution provide for freedom of speech and the press; however, there were incidents of harassment, arrest, and detention of journalists in all areas of the country, including Puntland and Somaliland. The Puntland Charter provides for freedom of the press “as long as they respect the law”; however, this right was not respected in practice. A law requires all media to register with the Minister of Information and imposes penalties for false reporting; however, the law had not been enforced by year’s end [2004]. Critics alleged that if enforced, the law would provide authorities with censorship powers. The print media consisted largely of short, photocopied dailies, published in the larger cities and often linked to one of the factions. Several of these newspapers nominally were independent and criticized faction leaders.” [2a] (Section 2a)

6.23 According to the Committee to Protect Journalists annual report (CPJ) covering 2004:

“Journalists face violence and lawlessness in Somalia, which has had no effective central government since the fall of dictator Siad Barre in 1991. The self-declared autonomous region of Puntland in the northeast, and the self-declared republic of Somaliland in the northwest, are relatively stable compared with the south, most of which remains in the hands of rival clan-based leaders. Peace and reconciliation talks aimed at reuniting Somalia under a federal government continued in Kenya in 2004, but Somaliland refused to join the negotiations.

Some hope emerged in August [2004], when, after nearly two years of talks, the peace conference established a transition Parliament for the country. Parliament subsequently elected Puntland strongman Abdullahi Yusuf as Somalia's new president; Yusuf, in turn, appointed a leader from another major clan as prime minister and promised to work for reconciliation. Still, the new president and his advisers had yet to come to the capital, Mogadishu, to govern by year's end because of security concerns. Local journalists expressed concern that Yusuf had a record of repressing the media as president of Puntland." [12a] (p1)

MEDIA INSTITUTIONS

- 6.24 As stated in a British Broadcasting Corporation (BBC) Country Profile of 15 July 2005:

"Broadcasting was fragmented and sporadic for much of the 1990s, reflecting the warlords' fortunes. Recent years have seen the emergence of stronger regional media and several, often shortlived FM stations. Broadcasters and journalists operate in a dangerous environment, limiting their ability to report freely and objectively. Many Somalis rely on foreign broadcasts for their news." [14n] (p3)

- 6.25 According to the USSD:

"The majority of citizens obtained news from foreign news broadcasts, primarily the British Broadcasting Corporation, which transmitted a daily Somali-language program. The major faction leaders in Mogadishu, as well as the authorities of Somaliland, operated small radio stations. An FM station begun in 2002 by the TNG continued to operate. A radio station funded by local businesses operated in the south, as did several other smaller FM stations in various towns in central and southern parts of the country." [2a] (Section 2a)

The BBC Country Profile also stated that the authorities in Somaliland operated their own radio station. HornAfrik was well respected as one of Somalia's main independent radio stations and one of two independent TV stations. [14n] (p3)

- 6.26 As noted by a Freedom House report for Somalia covering 2004:

"Somalia's charter provides for press freedom. The country has about 20 privately owned newspapers, a dozen radio and television stations, and several Internet Websites. Most of the independent newspapers or newsletters that circulate in Mogadishu are linked to a specific faction. Although journalists face harassment, most receive the protection of the clan supporting their publication. The transitional government launched its first radio station, Radio Mogadishu, in 2001. Press freedom is very limited in the country's two self-declared autonomous regions. In January 2004, two radio journalists were briefly detained by authorities in Puntland for coverage of the escalating border dispute between Puntland and Somaliland. In April [2004], the editor of an independent weekly newspaper, War-Ogaal, was arrested and jailed for more than a month without charge for publishing an article accusing a Puntland minister of corruption. In September [2004], the editor of the Somaliland independent daily newspaper Jamhuuriya was arrested for the fifteenth time in

ten years. Reporters Sans Frontieres [sic] described the incident as the latest in a long campaign of legal harassment.” [24a] (p577)

- 6.27 According to the BBC Country Profile in July 2005, there were three main newspaper titles in Mogadishu and three in Puntland. [14n] (p3) The USSD and the BBC Country Profile noted that Somaliland had at least three daily newspapers, one Government daily, one independent and a third weekly newspaper produced in the English language. [2a] (Section 2a) [14n] (p3)

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JOURNALISTS

- 6.28 During 2004, the USSD noted that there were incidents of harassment, arrest and detention of journalists throughout Somalia:

“Journalists were harassed during the year [2004]. For example, on January 21 [2004], Puntland authorities in Garowe briefly detained Ali Bashi Mohammed Haji, a reporter from Radio Banadir, and Mohammed Sadak Abdu Guunbe, a reporter from Radio Shabelle, for allegedly sending sensitive political reports to their radio stations in Mogadishu; Puntland authorities later apologized. On April 21 [2004], Puntland authorities arrested Abdishakur Yusuf Ali, editor of the independent weekly War-Ogaal, after he published an article accusing Puntland Finance Minister Abdirahman Mohamud Farole of corruption in connection with food relief; on June 1 [2004], Ali was released. On August 31 [2004], the Republican Police in Somaliland arrested Hassan Said Yusuf, editor-in-chief of the independent Somali-language daily Jamhuuriya and its weekly English-language edition, for publishing false information; Yusef had published an article the previous day that criticized Somaliland’s position on the SNRC [Somalia National Reconciliation Conference] talks in Kenya. On September 5 [2004], Yusuf was released on bail, and on October 4 [2004], he was acquitted of all charges.” [2a] (Section 2a)

- 6.29 According to the Committee to Protect Journalists annual report (CPJ) covering 2004:

“Journalists in southern Somalia face frequent threats, harassment, assaults, and imprisonment at the hands of rival factions, but the Somali Journalists Network (SOJON) says many more attacks go unreported because journalists fear further reprisals.

“Abshir Ali Gabre, news editor of independent station Radio Jawhar, was twice detained on the orders of faction leader Mohamed Dhere over reports criticizing Dhere’s position on the Kenya peace talks. Dhere is chairman of the self-appointed administration in Jawhar, north of Mogadishu. Radio Jawhar, the only station in the region, was censored regularly by Dhere, whose militia paid frequent visits to the outlet’s offices, SOJON reported.” [12a] (p1)

- 6.30 The CPJ report noted:

“In September [2004], Abdiqani Sheik Mohamed, a correspondent for the private Mogadishu-based Radio Banadir, was detained and beaten by militiamen loyal to Dhere on the main road of Jawhar. The attack came after Radio Banadir had broadcast a report by Abdiqani Sheik about a dispute over

the management of a Jawhar mosque, according to SOJON. Dhere's administration then issued a decree that same month banning Abdiqani Sheik from practicing journalism.

"Other factions attacked the press as well. In June [2004], militiamen loyal to Muse Sudi Yalahow detained journalist Abdirahman Ali Subiye of Holy Koran Radio in Mogadishu for taking pictures of them at talks intended to mediate a conflict with a rival militia. Yalahow's militia confiscated and destroyed Subiye's camera, accused the journalist of being a spy for Yalahow's rival, and beat him with their guns." [12a] (p1)

6.31 The CPJ report added:

"Rogue violence is less common in Somaliland and Puntland, but authorities there are often intolerant of the independent press. In April, Puntland authorities imprisoned Abdishakur Yusuf Ali, editor of the independent weekly War-Ogaal (Knowledgeable), for more than a month after the paper published an article accusing the region's finance minister of corruption. Abdishakur was sentenced to six months in prison for "publishing false information," but SOJON and local human rights groups successfully pressured authorities to reduce the sentence to a fine." [12a] (p2)

6.32 In Somaliland the CPJ report reflected:

"Somaliland declared independence in 1991, but it is still seeking international recognition. Journalists say press freedom has improved slightly there, with growing public awareness and slightly greater government tolerance. However, authorities still prohibit private radio stations, and they continue to harass independent journalists. Press, human rights, and opposition groups successfully lobbied for the removal of several repressive clauses in a new press law passed in the region in January [2004].

"Among the deleted provisions was one that would have barred media "interference" in politics, religion, and culture. Journalists face criminal sanctions for defamation, publishing false information, and "offending the honor or prestige of the head of state."

"Somaliland journalists say that sensitive subjects include the border dispute with Puntland, government corruption, and relations with the south. In August [2004], police arrested Hassan Said Yusuf, editor of the independent Somali-language daily Jamhuuriya (The Republican), after he published an article about the Somaliland government's stance on the peace talks. The article suggested that Somaliland's main opposition party, Kulmiye, took a harder line against the peace talks than Somaliland's government, according to local sources. Yusuf was charged with publishing false information and released on bail a week later. By October [2004], a court had acquitted him of all charges, saying the prosecution failed to prove its case." [12a] (p1)

6.33 In 2005 Reporters Without Borders/Reporters Sans Frontières (RSF) has reported cases of abuse throughout Somalia. These have included the death of journalists, their detention and other forms of harassment. [13a] [13b] [13c]

ACADEMIC FREEDOM

6.34 According to the USSD:

“There were restrictions on academic freedom, and academicians practiced self-censorship. Abdi Samatar, a professor and vocal critic of the Somaliland administration, was banned from travel to Hargeisa, Somaliland, because of his academic research. In Puntland, academics were required to obtain a government permit before conducting academic research. There were two universities in Mogadishu, two in Somaliland, and one in Puntland; however, there was no organized higher education system in most of the country.” [2a] (Section 2a)

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FREEDOM OF RELIGION

6.35 According to the US State Department’s Report on Human Rights Practices covering 2004 (USSD):

“There was no legal provision for the protection of religious freedom, and there were some limits on religious freedom. The unimplemented Transitional Federal Charter establishes Islam as the national religion. Some local administrations, including Somaliland and Puntland, have made Islam the official religion in their regions.” [2a] (Section 2c)

6.36 According to the US State Department’s Report on Religious Freedoms dated 15 September 2004 (USSDRRF):

“There is strong societal pressure to respect Islamic traditions, especially in enclaves still influenced but not controlled by radical Islamists in Doble, Ras Chaimboni, and Kulbiyow in the Lower Juba region. Organized Islamic groups whose goal is the establishment of an Islamic state include Al-Islah, a generally nonviolent movement that operates primarily in Mogadishu, and al-Ittihad al-Islami (AIAI), the country’s largest militant Islamic organization. While AIAI has committed terrorist acts in the past and has adherents throughout the region, in recent years AIAI has become factionalized and its membership decentralized. Unlike AIAI, Al-Islah is a generally nonviolent and modernizing Islamic movement that emphasizes the reformation and revival of Islam to meet the challenges of the modern world.” [2b] (Section III)

6.37 According to the USSDRRF:

“The number of externally funded Koranic schools continued to increase throughout the country. These schools are inexpensive and provide basic education; however, there were reports that these schools required young girls to wear veils and participate in other conservative Islamic practices not normally found in the local culture. Mogadishu University, the University of East Africa in Bosasso, Puntland, and many secondary schools in Mogadishu are externally funded and administered through organizations affiliated with the conservative Islamic organization Al-Islah. The number of madrassas, which are private schools providing both religious and secular education, continued to increase during the period covered by this report.” [2b] (Section III)

6.38 The USSDRRF also stated:

“The judiciary in most regions relies on some combination of traditional and customary law (Xeer), Shari’a law, the penal code of the pre-1991 Siad Barre government, or some combination of the three. Shari’a courts throughout Mogadishu are rapidly reasserting their authority, attracting support from businessmen, and working across clan lines. In addition two Shari’a courts were established in Beledweyne, in the Hiran region, during 2003. One of the courts was designated for the Hawadle clan and the other for the Galjecel clan; the courts are segregated to alleviate fears that members of one clan might not be fair in dealing with cases involving members of the other clan.” **[2b] (Legal/Policy Framework)**

6.39 The USSDRRF reflected that:

“Citizens overwhelmingly are Sunni Muslim, although there is a small number of non-Sunni Muslims. There also is a small, extremely low-profile Christian community, in addition to small numbers of adherents of other religions. The number of adherents to strains of conservative Islam is growing. The number of Islamic schools funded by religiously conservative sources continued to grow ...” **[2b] (Section I)**

6.40 According to the Mogadishu-based newspaper “Qaran” on 15 April 2004, religious leaders of localised Islamic NGOs publicly warned against the spread of Christianity in the country. **[18a]** The USSD noted:

“Proselytizing for any religion except Islam is prohibited by law in Puntland and Somaliland and effectively blocked by informal social consensus elsewhere in the country. Christian-based international relief organizations generally operated without interference, as long as they refrained from proselytizing.” **[2a] (Section 2c)**

6.41 The USSDRRF noted:

“While Christian-based international relief organizations generally operate without interference, provided that they refrain from proselytizing, there were several attacks against non-Muslim international relief workers in 2003. In addition, in April [2004] thousands of citizens marched through the streets in Mogadishu and in the southern coastal town of Merca protesting at what they said was an attempt by aid agencies to spread Christianity. Muslim scholars organized the protest following reports that school children were given gifts with Christian emblems alongside charitable aid. The protesters set ablaze hundreds of cartons containing goods, some marked only as gifts from the “Swiss Church.” The protesters warned the aid agencies against using relief items to evangelize in the country.” **[2b] (Restrictions on Religious Freedom)**

6.42 The USSDRRF stated: “Christians, as well as other non-Muslims who proclaim their religion, face occasional societal harassment.” **[2b] (Section III) Freedom House** in its report covering 2004 supported this view, and noted:

“Somalia is an Islamic state, and religious freedom is not guaranteed. The Sunni majority often views non-Sunni Muslims with suspicion. Members of the small Christian community face societal harassment if they proclaim their religion, but a number of international Christian aid groups operate without hindrance.” **[24a] (p577)**

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FREEDOM OF ASSEMBLY AND ASSOCIATION

- 6.43 As stated in the US State Department's Report on Human Rights Practices covering 2004 (USSD):

"The unimplemented Transitional Federal Charter and the Somaliland Charter provide for freedom of assembly; however, the lack of security effectively limited this right in many parts of the country. The ban on demonstrations continued; however, demonstrations occurred throughout the country during the year [2004]. The Government of Somaliland banned political demonstrations following the closely contested April 2003 multiparty elections. The unimplemented Transitional Federal Charter provides for freedom of association; however, the Charter was not enforced during the year [2004]." [2a] (Section 2b)

CHARTER PROVISIONS IN PUNTLAND

- 6.44 As noted by the USSD: "The Puntland Charter provides for freedom of association; however, the Puntland Administration banned all political parties." [2a] (Section 2b)

CONSTITUTIONAL PROVISIONS IN SOMALILAND

- 6.45 According to the USSD:

"The Somaliland Constitution provides for freedom of association, and this right was generally respected in practice. Legislation that governs the formation of political parties limits the number of political parties allowed to contest general elections to three. An ad hoc commission, nominated by the President and approved by the House of Representatives, was responsible for considering applications. The law provides that approved parties that win 20 percent of the vote in Somaliland elections would be allowed to operate. There were three approved parties operating after the April 2003 elections." [2a] (Section 2b)

PUBLIC GATHERINGS AND DEMONSTRATIONS

- 6.46 According to the USSD, although citizens were free to assemble in public, the lack of security effectively limited this right in many parts of the country during 2004. [2a] (Section 2a)
- 6.47 On 1 April 2004, UN Integrated Regional Information Networks (IRIN) reported that thousands of women and children protested in Mogadishu's main stadium in support of the peace negotiations in Nairobi [10s], while on 15 April 2004, Mogadishu's "Qaran" newspaper reported a demonstration focused against aid agencies accused of spreading Christianity. [18b]

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POLITICAL ACTIVISTS

- 6.48 It was reported by IRIN:

“A former interior minister and police chief of Somalia, who was detained by the authorities of the self-declared republic of Somaliland, was “deported” to Djibouti on Monday afternoon. Somaliland Information Minister Abdullahi Muhammad Du’ale told IRIN on Tuesday [24 June 2003] the ex-minister, Gen Jama Muhammad Ghalib, had not been charged because he was in transit. “It was decided that since he was claiming to be in transit not to prosecute him, but to deport him,” Du’ale said.” [10h]

The report noted that a group of eight men protesting against Ghalib’s arrest attacked Hargeisa airport. One was reported to have died from wounds sustained in the attack; the remaining seven were arrested. Following this incident the Somaliland Information Minister declared that any Somalilander who called for reunification also called into question the independence of “the country” and would therefore face the law. [10h]

- 6.49 According to an Agence France – Presse (AFP) article of March 2003, and the Report of the Joint UK-Danish Fact-Finding Mission (JFFMR) of July 2002, members of the Islamic group Al-Itihaad al-Islamiya, an organisation believed to have been responsible for terrorist attacks in Ethiopia, were at times pursued by Ethiopian forces on Somali territory. [7b] (p52) [20a] According to the AFP article, since 1996 Ethiopian forces have been entering Somalia at will under the pretext of pursuing Islamists such as Al-Itihaad. [20a] Somaliweyn website reported on 5 July 2004 that TNG President Abdiqassim stated that Al-Itihaad did not exist in Somalia. A report of 2 August 2004 by the same source indicated that Al-Itihaad were training youths at three military camps. [43d] [43e]

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EMPLOYMENT RIGHTS

TRADE UNIONS AND THE RIGHT TO STRIKE

- 6.50 As stated in the US State Department’s Report on Human Rights Practices covering 2004 (USSD) and the New Internationalist’s World Guide, 2003-4, the defunct constitution gave workers the right to form unions, but the civil war and factional fighting negated this right and broke up the then Government-controlled General Federation of Somali Trade Unions, an organisation that had been created in 1977. [2a] (Section 6a) [15a] (p502) The USSD stated:

“The 1990 Constitution and the unimplemented Transitional Federal Charter provide workers with the right to form unions; however, the civil war and factional fighting have resulted in the absence of any legal protection for workers’ rights and the disintegration of the country’s single labor confederation, the then government-controlled General Federation of Somali Trade Unions. In view of the extent of the country’s political and economic breakdown and the lack of legal enforcement mechanisms, trade unions did not function freely. The unimplemented Transitional Federal Charter, the Puntland Charter, and the Somaliland Constitution establish the right of freedom of association, but no unions or employer organizations existed.” [2a] (Section 6a)

- 6.51 As noted by UN Integrated Regional Information Networks (IRIN) articles of 22 May and 7 July 2003, the Somali Medical Association (SMA) organised a one-day strike on 21 May 2003 in protest at the security situation in the capital, Mogadishu. The SMA received support for their action from 14 civil society

organisations including groups from the education sector; there were reports that schools in the capital were also closed for the day. A further strike took place on 6 July 2003 following the shooting of a prominent doctor. Both stoppages were reportedly well supported with only emergency cases being treated. [10g] [10j]

EQUAL EMPLOYMENT RIGHTS

6.52 According to the USSD: “ Wages and work requirements in the traditional culture were established largely by ad hoc bartering based on supply, demand, and the influence of the worker’s clan.” As of 31 December 2004 there had been no organised effort by any of the de facto regional administrations or factions to monitor acceptable conditions of work. [2a] (Section 6b & 6e)

FORCED LABOUR

6.53 According to the USSD:

“The pre-1991 Penal Code and the unimplemented Transitional Federal Charter prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred ... Local clan militias generally forced members of minority groups to work on banana plantations without compensation. There were reports that in Middle and Lower Juba, including the port of Kismayu, Bantus were used as forced labor.” [2a] (Section 6c)

As noted in the Report of the Joint UK-Nordic Fact-Finding Mission (JFFMR) of March 2004, members of minority groups were subjected to forced labour by majority clans in southern and central regions, though the prevalence of the practice could not be confirmed. Members of majority clans were dependent on the farming skills of minority groups. They are promised either food or money for their work; however, usually no payment is given. Minority clans are not in a position to object to this practice. If they refuse to work, or if they demand payment, they could be killed. [7c] (p32-3)

CHILD LABOUR

6.54 According to the USSD:

“Formal employment of children was rare, but youths commonly were employed in herding, agriculture, and household labor from an early age. Substantial numbers of children worked. In 2002, it was reported that 32.5 percent of children between the ages of 5 and 14 worked; however, the percentage of children engaged in labor was believed to be even higher during the year [2004]. The lack of educational opportunities and severely depressed economic conditions contributed to child labor.” [2a] (Section 6d)

(For more information please see Section 6c, [Children](#))

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PEOPLE TRAFFICKING

6.55 As stated in the US State Department’s Report on Human Rights Practices covering 2004 (USSD):

“The pre-1991 Penal Code prohibits trafficking; however, there were reports of trafficking during the year [2004]. The unimplemented Transitional Federal Charter does not specifically prohibit trafficking. The number of women being trafficked from the country appeared to be small.” [2a] (Section 5)

6.56 According to the USSD Trafficking in Persons Report (TPR) June 2005:

“Somalia is a country of origin and destination for trafficked women and children. Armed militias reportedly traffic Somali women and children for sexual exploitation and forced labor. Some victims may be trafficked to the Middle East and Europe for forced labor or sexual exploitation. Trafficking networks are also reported to be involved in transporting child victims to South Africa for sexual exploitation.” [2c] (p5)

6.57 During 2004 there were reports from the USSD of an increase in the smuggling of children out of the country to relatives and friends in western countries, where they work or collect benefit payments and send money back to family members in Somalia. [2a] (Section 5) In early 2003 the UN Office for the Co-ordination of Humanitarian Affairs produced “A Gap in their Hearts”: a report focusing on the experience of Somali Children separated from their families. The report referred to parents paying up to US\$ 10,000 to smugglers to take their children out of Somalia and reports that unaccompanied children were given new names and imaginary histories; the children were coached in these, and threatened, to maintain their new identities. [31a] (p7)

6.58 An IRIN report of 3 September 2004 noted that the authorities in Puntland detained a further group of migrants in early September 2003. On this occasion the 52 people comprised Ethiopians and Somalis from the southern regions. It was reported that ten traffickers were also detained in Bossaso and will face legal action. Reports suggest that arrangements and payment of fees are usually made in Bossaso. The Puntland authorities reiterated their commitment to tackle the problem of human trafficking. [10o]

6.59 As noted in the TPR 2005:

“Individuals presenting themselves as political authorities within Somaliland and Puntland have expressed a commitment to address trafficking, but corruption and a lack of resources prevent the development of effective policies. Many of these individuals are known to condone human trafficking. In the absence of effective systems of revenue generation, as well as any legal means to collect resources and then distribute them for some common good, no resources are devoted to preventing trafficking or to victim protection across the majority of the Somali territory. Various forms of trafficking are prohibited under the most widespread interpretations of Sharia and customary law, but there is no unified policing in the territory to interdict these practices, nor any authoritative legal system within which traffickers could be prosecuted. Self-styled government officials are not trained to identify or assist trafficking victims. NGOs work with internally displaced persons, some of whom may be trafficking victims.” [2c] (p5)

FREEDOM OF MOVEMENT

- 6.60 As stated in the US State Department's Report on Human Rights Practices covering 2004 (USSD):

"The unimplemented Transitional Federal Charter and the Puntland Charter provide for freedom of movement; however, this right continued to be restricted in some parts of the country. Checkpoints manned by militiamen loyal to one clan or faction inhibited passage by other groups." [2a] (Section 2d)

INTERNAL RELOCATION

- 6.61 According to UNHCR's position paper of January 2004:

"The general pattern of human settlements prevailing in many parts of Africa, including Somalia, is often characterised by common ethnic, tribal religious and/or cultural factors, which enable access to land, resources and protection from members of the community. Consequently, this commonality appears to be the necessary condition to live in safety. In such situations it would not be reasonable to expect someone to take up residence in an area or community where persons with a different ethnic, tribal, religious and/or cultural background are settled, or where they would otherwise be considered aliens. ...Therefore, it would be unreasonable to expect a person to move to an area in his or her own country other than one where he or she has ethnic, tribal, religious and or/cultural ties. ...This is true also in Somaliland and Puntland. ... Specifically in Somaliland...those not originating from this area (non-Somalilanders) would be considered as foreigners, and face significant acceptance and integration problems, particularly taking into account the extremely difficult socio-economic situation of those native to the territory. ...In this regard it should be noted that 'place of origin' should not necessarily be equated with 'place of birth'. ...Therefore, the determining factor in defining where a person originates from is where the person has effective clan and family ties, and where clan protection is thus available. In light of the above, especially given the prevailing clan system, UNHCR is of the view that the internal flight alternative is not applicable in the context of Somalia". [23a] (p7-8)

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INTERNAL MOVEMENT

- 6.62 A UN Integrated Regional Information Networks (IRIN) article of 17 April 2003 noted that whilst large areas of the country are reported to be peaceful, violence resulting from factional fighting continues in several areas. This has security implications regarding the movement of civilians in those areas of the country currently affected. [10d]

- 6.63 According to the USSD, however:

"As security conditions continued to improve in many parts of the country, refugees and IDPs returned to their homes. According to UNHCR figures, 18,030 Somali refugees were repatriated during the year [2004]: 8,422 were from Djibouti; 9,513 from Ethiopia, 78 from Kenya; 3 from Libya; 4 from South Africa; and 10 from Yemen. Despite sporadic harassment, including the theft of humanitarian provisions from convoys by militiamen, repatriation generally took place without incident. In September 2003, the U.N. Independent Expert on Human Rights visited several IDP camps in Somaliland and found them among

the worst he had visited. He reported that the camps were overcrowded, had poor sanitation, and there was little or no access to employment and education. No local, regional, or U.N. authorities have taken responsibility for the camps.” [2a] (Section 2d)

6.64 As stated in a report by the Nairobi-based “East African” newspaper from January 2004, a US\$20 visa fee was payable for transit to and from airports/strips in Puntland and Somaliland, and from Puntland to central and southern regions. In places where a government exists, some of the money went to the state. In other areas, the occupying warlords and militiamen pocketed the money. [45a]

6.65 As noted in a Landmine Monitor Report 2004 (LMR 2004):

“There has been ongoing use of antipersonnel landmines in various parts of Somalia by a number of factions. In November 2003, a UN Security Council expert panel report found that landmines had been delivered to Somalia from Ethiopia and Yemen, in violation of the UN arms embargo. The Survey Action Center began a comprehensive Landmine Impact Survey in Puntland in August 2004, which is being implemented by the Puntland Mine Action Center. With the assistance of the UNDP, the Puntland Mine Action Center was established in August 2004 in Garowe. UNDP has also been training police Explosive Ordnance Disposal teams in Puntland and Middle Shabelle.” [26a] (p1)

The LMR 2004 also noted:

“Continuous conflict, including use of landmines by different factions, has prevented any meaningful mine action throughout most of the period, outside of Somaliland. The United Nations Mine Action Program, which had in 2000 and 2001 taken exploratory steps to set up mine action offices in Mogadishu, Baidoa and Garowe, was forced to abandon its efforts in 2002 due to insecurity in all of those areas. The Puntland Mine Action Center was established in August 2004 and a Landmine Impact Survey began the same month. In November 2002, 16 Somali factions (including Puntland and two representatives of the TNG) signed the Geneva Call “Deed of Commitment” to ban landmines and cooperate on mine action. Since 1999, ICRC-assisted hospitals treated more than 519 mine/UXO [Unexploded Ordnance] casualties. Since 2001, there have been at least 539 new mine/UXO casualties in Somalia.” [26a] (p1)

6.66 In 1999 the HALO Trust, an NGO specialising in demining work, established a programme in Somaliland. According to a report of operations covering 2003, HALO Trust employed a local staff of 330 operating in Somaliland with teams deployed across the region from the Awdal region in the north-west to the Sool region in the east of the country. HALO is also addressing the landmine problem in Puntland. [21a]

HALO surmised that the mine problem in Somaliland, with the deployment of mechanical assets, was now at a manageable level despite continued accidents to both humans and animals. It is possible that priority clearance will be finished within four to five years. [21a] In addition, the UN Security Council Reports (UNSCRs) February and June 2003 noted that the mine action component of the UNDP in Somaliland trained 24 staff from the Somali Mine Action Centre during 2002. [3a] (p8)

EXTERNAL MOVEMENT

6.67 According to a UN travel summary of March 2004, scheduled international air services operated to airports in Somaliland, Puntland, Jowhar and Mogadishu from Djibouti, Ethiopia, Kenya and some Middle Eastern states. [22a] According to IRIN on 8 July 2003, between 19 June 2003 and 8 July 2003 the Kenyan authorities imposed a flight ban on all air traffic to and from Somalia, in response to US warnings of an imminent terrorist attack. [10k]

6.68 A UNHCR news report of 10 March 2005, gave details of the trafficking of refugees into the Yemen:

“The United Nations refugee agency fears that more than 100 people may have died at sea in the past week while attempting to reach Yemen aboard smugglers’ boats from Somalia.

“According to witnesses aboard other boats interviewed by UNHCR staff in Yemen, a vessel carrying 93 passengers sank on 3 March in the Gulf of Aden after developing a technical problem. Only the crew of four are thought to have survived. The dead were reportedly Somalis and Ethiopians, including women and children, according to witnesses.

“The boat was one of six that had sailed from Bossasso, in north-eastern Somalia, 12 hours earlier. More than 450 passengers on the five other boats were disembarked by the smugglers at the coastal village of Bir Ali in southern Yemen. Once ashore, they were intercepted by the Yemeni authorities and taken to the nearby Mayfa’a reception centre, where they received medical help and food before being interviewed by UNHCR. One of the Somalis who arrived at Bir Ali had been so severely beaten by smugglers that he died of his injuries shortly after reaching shore. He was buried at Bir Ali.” [23c] (p1)

6.69 The same report added:

“This tragedy is the latest in a series of similar accidents that have caused an untold number of deaths in the past few years. Many are unreported. Over 100 people were feared lost when a smugglers’ boat sank in the Gulf of Aden in March 2004. At least 21 others perished in a similar incident in September 2003. Every year, thousands of Somalis and Ethiopians fall prey to unscrupulous traffickers in the hope of being smuggled into Yemen, from where many seek to make their way into Europe. They are fleeing poverty, and in Somalia’s case insecurity, in their homeland. Amongst these desperate people are refugees trying to escape persecution and violence.” [23c] (p1)

6.70 The UN Security Council Report on Somalia (UNSCR) of June 2004 noted that on 17 April 2004, Kenyan authorities imposed a ban on the issuance of Kenyan visas on Somali passports. [3e] (p7) By way of a retaliation, it was reported by Radio Shabeelle on 25 April and in a British Broadcasting Corporation (BBC) article of 26 April 2004, that the Puntland authorities had ordered the immediate expulsion of all Kenyans from the region. [14d] [27c] According to a HornAfrik article of 1 May 2004, this move was subsequently supported by the TNG. [37d] In a further development reported by the BBC on 10 May 2004, the United Arab Emirates also stopped issuing visas on Somali passports. [14e]

WILLINGNESS TO ACCOMMODATE REFUGEES

- 6.71 According to the USSD, there is no policy of first asylum, nor are there any laws with provisions for the granting of asylum or refugee status:

“The 1990 Constitution and unimplemented Transitional Federal Charter do not include provisions for the granting of asylum or refugee status in accordance with the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and there was no official system for providing such protection; however, in practice, government authorities provided some protection against refoulement, the return of persons to a country where they feared persecution. The Government granted refugee status or asylum. A small number of Ethiopian refugees remained in the country, mostly in the northeast near Bosasso.” [2a] (Section 2d)

- 6.72 According to the USSD: “The authorities in Somaliland have cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.” [2a] (Section 2d) However, as noted in a BBC article of 31 October 2003, the Somaliland authorities defended their decision to expel thousands of “illegal” immigrants (i.e. any person not of Somaliland origin) from the territory. [14b]

- 6.73 The United Nations High Commissioner for Refugees (UNHCR), in its Global Appeal 2005 referring to Somalia noted:

“The situation of the estimated 370,000 IDPs remains a serious humanitarian concern. The inadequate protective environment and meagre humanitarian assistance (due to funding constraints) place a severe strain on the coping mechanisms of the IDPs, the hosting communities and the authorities. Some 40,000 and 60,000 IDPs, mainly from the South, live in squalid conditions in ‘Somaliland’ and ‘Puntland’ respectively.” [23d] (p139)

- 6.74 The UNHCR Global Appeal 2005 also stated:

“Against this backdrop, UNHCR continued to assist the voluntary repatriation of refugees in 2004: nearly 10,000 during the first half of the year [2004], bringing to some 476,000 the total number of returnees assisted by the Office. The refugees are returning to one of the poorest countries in the world, where civil strife and years of neglect render reintegration an extremely daunting prospect, despite the best efforts of the people themselves, the authorities, the diaspora and the international aid community.” [23d] (p139)

- 6.75 The UNHCR Global Appeal 2005 detailed some of the constraints that it was facing in Somalia:

“Violence and armed conflict in southern and central Somalia continue to impede humanitarian access to the vulnerable, and hold back humanitarian and reconstruction activity. Even though ‘Somaliland’ and ‘Puntland’, are relatively stable, an emerging extremist threat has led to the introduction of more stringent security regulations for UN workers. This considerably increases the costs of compulsory security measures. At the same time, major longer-term development challenges such as the threat of HIV/AIDS, lack of education programmes and the destruction of the environment, are particularly difficult to address.” [23d] (p139)

CITIZENS' ACCESS TO IDENTITY DOCUMENTS/PASSPORTS

- 6.76 According to the USSD: "In the absence of a recognized national government, most citizens did not have the documents needed for international travel." [2a] (Section 2d) As noted by IRIN on 4 September 2002, a new passport office had been opened by the TNG in Mogadishu. The TNG Minister of State for Foreign Affairs acknowledged the widespread forgery of Somali passports and referred to people in Mogadishu who want a passport going to Bakaara market where, he stated: "For a fee, anyone can produce a document." There is no specific information regarding the requirement or otherwise of citizens to carry passports or other forms of ID. [10b] A British Broadcasting Corporation (BBC) article of 12 May 2004 emphasised the ease with which counterfeit Somali passports can be obtained from markets in Nairobi, which had led the Kenyan authorities to stop issuing visas on Somali passports the previous month. [14f]

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6.B HUMAN RIGHTS - SPECIFIC GROUPS

ETHNIC GROUPS

- 6.77 As reflected in the Report of the Joint UK-Danish – Fact-Finding Mission (JFFMR) of December 2000, Somali society is characterised by membership of clan-families. These are sub-divided into clans, and many sub-clans (clan members are classified as ethnic Somali), or minority groups (minority groups are usually defined as those of non-ethnic Somali origin). Any political affiliation generally follows clan lines. [7a] (p80-87)
- 6.78 As noted in the Norwegian Refugee Council's report Profile Of Internal Displacement : Somalia, November 2004:

"Until recently, many people perceived Somalia as a country with a population of 7,000,000 people who share one culture, one language and one religion. This was the impression given during previous regimes in order to sustain the illusion of homogeneity. One of the things that were deliberately downplayed was the existence of minority groups. Although the population of minority groups living in Somalia has not as yet been established, estimates indicate that they constitute one third of the total Somalia population; approximately 2,000,000 people. The minority groups include Bantu, Bravenese, Rerhamar, Bajuni, Eyle, Galgala, Tumul, Yibir and Gaboye. These groups continue to live in conditions of great poverty and suffer numerous forms of discrimination and exclusion." [30a] (p16)

SOMALI CLANS

- 6.79 As reflected in the JFFMR December 2000, the clan structure comprises four major "noble" clan-families of Darod, Hawiye, Isaaq and Dir. [7a] (p80-87) According to the US State Department's Report on Human Rights Practices (USSD) covering 2004:

"More than 85 percent of citizens shared a common ethnic heritage, religion, and nomadic-influenced culture. 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.” [2a] (Section 5)

As reflected in the JFFMR December 2000, two further clans, the Digil and Mirifle collectively referred to as Rahanweyn, took an intermediate position between the main Somali clans and the minority groups. [7a] (p56)

6.80 According to the USSD,

“ Minority groups and low-caste clans included the Bantu (the largest minority group), the Benadiri, Rer Hamar, Brawanese, Swahili, Tumal, Yibir, Yaxar, Madhiban, Hawrarsame, Muse Dheryo, and Faqayaqub. Inter-marriage between these groups and mainstream clans was restricted. Some of these groups had limited access to whatever social services were available, including health and education. Members of minority groups continued to be subjected to killings, harassment, intimidation, and abuse by armed gunmen of all affiliations.” [2a] (Section 5)

6.81 The JFFMR March 2004 stated that in general Somalis would be safe within their own sub-clan’s area as long as the sub-clan was not involved in conflict. It was added that civilians were not normally targeted by armed clan conflicts and very often they would know either how to escape or how to avoid being involved in such conflicts. [7c] (p11)

6.82 As reflected in the JFFMR March 2004, the delegation met with Abdiaziz Omar Daad:

“Omar Daad, formerly minister of reconciliation under President Siad Barre from 1986 to 1990, explained that he is a Marehan himself and the nephew of Siad Barre and next to Siad Barre’s son the closest relative. Omar Daad left Mogadishu in 1991 and he has returned there several times since. Omar Daad stated that he works as a mediator in central Somalia and he has been accredited to the peace process in Kenya for the Darod clan. Omar Daad explained that it is too difficult for Marehan to live in Mogadishu as they are conceived to be wealthy because many of them used to work for the Siad Barre regime. He stated that all Marehan clan members would be blamed for the suffering caused by the SiadBarre regime and they risk being killed. Omar Daad estimated that approximately 200 persons of the Marehan clan live in Mogadishu today who are able to stay there only because they have intermarried with members of stronger clans. An independent Marehan could not live in Mogadishu safely and run a business. Omar Daad stated that a Marehan who had worked for the Siad Barre regime could not return to Mogadishu. Even family members of a Marehan who had worked for Siad Barre would have problems today. Any other clan member (e.g. a Hawiye or Habr Gedir) who had worked in the. administration (including the police) of Siad Barre would not have any problems returning to Mogadishu today.” [7c] (p40-41)

“According to Abdi Mamow, members of the Darod clan Majerteen will not be able to reside safely in Mogadishu as the Hawiye clans regard them as a challenge to their power in Mogadishu.” [7c] (p41)

RAHANWEYN CLANS

- 6.83 As reflected in the JFFMR December 2000, the Rahanweyn clans, comprising the Digil and Mirifle, are considered as a minority group by some experts and related to the major Somali clans by others, though considered as less 'noble' by others. However, the Digil and Mirifle were included as one of the major Somali clan-families and allotted 49 seats (including 5 for women), distinct from the recognised official minorities who formed a separate grouping when seat allocations for the TNG were decided upon at the Arta conference of 2000. [7a] (p64-65)

See also Annex B Somali Clan Structure.

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MINORITY GROUPS

- 6.84 As reflected in the Joint Fact-Finding Mission Report (JFFMR) of December 2000, minority groups within Somalia included the Bajuni, Bantu, Benadir, Bravanese, Eyle, Midgan (Gaboye), Tumul and Yibir. As with the majority clans several of these individual groups are divided into sub-groups. The minority groups were the only people in Somalia who, when Siad Barre was overthrown in 1991, did not have their own armed militia to protect them. During the civil war minority groups were among the most vulnerable and victimised populations in the country. [7a] (p20-22) [31b] (p1) As reflected in the JFFMR December 2000 certain minority groups, most notably the Benadiri and Bravanese, were particularly disadvantaged and targeted by clan militia since the collapse of central authority in 1991. [7a] (p48)
- 6.85 As reflected in the JFFMR December 2000: "Minority groups are not evenly distributed throughout Somalia; there is a higher concentration in the central and southern parts of the country." [7a] (p21) However, some groups, such as those with special occupational skills (Midgan, Tumul and Yibir), are more likely to be found in different parts of the country. [7a] (p87) The USSD and JFFMR December 2000 reflect that politically weak social groups are less able to secure protection from extortion, rape and other human rights abuses by the armed militia of various factions. [2a] [7a] (p21) As stated in the UN Office for the Coordination of Humanitarian Affairs (OCHA) Minorities Study of August 2002: "In a country where there is no national Government that would be responsible for safeguarding and upholding the rights of minority groups, Somalia minorities are truly in a vulnerable position." [31b] (p1)
- 6.86 During the JFFM of March 2004, the delegation asked the UN High Commissioner for Refugees (UNHCR) branch officer for Somalia about the discrepancy which seems to exist between the information collected on the 2004 mission and previous missions, regarding the situation in Somalia for persons belonging to minority groups, and the information provided during refugee status determination interviews in some European countries:

"The UNHCR source firstly stated that she obviously did not know whether the case profiles of the persons referred to by the delegation were the same profiles as the ones who approach UNHCR in the region. With this reservation in mind, and presuming that the persons referred to are in fact coming from minority clans, the UNHCR source said that the discrepancy could to some extent be caused by the difference in conception between the person interviewing the asylum-seeker and the asylum-seeker him/herself as to what, for example,

constitutes forced labour. If an asylum seeker has been used to working for example two hours every day for someone (belonging to a 'noble' clan) without being paid, the asylum-seeker may consider this normal and would not define it as forced labour if asked. It was suggested that the interviewer would have to ask specifically about all the small details of the asylum-seekers daily life in order to assess whether the person had in fact been subjected to forced labour or other human rights violations. Specifically with regard to sexual abuse including rape, she stated that pride and status might often prevent an asylum-seeker from coming forward with this information during an asylum interview or elsewhere." [7c] (p37)

GENERAL SECURITY POSITION FOR MINORITY GROUPS

6.87 As reflected in the OCHA report of August 2002:

"Unlike other clans from dominant groups, minorities lack international support in the form of regular remittances. Recurrent insecurity caused by conflict creates an environment where minority groups are vulnerable and abnormally displaced from their homes. Notably, some minority groups who were abnormally displaced lost their lands, which were reallocated. Insecurity further affects the delivery of services to minority groups post-displacement in areas such as Kismayo, Jilib and Luuq. However, in areas like Hargeisa, Beletweyne, Jowhar and Ballad where security is not a big problem, minority groups receive very little assistance from aid agencies. Estimates indicate that about 70% of the minorities who live in IDP [internally displaced persons] camps or returnee settlements have difficulties in accessing adequate food, proper shelter and education." [31b] (p1)

"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." [31b] (p3)

6.88 As noted in the JFFMR March 2004:

"The delegation asked a number of UN and NGO sources whether the security and human rights situation of the minority groups and minor clans in southern and central Somalia had undergone any significant change since the situation described in the JFFMR of December 2000. The response from all sources consulted was that no change for the better had taken place, either with regard to their security or human rights situation." [7c] (p36)

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Bajuni

6.89 As noted in the JFFMR December 2000, the Bajuni are mainly sailors and fishermen who live in small communities on the coast south of Kismayo and on islands between Kismayo and the border with Kenya. The Bajuni are of mixed Arabic, Bantu, Somali and possibly Malay ancestry. Their principal language is Kibajuni, a dialect of Swahili. Bajuni Elders who met with the delegation of a joint British-Danish-Dutch Fact-Finding Mission on Somali minority groups to Nairobi in September 2000 informed the delegation that most Bajuni also speak Somali.

Bajuni Elders stated that the Bajuni do not regard themselves as Benadiri people, although they had some trading links with the Bravanese people. [7a] (p28)

- 6.90 As reflected in the JFFMR December 2000, and the OCHA minority groups report of August 2002, the Bajuni had traditionally held a low status in Somalia. As Siad Barre's administration collapsed in the early 1990s, the Bajuni were attacked by groups of Somali militia who wanted to force them off the islands. Many Bajuni left Somalia for Kenya, the majority having fled during 1992. Some Bajuni earned money by transporting refugees out of towns such as Brava and Kismayo to Kenya. In Kenya the Bajuni went to the Jomvo refugee camp in Mombasa. When the Jomvo camp was closed in 1997 many Bajuni were returned by the UNHCR to the Bajuni islands, which at the time were considered safe. However, with the fall of Kismayo in 1999 to the allied forces of the Somali National Front (SNF) and Aideed's Somali National Alliance (SNA), and subsequent attacks on the Bajuni islands, the UNHCR suspended returns. [7a] (p28-30) [31b] (p5-6)
- 6.91 As noted in the OCHA Minorities Study of August 2002, though recent Marehan settlers still have effective control of the islands, Bajuni can work for the Marehan as paid labourers. This is an improvement on the period when General Morgan's forces controlled Kismayo and the islands, when the Bajuni were treated by the occupying Somali clans as little more than slave labour. The position of the Bajuni is more one of denial of economic access by Somali clans than outright abuse. [31b] (p4)
- 6.92 As reflected in the JFFMR March 2004, the Bajuni population is estimated to number 11,000. Clan militias routinely occupy parts of the islands and force the Bajuni to work for them, demanding 50 per cent of the revenue. [7c] (p37) The JFFMR March 2004 also noted:

"When asked what languages are spoken and understood by the Bajuni in the Lower Juba, Abdalla Bakari stated that the Bajuni in Kismayo and the outlying islands speak their own dialect. He estimated that 50% of these are also able to speak Somali, but noted that the vast majority of those that can understand Somali are from the mainland (the Kismayo coast, rather than the islands). ... When asked what proportion of the younger generation of the mainland-based Bajuni was able to understand Somali, Abdalla Bakari confirmed that all such persons were able to understand and speak Somali." [7c] (p37-38)

It was highlighted that the island-based populations tended not to be able to speak Somali due to their social isolation from the mainland. [7c] (p37-38)

Bantu

- 6.93 As reflected in the US State Department's Report on Human Rights Practices (USSD) covering 2004 and the JFFMR July 2002, the Bantu, the largest minority group in Somalia, are an agricultural group found in small groups, usually in the river valleys of southern Somalia in Hiran region (the Reer Shabelle and Makanne groups), Gedo (the Gobaweyne), Lower and Middle Shabelle (the Shidle and "Jereer") and Lower Juba (the Gosha). [2a] (Section 5) [7b] (p59) According to the JFFMR July 2002: "Some Bantu have adopted Somali clan identity while others maintain their East African tribal identity. Some Bantu are descendants of pre-Somali Bantu populations while others are descendants of slaves taken from East Africa to Somalia." [7b] (p59) The JFFMR December

2000 note that other Somalis, including those of Bantu origin commonly refer to Bantu as “Jarer”. [7a] (p32)

- 6.94 As reflected in the JFFMR December 2000, the Bantu mainly occupy the territory between the two main rivers in Somalia, the Shabelle and the Juba, the so-called inter-riverine area of Somalia. The area covers eight regions in southern and central Somalia. The Elders stated that in the regions of Middle and Lower Shabelle, Middle and Lower Juba, Bay, Benadir and former Upper Juba (parts of which are now in Gedo region) the Bantu population was still [in 2000] actually a majority. [7a] (p36) As noted in a UN Integrated Regional Information Networks (IRIN) article of 25 June 2003, the Bantu are represented by Somali African Muki Organisation (SAMO), which is aligned to the Somali Salvation Alliance (SSA) that aligned itself with the G8 group at the Eldoret/Nairobi peace talks. [10i]
- 6.95 According to the JFFMRs December 2000 and July 2002, conditions for Bantu reportedly vary according to the region in which they live. [7a] (p39-41) [7b] (p59-60) As stated in the JFFMR July 2002 and the OCHA minorities report of August 2002, Bantu have been largely displaced along the Juba and Shabelle rivers. They are usually able to remain in their home areas, to work mainly as labourers for the Somali clans (mainly the Marehan, Ogadeni and Habr Gedir) that have taken their traditional land. They can usually retain about 10 per cent of their land for their own use. [7b] (p60) [31b] (p4) However, the JFFMR December 2000 noted that in some cases Bantu work as plantation labourers in what Bantu Elders describe as situations of near slavery. [7a] (p39)
- 6.96 The JFFMR July 2002 noted that in Bay and Bakool Bantu had largely been incorporated into the Rahanweyn clan structure and were able to retain their land. Bantu that had assimilated themselves with the indigenous clans they live with were reportedly known as “sheegato”, which means they were not bloodline clan members, but adopted. [7b] (p32) As noted in the JFFMR March 2004:

“The Somali Bantu population is now the best known of these minorities; representing about 5% of the total population, the Bantu are prone to theft of their land, rape, forced labour, and a range of discriminatory behaviour. Minority and low status groups such as the Bantu are afforded little protection under customary clan law and have virtually no recourse to a system of justice when victimized. Those who do bring complaints to clan, legal, or religious authorities place themselves at great risk of intimidation and assault.” [7c] (p17)

Benadiri and Bravanese

- 6.97 As reflected in the JFFMR December 2000, the Benadiri are an urban people of East African Swahili origin, living mainly in the coastal cities of Mogadishu, Merka and Brava; and the Bravanese are a people long established in the city of Brava, believed to be of mixed Arab, Portuguese and other descent. These groups suffered particularly badly at the hands of armed militia and bandits as their home areas were fought over by competing United Somali Congress (USC) factions and the Somali Patriotic Movement (SPM). USC/SNA (a sub-group of the USC) forces in particular singled out the Benadiri and Bravanese, with a campaign of systematic rape of women. Members of the minority populations, such as the Reer Hamar, the original Benadiri population of Mogadishu (known in Somali as Hamar) living in the Hamar Weyne and Shingani districts found themselves particularly

exposed at times of heavy fighting. Most homes belonging to the Benadiri and Bravanese in Mogadishu had been taken over by members of clan militias, although sometimes the clan occupants allowed them to reside in one room. [7a] (p44, 47-49, 51)

- 6.98 Information obtained by a British-Danish fact-finding delegation in May 2002 suggested that Bravanese have mostly fled from the coastal town of Brava, although some are still living in the town, which is controlled by the Habr Gedir. Information suggested that Bravanese who remained faced abuses including forced labour, sexual slavery and general intimidation. [7b] (p60) As reflected in the JFFMR March 2004, it was estimated that 90% of the Rer Hamar population in Mogadishu have left the city as a consequence of civil war and lack of security. The majority of Rer Hamar who are still in Mogadishu are older people who live in Mogadishu's traditional Rer Hamar district, Hamar Weyn, which is controlled by militias of the Habr Gedir sub-clan, Suleiman. As to how those Rer Hamar families still living in Mogadishu were able to cope with the situation in the city, it was explained that some of the families have agreed, or have been forced to marry off their daughters to members of the majority clans such as Habr Gedir. Such a marriage can provide a Rer Hamar family with some degree of security but the alliance is not an even one, as the Habr Gedir son-in-law (nicknamed "Black Cat") to a large degree controls the economy of his family-in-law. [7c] (p39)

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Hamar Hindi

- 6.99 As noted in the JFFMR July 2002:

"The small Indian community in Somalia numbered, at the most, 200 families, who were mainly engaged in cloth dying in Mogadishu and, in fewer numbers, Merka. Indians established businesses in Somalia during the 1940s and 1950s. There were also some Indians recruited by the Italians in the 1940s and 1950s as foremen on plantations, mainly around Qoryoley. The Indians were mainly from the Bohora community, which is also present in Mombasa, Kenya, and were mostly Muslims. There had also been approximately 200 Indians in Kismayo at one time but they had left the city, mostly for Mogadishu, by the early 1980s. The Indians were recruited directly from the Indian sub-continent rather than from the established Indian community in former British East Africa. Traditionally, Indians and Somalis were business rivals. Virtually all Indians had left Somalia by the time that Siad Barre's regime fell in 1991, mostly relocating to Mombasa." [7b] (p61)

"The name "Hamar Hindi", meaning "Mogadishu Indians", was applied to the Indian community in Mogadishu. Indian businesses were concentrated in an area that was also known as Hamar Hindi, a small area near the fish market and national museum, close to the Hamar Weyne district (district names in Mogadishu tend to relate to the original home of the inhabitants, e.g. Shingani is named after an area in Tanzania from where the original inhabitants had been brought as slaves)." [7b] (p61)

"All Indians in Somalia could speak Somali, usually to a good standard but at the very least all would have had a basic command of the language. In the cities, the Indian businessmen would have had to speak Somali to be able to

engage in business activities. Likewise, the Indian foremen on the Italian plantations, who each managed between 100 and 150 plantation workers, had to speak Somali in order to communicate with their workforce. Also, under Siad Barre's rule, society was much regulated and a good command of Somali would have been essential for Indians to be able to deal with official bureaucracy." [7b] (p60)

Midgan, Tumul, Yibir and Galgala

6.100 According to the JFFMRs of December 2000 and July 2002, the Gaboye/Midgan (usually referred to as the Midgan but also known as the Madhiban), Tumul and Yibir (a group said to have Jewish origins) traditionally lived in the areas of the four main nomadic clan families of Darod, Isaaq, Dir and Hawiye in northern and central Somalia. In the last few decades many of them migrated to the cities. These groups are now scattered throughout the country but are mainly found in northern and central regions. Midgan have been able to settle in Puntland. [7a] (p54-55, 58)

6.101 According to the JFFMR December 2000, these groups are called "occupational castes" as they traditionally perform specialist services and settle in areas where they obtain protection from a clan and build up an economic activity. [7a] (p57) As reflected in the OCHA report of August 2002:

"Most of these minority groups have assimilated into other Somalia clans with whom they live. For example, the Galgala have assimilated into the Abgal in Jowhar and Mogadishu. However, they identify themselves as Nuh Mohamud, a sub clan of the Majerten clan. Some Gaboye, Tumul and Yibir assimilated into the Isak in Somaliland, while others have assimilated into the Darod in Puntland and central regions. There are also other Gaboye, Tumul and Yibir who assimilated with Hawadle, Murasade and Marehan clans in Galgadud region." [31b] (p3)

6.102 According to the OCHA Minorities Study of August 2002, the Midgan, or Madhiban, have always been placed at the lower end of Somali society. In Hargeisa there are five telephone companies, six money transfer companies, and several light industries, transportation and construction companies, all of which create hundreds of job opportunities. The minorities claim that these jobs are offered according to the ethnic identity of the individual. The Gaboye, Tumul and Yibir have no access to those jobs because of their ethnicity. Midgan can trade freely, although they are usually unable to own property and livestock. [31b] (p4) The JFFMR July 2002 noted that the position of the Midgan/Gaboye improved at times of stability and recovery. [7b] (p61)

See also Annex C: Main Minority Groups.

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WOMEN

6.103 According to the US State Department's Report on Human Rights Practices (USSD) covering 2004:

"Domestic violence against women occurred. Women suffered disproportionately in the civil war and in the strife that followed. There was no

information available on the prevalence of domestic violence in the country. There are no laws that specifically address domestic violence; however, both Shari'a and customary law address the resolution of family disputes ... Police and militia members raped women, and rape was commonly practiced in inter-clan conflicts ... Laws prohibiting rape exist; however, they generally were not enforced. There were no laws against spousal rape. There were no reports that rape cases were prosecuted during the year [2004]. There were reports of rapes of Somali women and girls in refugee camps in Kenya during the year [2004]." [2a] (Section 5)

- 6.104 Amnesty International, (AI) in their annual report covering events in 2004, stated:

"The allocation of seats in the transitional parliament failed to meet the Charter's quota of 12% women. Women had little access to public decision-making and justice in Somaliland and Puntland.

"Women's organizations in all areas campaigned against violence against women, including female genital mutilation, which continued to be widespread. Women human rights defenders also campaigned against domestic violence and rape of internally displaced women." [6a] (p3)

GENERAL LEGAL PROVISIONS RELATING TO WOMEN

- 6.105 The UN Security Council's Report (UNSCR) of June 2003, and a UNHCR-sponsored trend assessment of Somalia in August 2003, referred to a rapid assessment of women's justice. Women were generally disadvantaged under all three systems of law that operate in Somalia. It was noted that whilst each provided a measure of protection, all systems (namely civil, customary and Shari'a) remained inadequate and contradictory to an extent, leaving women vulnerable and insufficiently protected. The reports noted that there are an almost negligible number of women in service within the judicial process. [3b] (p9) [8a] (p9)

- 6.106 According to the USSD:

"Under laws issued by the former government, female children could inherit property, but only half of the amount to which their brothers were entitled. Similarly, according to the Shari'a and local tradition of blood compensation, those found guilty in the death of a woman must pay only half as much to the aggrieved family than for a male victim." [2a] (Section 5)

According to the USSD, while polygamy was allowed, polyandry was not. [2a] (Section 5)

WOMEN IN GOVERNMENT

- 6.107 The JFFMR December 2000 indicated that women's groups played a prominent role in the Arta Conference of 2000 and were allocated 25 reserved seats in the TNA in Mogadishu. As reflected in the JFFMR December 2000, this represented a major breakthrough in women's rights and was the first time that women had been guaranteed parliamentary representation in Somalia. [7a] (p11-12) The UN Integrated Regional Information Networks (IRIN), in a report of 14 July 2003, noted that as of June 2003 women comprised 35 of the 362 official delegates at the Kenya peace talks. Most of these women were from privileged

groups and had been able to spend some or all of their time outside Somalia since 1991. A recurring theme in the women's agenda at the peace conference is a 25 per cent female representation in the new Government. Most male delegates at the talks reportedly supported the concept of greater women's involvement, but this had not translated into overwhelming backing for the women's agenda. Delegates favoured bringing the issue of women's representation to a vote but voted against 25 per cent representation. Delegates agreed instead on women having 12 per cent of seats. This was, however, slightly more than they were allocated at the Arta conference. [10]

- 6.108 The US State Department Report on Human Rights Practices covering 2004 (USSD), dated 28 February 2005 noted:

"There were 22 women in the 275-seat TFA; in the TFG, there were 1 female minister and 4 deputy ministers. A woman held the post of Foreign Minister in the Somaliland Government; in addition, several women were important behind-the-scenes figures in the various factions. There were 5 women in the 69-seat Puntland Council of Elders." [2a] (Section 3)

POSITION IN SOCIETY AND DISCRIMINATION

- 6.109 According to the UNHCR's position paper of January 2004, women face particular challenges upon return to Somalia after a long stay in exile, which may have changed some of their habits and affected their ability to speak Somali without an unfamiliar accent. [23a] (p10)

- 6.110 The USSD stated that:

"Several women's groups in Mogadishu, Hargeisa (Somaliland), Bosasso (Puntland), and Merka (Lower Shabelle) actively promoted equal rights for women and advocated the inclusion of women in responsible government positions. During the year [2004], the local NGO Save Somali Women and Children held a number of workshops on women's and children's rights, including a regular monthly "Gender Forum" in which women gathered to discuss women's rights." [2a] (Section 5)

- 6.111 Freedom House, in its report on Somalia covering 2004, noted:

"Women's groups were instrumental in galvanizing support for Somalia's peace process. However, delegates forming the new parliament flouted a provision requiring that 33 of the 275 seats be reserved for women, appointing only 23. Women legislators are now seeking a constitutional amendment to increase that number by 14. The country's new charter prohibits sexual discrimination, but women experience intense discrimination under customary practices and variants of Sharia. Infibulation, the most severe form of female genital mutilation, is routine, and women's groups launched a national campaign to discourage the practice in March [2004]. UN agencies and nongovernmental organizations are working to raise awareness about the health dangers of this practice." [24a] (p578)

- 6.112 The United Nations Commission on Human Rights, in its report by its independent expert Ghanim Alnajjar dated 11 March 2005, noted:

“The independent expert continued to investigate the treatment of women in Somalia during the period covered by this report. The profile of Somali women and support of their rights has made some progress over the past few years. The independent expert noted continued improvement towards the wider participation of women in politics in Somalia. In the Somali Transitional Federal Parliament, 12 per cent of the seats are to be reserved for women, and a woman, Fowzia Mohamed Sheikh, is the newly-appointed cabinet minister for Gender and Family Affairs. Nevertheless, the independent expert emphasizes the need to continue improving the economic empowerment of women and their participation rate in the social and political spheres.” [4a] (p11)

6.113 The same report added:

“In “Puntland”, the Government had agreed to a request by women’s groups to establish a Ministry for Women’s Affairs. During a meeting with representatives of the Ministry for Women’s Affairs in Bossaso on 4 February [2005], they noted that they were extremely lacking in material resources and that this prevented them from assisting Somali women who have suffered immeasurably as a result of the long conflict. The independent expert encouraged them in their work and urged them to seek resources in creative ways.

“The Somali Reunification Women’s Union, an NGO which had been working with UNDP and UNHCR since 1992 on IDP and returnee issues, noted that, since 2004, three new IDP camps had been added bringing the total to 16. They explained that the last three camps were set up to house people fleeing the effects of the droughts. A 2002 estimate was that 4,320 families or about 20,000 people resided in these makeshift camps. A one-month assessment of the current situation funded by UNDP was planned to commence shortly.” [4a] (p19)

VIOLENCE AGAINST WOMEN

6.114 The JFFMR July 2002 noted that there were no laws that specifically address domestic violence. This was treated through traditional means rather than as a legal issue, although both customary law and Shari’a law addressed the resolution of family disputes. [7b] (p62)

6.115 As noted in the JFFMR March 2004, the number of reported violations against women in the capital increased considerably in 2003. According to a UNHCR source, there were serious human rights violations in Mogadishu towards women. These violations included savage killings and mutilation. It was stressed that these incidents were unusual given that women and children are not overtly targeted in clan conflict. When commenting on the killings of women in Mogadishu (and in Baidoa) in the second half of 2003, a further source suggested that such incidents might have happened before but that they had not been reported. An international NGO suggested that women and children had become a new target of human rights violations in Mogadishu. The source added that there was a tendency that women in general had become much more cautious about their movements. Many women did not dare to go to the market or other public places, especially those belonging to minority groups or minor clans. [7c] (p20-21)

FEMALE GENITAL MUTILATION (FGM)

6.116 According to the USSD:

“FGM was a widespread practice. There were estimates that approximately 98 percent of women have undergone FGM. The majority of women were subjected to infibulation, the most severe form of FGM. In Somaliland, FGM remained illegal under the Penal Code; however, the law was not enforced. In Puntland, legislation prohibited FGM in northeastern areas of the country; however, in practice the law was not enforced strictly. U.N. agencies and NGOs have made intensive efforts to educate persons about the danger of FGM; however, no reliable statistics were available on the success of their programs.” [2a] (Section 5)

6.117 As reflected in the JFFMR March 2004:

“Gary P. Jones, Country Director, Somalia, Kenya and Djibouti, Norwegian People’s Aid (NPA), Horn of Africa Programme stated that, until recently, no NGOs worked with FGM in Somalia. Presently there are several NGOs that are addressing the issue of FGM. Jones explained that NPA is one of a small number of NGO’s in Somalia, which attempts to educate people with the purpose of eradicating FGM. NPA seeks to change the culture of FGM by educating young girls. However, Jones explained that it is very difficult for girls in primary schools to complete their education due to them being kept at home to undertake domestic duties. It was suggested that boarding schools might be the only way to enable girls to focus on their education without their parents interfering.” [7c] (p33)

“According to Jones, FGM is still the norm in Somalia. The main mode of the FGM is the ‘pharaonic’ form, but still many would claim that they only practice ‘Sunna’ which is a lighter version of FGM. Jones stated that this was done from a business point of view, explaining that people promoting ‘Sunna’ would receive financial support. In reality, however, girls are circumcised in the same manner as usual, i.e. ‘Pharaonic’ style. Circumcision usually takes place when a girl is between four and seven years of age. Nearly 100% of women are affected by FGM in Somalia. Jones did not expect that any significant change would emerge in this respect during the next 15 years, even though some modest progress has been made in some areas. 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 the issue.” [7c] (p33)

6.118 The United Nations Commission on Human Rights, in its report dated 11 March 2005, stated:

“On 26 January 2005, the mission of the independent expert met with Fowzia Mohamed Sheikh, in Nairobi. She highlighted some operational, political and social challenges of her mandate, from sensitizing other cabinet members about the human rights of women to the simple need to find an office from which to operate.

“On the issue of female genital mutilation, both the minister and the independent expert agreed that the practice was often defended as religious custom, when in fact it was an old tribal clan tradition.

“The vast majority (98 per cent) of Somali women and girls have been subjected to female genital mutilation and the practice continues in Somalia. The independent expert discussed this issue with, amongst others, women’s groups, and assured them that he would continue to advocate against this practice, which is detrimental to the health and well-being of those affected and is often mistakenly attributed to Islamic teaching by its practitioners and defenders.” [4a] (p11)

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CHILDREN

- 6.119 As noted in the US State Department Report on Human Rights Practices (USSD) covering 2004, children have been major victims in areas affected by fighting; children throughout the country had also suffered as a result of the collapse of basic social and educational services since 1991. [2a] (Section 5)
- 6.120 As noted in the UN Security Council Reports of October 2003, and February 2004, UNICEF produced a comprehensive countrywide child protection study completed during the second half of 2003. The study was based on interviews with 10,000 children and adults across Somalia. Some of the study’s most salient findings were that 1 in 20 children interviewed had been involved or had siblings involved in militia activity, mainly in the urban areas. The data revealed that extended families made little distinction between natural and adopted children. However, adopted girls were often not sent to school and married young. Street children were exposed to violence and drug abuse in urban centres. Over eight per cent of families reported children with developmental problems, one-third of them as a consequence of trauma. All statistics were significantly higher for children and families in settlement camps for IDPs. [3c] (p10) [3d] (p8-9) [22d] (p1-11)
- 6.121 The USSD and UN’s human rights expert report of March 2005 noted that the long-standing Somali practice whereby parents send their disobedient children to be kept in prison until they order their release was reported to be widespread. [2a] (Section 1c) [4a] (p10) The UNSCR of June 2003 recorded that Somaliland is one area where this practice has been particularly prevalent; children were being detained in prison alongside adults and, on occasion, are victims of violence or abuse. [3b] (p8-9) However, the UNSCR June 2003 refers to the local authorities initiating several actions to address this problem, including setting up a Law Review Committee, Training Committee and Juvenile Justice Forum. The need to strengthen the formal and non-formal juvenile justice system in conformity with international standards of child protection was identified as a priority in Somaliland. [3b] (p8-9)
- 6.122 According to the UNHCR’s paper of January 2004, children and adolescents face particular challenges upon return to Somalia after a long stay in exile, which may have changed some of their habits and affected their ability to speak Somali without an unfamiliar accent. The same source referred to a 2003 UN-OCHA report about the experience that stated that “Bi-cultural separated Somali minors who are returned to their homeland under duress or through deception are in danger of harassment, extortion, rape and murder.” Perceived unacceptable and culturally insensitive behaviour by girls results in harsher discrimination and punishment than for boys. [23a] (p10)

- 6.123 The United Nations Commission on Human Rights, in its report by its independent expert Ghanim Alnajjar dated 11 March 2005, noted:

“During his mission, the independent expert once again took up the issue of the custom and practice of asiwalid, where some parents place their children in prison for disciplinary purposes and without any legal procedure. During discussions, authorities in both “Somaliland” and “Puntland” stated that they were aware of this custom, and committed themselves to working towards its eradication. The custom is also practiced elsewhere in Somalia.

“Somalia has the sixth-highest infant mortality rate in the world and enrolment for school-age children is just 22 per cent, according to UNICEF representatives. They also raised the issues of female genital mutilation and general violence against children, noting that these violations were often gender-based. UNICEF representatives on various occasions during the mission also reported the human rights concerns of Somali children in prisons (often housed with adults), street children, children of minority groups and clans, children as primary caregivers, child labour, and children with physical and mental disabilities.

“In these discussions and on the matter of child protection and the human rights of children, the independent expert noted the importance of calling on the Transitional Federal Parliament to sign and ratify the Convention on the Rights of the Child.” [4a] (p12)

CHILD CARE ARRANGEMENTS

- 6.124 According to an IRIN report published in June 2001 principally focusing on Somaliland, there were very few orphans in Somali society. Few children were abandoned, even during the hardest of times. It is explained that before the introduction of the modern nation state, the clan structure effectively prevented the very concept of “orphan” – relatives would take in a child who had lost its parents. Within Somalia a case of pregnancy outside of marriage is almost unthinkable; however, the report refers to a Somaliland social worker’s comment that “Urbanisation, prostitution and drugs are the most common reason now for unwanted pregnancies.” [10a]
- 6.125 According to the IRIN report of June 2001, after reaching 15 years of age Somali children were considered to have reached the age of independence, and were unlikely to be kept in orphanages; this left orphaned teenagers with very little support. With regard to the possibility of adoption the report suggested that the clan structure worked prohibitively against adoption, a practice that was not regarded as a “cultural norm”. In the self-declared independent “Republic of Somaliland” the Hargeisa Orphanage Centre had been run by the local administration since 1991. Since 2001 the centre had come under the auspices of the Ministry of Education which provided for the running costs; the Ministry of Justice and the prison service had formerly operated it. As of June 2001, the centre had a total of 355 children, approximately 60 full and part-time staff, and received some support from the UN World Food Programme and the international NGO Hope World Wide. [10a]
- 6.126 According to an IRIN report of May 2003, Al-Haramayn operated five orphanages in Mogadishu and one in Merka, between 1992 and May 2003. Together with two based in Somaliland, these facilities accommodated around 3,500 children; most

had reportedly lost one or both parents in the civil war. Children from these orphanages received three meals a day and schooling. However, in May 2003 the Islamic aid agency ceased operating in Somalia following US Government accusations that it had links with terrorists. A senior UN official commented that other aid agencies operating in the capital would not be able to look after the children, at least in the short term. There were fears the children would join the vast number of young gunmen on the streets of Mogadishu. [10f] In February 2004 IRIN reported that the Islamic aid agency-sponsored orphanages formally closed down, leaving around 3,000 orphans homeless. [10q]

CHILD SOLDIERS

6.127 According to the USSD, during 2004 it was reported that:

“Boys as young as aged fourteen and fifteen have taken part in militia attacks, and many youths are members of marauding “Morian” (meaning parasites or maggots) gangs.” [2a] (Section 5)

6.128 In June 2003 the UN Security Council Somalia update referred to a report listing parties that used or recruited child soldiers. The report named the TNG, Juba Valley Alliance (JVA), SRRC, SRRC-Mogadishu and the RRA; additionally the report referred to children having been used by the forces of both protagonists during the fighting in Puntland. [3b] (p8) On 30 January 2003 the UN Security Council adopted a new resolution on children and armed conflict. This provided for the Security Council or the Secretary General to enter into dialogue with parties to armed conflict that are recruiting or using child soldiers, to develop “clear and time-bound action plans” to end the practice. [32a]

6.129 The United Nations Secretary General, in his situation report on Somalia to the Security Council dated June 2005 (UNSCR), noted:

“The United Nations also collaborated on a project aimed at the rehabilitation and reintegration of former child soldiers in Kismaayo, Merca and Mogadishu, which has benefited 420 children. The United Nations is supporting a community-based psychosocial care and support strategy for vulnerable children and their families and is helping to establish a cadre of paraprofessional psychosocial workers.” [3g] (p13)

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HOMOSEXUALS

6.130 According to a report by the International Lesbian and Gay Association (ILGA) in 1999 and the African organisation “Behind the Mask” in 2004, sexual intercourse with a person of the same sex is punishable under Article 409 of the Somali Penal Code by imprisonment from three months to three years. An “act of lust” other than sexual intercourse is punishable by imprisonment from two months to two years. Under Article 410 of the Somali Penal Code, a security measure, which normally means police surveillance to prevent re-offending, may be attached to a sentence for homosexual acts. It was not clear whether the laws on homosexual acts applied to lesbian sexual acts. The ILGA and “Behind the Mask”, both drew the conclusion that the law probably does not apply to lesbian acts. The basis for this view was that the Somali Penal Code was based on the Indian Penal Code that applied in the former British Somaliland protectorate. Therefore, Articles 409

and 410 of the Somali Penal Code would not apply to lesbian acts, as the Indian laws that they were based upon does not. [34a] [35a]

- 6.131 In May 2004, “Behind the Mask” reported on the activities of “Queer Somalia” (a community group based in Ethiopia), which indicated that the problems for homosexuals in Somalia relate to the lack of central government, loosely applied Islamic law and pressures from families. [35b] “Behind the Mask” reported a story from Huriyahmag, dated 22 October 2004, which stated:

“A queer rights group called Qaniisiinta Soomaaliyeed (Queer Somalis) held talks with a newly-elected president of Somalia. The group’s Executive Director, Hadiyo “Boston” Jimcale, said the new president promised to her that under his government all Somalis would be safe, over a telephone conversation she had with the president on Wednesday [20 October 2004]. She stated that the country’s new laws (put in the books in 2000 by a worldwide recognized temporary national government in Mogadishu) call for all Somalis to be treated equal under the law, regardless of their sexualities or religious beliefs.” [35c]

However, the article also noted:

“But in 2001, a lesbian couple in northwest Somalia was executed after the local Islamic government found out they were to be married. “We are confident this government will help us as people of sexual minority,’ said Jimcale. Back in July [2004], the group had its 4th international conference in London with more than 200 participants from all over the world.” [35c]

- 6.132 According to the “Behind the Mask” article of May 2004:

“Whether through suicide following pressure from families or via loosely applied Islamic law that is uncontrolled due to the lack of a central government, their [homosexuals] greatest fear is death – a sentence that can be brought upon them just for being homosexual, or for being perceived to be homosexual. ... The situation for queer people in Somalia is very dangerous. Without official recognition and without a government to lobby, Queer Somalia can do little more than report on the plights of individuals and to host meetings with small groups, acting as a link to the outside world. There are a lot of people who are queer [in Somalia] but they are afraid they will miss their basic rights if they express themselves.” [35b]

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6.C HUMAN RIGHTS – OTHER ISSUES

HUMANITARIAN ISSUES

- 6.133 The UNHCR position paper of January 2004 noted:

“In late 2003 aid agencies could safely operate in only a handful of places in southern and central Somalia. Relatively good rains in this country exceptionally prone to flood and drought allowed for overall improved food security, but conflict and lack of access in key areas of southern and central Somalia – including parts of central Mudug and Galgaduud regions, Baidoa and Burhakaba town in Bay region, Buale and Jilib towns in the Lower and Middle Juba regions,

and Luuq and Gabarharey towns in Gedo region – prevent many farmers from harvesting their crops, resulting in high malnutrition rates in many areas (71% of the population are undernourished).” [23a] (p3)

- 6.134 Professor Menkhaus, in his trend analysis paper of November 2003 (based on a UNHCR-sponsored paper of August 2003), also noted the very negative trend in attacks on and assassinations of national and international staff members of international relief agencies. Four international aid workers were killed in Somalia in October 2003 alone, making Somalia one of the most dangerous sites for humanitarian work in the world. Likewise, national and international aid workers are now much more vulnerable to kidnapping than was common in the past. In an odd way, Somalia is somewhat safer today for average Somalis than in 1991-92, but much less safe for aid workers than a decade ago. [8a] (p10) On 15 March 2004 Puntland-based Midnimo website reported that UN and other international aid workers were ordered to leave Xuddur in Bakool region amid fears of a resumption of inter-clan fighting. [28a]

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INTERNALLY DISPLACED PERSONS (IDPs)

- 6.135 As noted in the Norwegian Refugee Council's report Profile Of Internal Displacement:Somalia, dated November 2004:

“In 2004, rough estimates were that up to 400,000 people were internally displaced in Somalia, out of a total population of 6.8 million (UN, 18 November 2004; UNDP, 2004). At the height of fighting in 1992, up to two million people were internally displaced and another million had fled to neighbouring countries (UNICEF, 10 December 2003). Tracking displaced populations in Somalia is particularly difficult as virtually all Somalis have been displaced by violence at least once in their life. In addition, many IDPs are dispersed, or living in unplanned settlements alongside destitute rural and urban populations rather than in camps (UN November 2001). [30a] (p54)

“In the first place, people tend to flee within their region of origin and seek protection where their clan is dominant. However, the protracted nature of conflict which has changed the ethnic map of certain areas, has forced many people to flee far away from their kin. Many reached the relatively secure areas of Somaliland and Puntland in northern Somalia, where they mingled with other indigent groups and waves of returning refugees. As a result of the recurrent insecurity in the south and centre of the country, very few IDPs have gone back to their areas of origin and many have lived for over ten years in over-crowded and unsanitary urban slums. There, they tend to regroup in unplanned settlements along ethnic lines. An estimated 40,000 IDPs lived in Somaliland, most of them in Hargeisa (UN, 15 June 2004). Puntland hosted some 70,000 IDPs, including a recent influx of IDPs from Somaliland among which about 28,000 lived in Bosaso port in about 13 settlements (UN, 15 June 2004; 18 November 2003). Ironically, the most dangerous place in the country, Mogadishu, has attracted the largest population of displaced people, up to 250,000, mainly due to perceived economic opportunities the capital offers (UN, 18 November 2004).” [30a] (p54)

- 6.136 The United Nations Secretary General, in his situation report on Somalia to the Security Council dated June 2005 (UNSCR), noted the following:

“United Nations agencies, in partnership with national and international nongovernmental organizations, have developed strategic plans for effective assistance to the estimated 400,000 internally displaced persons scattered over 32 sites in Somalia. In cooperation with non-governmental organization partners and local authorities, the United Nations has supported efforts to accelerate assistance for internally displaced persons and returnee populations in “Somaliland” and “Puntland.” However, the protective environment for most internally displaced persons in Somalia, particularly the 250,000 residing in Mogadishu, remains weak. The highly volatile environment continues to restrict access to those communities, which remain vulnerable to harassment, exploitation and extortion.” [3g] (p9-10)

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RETURNING REFUGEES

6.137 On 1 June 2004, the UNHCR announced the repatriation of some 2,000 refugees from the Aisha camp in Ethiopia. [23b] The closure of Hartishek (what had been the world’s largest refugee camp) was announced by UNHCR in an IRIN article of 2 July 2004, following the repatriation of the remaining 719 refugees. [10t]

6.138 As noted in the JFFMR March 2004:

“[UNHCR representative] stated that UNHCR arranges facilitated returns only. She stated that the numbers of returnees to southern and central Somalia vary according to region but estimated that the return of 2-3 persons is facilitated each month to all of southern and central Somalia. She emphasised that less than 100 persons return annually.” [7c] (p44)

6.139 The UNSCR in its report of June 2005 noted the following:

“In 2005, a total of 5,856 Somali refugees were repatriated to Somalia from Ethiopia and Djibouti. The majority of the returnees came to “Somaliland”, while others were airlifted from Djibouti to “Puntland”. Reintegration projects are designed to facilitate the return of Somali refugees from asylum countries, improve infrastructure and create livelihoods in the receiving communities.” [3g] (p10)

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UNHCR POSITION ON THE RETURN OF REJECTED ASYLUM SEEKERS

6.140 The following are extracts from the UNHCR’s position paper of January 2004:

“Although the levels of faction and large-scale inter-clan conflicts may have reduced in southern Somalia, insecurity continues to be a significant problem. Lives continue to be threatened by violence, crime, clan feuds, lack of justice as well as poverty. Furthermore, humanitarian agencies have real problems gaining access to many areas. Militia loyal to different strongmen succeed one another in a perpetual move to establish a sustainable control on certain areas. There is a constant fear of abrupt change in clan balance shaking up fragile territorial power bases. This often leads to conflicts between clans and factions.

Mines have been laid in many areas as part of current conflicts to either mark territorial control or prevent the movement of people. Moreover, the lack of any effective governing administration may render it impossible for countries with rejected Somali asylum seekers to embark on any comprehensive and coordinated dialogue aiming at removing such cases. Consequently, UNHCR considers that persons originating from southern Somalia are in need of international protection and objects to any involuntary return of rejected asylum-seekers to the area south of the town of Galkayo.” [23a] (p9)

“Despite the fact that security, stability and governance prevail in Somaliland and to an increasing extent in Puntland, the conditions are not generally favourable for the forced return of large numbers of rejected asylum-seekers. While the restoration of national protection, in line with protection standards applicable to all other citizens, is not likely to be a problem for persons originating from these areas, the weak economy, which offers few employment opportunities, and the lack of sufficient basic services, result to [sic] an environment which is not conducive to maintaining harmonious relations among the population. Therefore, UNHCR advises against indiscriminate involuntary returns. It is recommended that cases be reviewed individually, and that States take into consideration the particular circumstances of each case (age, gender, health, ethnic/clan background, family situation, availability of socio-economic support), in order to determine whether possible return of the individuals/families in question can be sustainable, or whether they should be allowed to remain on their territory on humanitarian grounds.” [23a] (p10)

“In this regard, it should also be noted that women, children and adolescents face particular challenges upon return to Somalia after a long stay in exile, which may have changed some of their habits and affected their ability to speak Somali without an unfamiliar accent. While it is not a policy of the authorities in Somaliland and Puntland, returnees and deportees from further afar than the immediate region, or even from urban areas within the region, often face severe discrimination by their community on account of not being sufficiently Somali. A 2003 UN-OCHA report entitled “A Gap in their Hearts: the experience of separated Somali children” concludes: “Bi-cultural separated Somali minors who are returned to their homeland under duress or through deception are in danger of harassment, extortion, rape and murder.” Perceived unacceptable and culturally insensitive behaviour by girls results in harsher discrimination and punishment than for boys. While this study focuses on child smuggling and its consequences, the findings related to the treatment of returning youths to Somalia are relevant also for other young Somalis who are involuntarily returned to their homeland, after having been exposed and to a certain extent adapted to another culture. As some of the rejected asylum-seekers considered by host countries for deportation may in fact be victims of child smuggling (up to 250 children are sent out of the Somali capital alone every month), the detailed findings of this study are highly relevant to decision makers on involuntary return of Somalis.” [23a] (p10)

“Somali women who unsuccessfully but credibly based their asylum claims on issues related to gender-based persecution should not be subject to involuntary return to any part of Somalia. While authorities in Somaliland and Puntland are to varying degrees prepared to work towards reducing harmful traditional practices and enhancing respect for the rights of women, they have as yet no real means to enforce such slowly emerging policies for the tangible benefit of women.” [23a] (p10)

“Persons suffering from HIV/AIDS are stigmatized in their communities to the extent that they are outcasts and abandoned by their clans and families. They cannot count on the support by those usually expected to ease the period of reintegration upon their return. Medical facilities in all parts of Somalia are not equipped to render the necessary assistance. Except for those few who can afford to import the drugs, anti-retroviral treatment is not available in Somalia. The involuntary removal of persons with HIV/AIDS should thus be strictly avoided. Furthermore, even if HIV-negative, AIDS orphans or relatives of persons who suffer from HIV/AIDS will face the same stigmatization and discrimination, if returned to Somalia. Accordingly, the deportation of AIDS orphans or relatives of persons known to be living with HIV/AIDS is highly inadvisable.” [23a] (p10)

“States considering the involuntary return of rejected asylum-seekers to Somaliland and Puntland should take careful account of the potential impact of their actions in relation to the already over-stretched community coping mechanisms and basic services, coupled with a weak economy. Forced returns, particularly if implemented in large numbers, could jeopardize the on-going peace, reconciliation and recovery efforts of the administrations and people, which are only modestly being supported by the international community.” [23a] (p11)

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GENERAL SECURITY SITUATION 2004-2005

6.141 As reflected in the Report of the Joint UK-Nordic Fact-Finding Mission (JFFMR) of March 2004, UN sources suggested that the fluid security situation and general trend in extra-judicial killings in the southern and central regions remained unchanged during 2003, a trend that had been constant since 1999. It was indicated that the security situation in Somalia generally had deteriorated during 2003. The source explained that this situation was caused by the time that had elapsed and because the culture of violence and weapons, and disrespect for life have become more prevalent in Somalia. It was added that the security situation in Somalia is being continuously monitored and that the overall level of violence in 2003 was high. Incidents of kidnappings and looting had increased, as many people looked to increase their resource base. The weaker clans and the minority groups were now worse off. This increase in violence and the deterioration of security in Somalia has affected not only Somali civilians, but also local UN staff. [7c] (p11)

6.142 Freedom House, in its report on Somalia covering 2004, reported:

“The 2000 elections marked the first time Somalis had an opportunity to choose their government on a somewhat national basis since 1969. Some 3,000 representatives of civic and religious organizations, women’s groups, and clans came together under the Intergovernmental Authority on Development, following Djibouti-hosted peace talks, to elect a transitional parliament in August 2000. In August 2004, the new 275-member parliament, the TFA, came into existence. Abdullahi Yusuf, leader of the breakaway enclave of Puntland, was elected to a five-year term as president.

“The region of Somaliland has exercised de facto independence from Somalia since May 1991, although it has failed to gain international recognition. A clan conference led to a peace accord among its clan factions in 1997, establishing a presidency and bicameral parliament with proportional clan representation. Somaliland is far more cohesive than the rest of the country, although reports of some human rights abuses persist. A referendum on independence and a new constitution were approved in May 2001, opening the way for a multiparty system. Dahir Riyale Kahin of the ruling Unity of Democrats Party emerged as the winner of historic presidential elections in 2003. Kahin had been vice president under Mohamed Egal, who died of kidney failure in 2002. International observers from 14 countries declared the voting to be free and fair. Municipal elections in December 2002 also drew 440,000 people to the polls.” [24a] (p577)

MOGADISHU

- 6.143 Following a visit to assess the humanitarian and security situation in April 2003, the UN Resident Representative and Humanitarian Co-ordinator noted that:

“The current situation in Mogadishu was problematic and severely affected the ability of the international community to do anything very meaningful. Regarding the security situation in the city, the report stated it was “good in some areas and not so good in others.” [10d]

- 6.144 As noted in the JFFMR March 2004: “The number of reported violations against women and children in the capital increased considerably in 2003”. [7c] (p21) The UNSCR October 2003 stated that in August 2003 some efforts were made to establish neighbourhood security patrols. In at least one case, neighbouring security organisations fought over their boundaries. [3c] (p6)

- 6.145 The UNSCR of June 2005 stated:

“Violence continues to affect Mogadishu. In spite of the rapprochement between many of the faction leaders in the city, high levels of violent crime and occasional inter-clan incidents mean that the city remains at United Nations security phase V. Victims have included a journalist of the British Broadcasting Corporation who was killed by gunmen on 10 February [2005] and a Somali working for an international non-governmental organization who was killed on 18 April [2005]. It is not clear who is responsible for those attacks, but reports indicate that extremist groups may be involved.” [3g] (p9)

LOWER SHABELLE

- 6.146 The JFFMR of March 2004 reflects the UNSCR of February 2004 which stated that:

“Early in November 2003, the arrival of some 15 ‘technicals’ from Mogadishu to areas near Marka in Lower Shabelle signalled rising tensions over competition to extort taxes from banana traders. On 14 November 2003, the fighting pitted the Ayr against the Saad, both sub-clans of the Hawiye/Habr-Gedir. Many people were killed and wounded before Elders arranged a ceasefire on 27 November 2003.” [3d] (p5) [7c] (p22-23)

On 24 November 2003, IRIN reported eight fatalities following clashes between pro-TNG factions and Sa'ad businessmen over trading access in Merka, in the so-called "banana wars". [10p] [7c] (p23) On the same day, seven fatalities were reported by Puntland-based Radio Gaalkacyo in Dhanaane following inter-clan clashes. [29a]

- 6.147 The UNSCR for June 2004 stated that tension over the banana trade led to several violent confrontations in the reporting period, including 17 people being killed on 17 March 2004. [3e] (p6) Subsequently, Radio HornAfrik reported fighting between rival clans in the Buur Hakaba district on 12 and 19 June 2004, and further serious attacks on herdsmen reported in Bulo Marer village, resulting in seven fatalities on 25 July 2004. [37e] [37g] [37k]

MIDDLE SHABELLE

- 6.148 As noted in the JFFMR March 2004: "According to UN sources Jowhar seemed to have stabilised through the course of 2003." [7c] (p20)

- 6.149 The UNSCR of June 2005 reported:

"In the Juba and Shabelle areas, the deyr 2004/05 cereal production fell to its lowest post-war level due to inundation and localized floods caused by heavy rains. Flooding has continued in the gu rainy season in the Hiran and Middle Shabelle regions, where the situation remains precarious, with several thousand households now forced to vacate their riverine villages." [3g] (p9)

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KISMAYO AND JUBA REGIONS

- 6.150 As reflected by UN sources in the JFFMR March 2004: "The stability of Kismayo depends on a fragile mix of political, militia and business actors that share a common interest generating and using income from the "taxation" of port and airport activities." [7c] (p26)

- 6.151 On 17 June 2004, HornAfrik Radio and the BBC reported that Kismayo seaport had been closed due to inter-militia fighting. [14i] [37f] A subsequent HornAfrik report of 29 June 2004 indicated that the port had reopened following the mediation of clan Elders, though on 19 July 2004 the same source reported a further closure due to a pay dispute. [37h] [37j]

- 6.152 The June 2005 UNSCR noted:

"In 2005, despite increased humanitarian needs, operations were curtailed in Bay, Bakool, Gedo, Lower Juba, Hiran, Galgaduud, Benadir and Middle Shabelle as a consequence of local conflict, interference in agency operations by local authorities or attacks on aid agency staff." [3g] (p9)

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BAY AND BAKOOL

- 6.153 The UNSCR of June 2005 reported:

“On 24 March [2005], a large number of people in Hodur, the capital of the Bakool region, and those in the Yaqshid District in Mogadishu held rallies to express support for the President’s intention to relocate to Baidoa and Jawhar until the capital was secure. However, an attempt to hold a similar rally in Baidoa led to fighting from 25 to 27 March [2005] during which 14 people were reportedly killed. The clashes occurred between militias allied to Mohamed Ibrahim Habsade, assisted by the militias of Sheikh Yusuf Indhadde from the Lower Shabelle region and those of his erstwhile allies, Colonel Hassan Muhammed Nur “Shatigudud”, Sheikh Aden Madobe and Abdallah Derow Issaq (all Transitional Federal Government Ministers). The latter group supports President Yusuf’s relocation plan, while the former is opposed to his relocating to Baidoa. The two groups clashed again on 30 May [2005] over control of the city.” [3g] (p7)

6.154 The same report stated:

“Inter-clan conflict, motivated by competition for control of resources and the cycle of revenge killings, remains a significant problem. Areas most seriously affected by clan disputes include: South Mudug and North Galguduud and the town of Hobyo, where the Saad and Suleiman sub-clans of the Habr Gedir have been engaged in a long-running dispute over the control of grazing; Bay and Bakool where the clans of the Rahanwein have fought over the control of Baidoa; the Gedo region, where there has been continued low-level confrontation among the Marehan; and between the Marehan and Garre in El Wak on the border with Kenya.

“In March and May [2005], the confrontation over control of Baidoa ... widened when militias from opposing elements of the Hawiye intervened. Tensions were reduced following the intervention of traditional leaders and, for the moment, the dispute remains contained within the Rahanwein.” [3g] (p8)

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GEDO

6.155 The UNSCR of February 2005 stated:

“Tensions in northern Gedo have subsided following more than two years of inter-clan disputes. It appears that traditional leaders have been able to reach agreement over the control of Belethawa. There have been no major confrontations elsewhere in southern Somalia, although incidents of crime, violent disputes and militia checkpoints are common. In one incident on 8 December [2004] in Buale, an aircraft of the European Community Humanitarian Office was hit when a gunman opened fire in what appears to have been a labour dispute.” [3f] (p7)

6.156 The UNSCR of June 2005 reported:

“In mid-April [2005], cross-border intra-clan fighting in the Gedo region resulted in the displacement of an estimated 15,000 people. Gedo is beset with the highest malnutrition rates in Somalia (up to 23 per cent), based in part on chronic food insecurity. Continued tensions impede humanitarian access. However, United Nations agencies, non-governmental organizations and local

authorities are closely monitoring the situation and are ready to respond once access is secured.” [3g] (p9)

HIRAN

6.157 According to the JFFMR March 2004:

“The UN sources explained that further south towards Belet Weyne there is no administration and that the Sharia court has run out of money. Belet Weyne is an important trading point between North and South, which has grown for the last couple of years and is still expanding due to the trade and the remittances from the Somali diaspora. There is a split between the Hawiye and the Galjeel clans, which has caused tension in the western part of Belet Weyne.” [7c] (p19)

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MUDUG

6.158 As reported in the UNSCR of June 2005:

“During their visit to the Mudug region in February [2005], President Yusuf and Prime Minister Gedi negotiated a ceasefire agreement between the Sa’ad and Suleiman sub-clans of the Habr Gedir, in an attempt to end the armed conflict that had been going on for the past three months. However, renewed fighting between the two sides, on 4 and 5 March [2005] resulted in some 16 people being killed.” [3g] (p7)

6.159 On 22 August 2005, UN Integrated Regional Information Networks (IRIN) reported:

“Violence against civilians continues to be a major problem in the strife-torn Horn of Africa nation of Somalia, the international humanitarian aid organisation, Médecins sans Frontières (MSF), said on Monday [22 August 2005].

“MSF said in a statement that this year alone, it had treated more than 500 cases of violent trauma injuries in its two hospitals in the town of Galkaayo, the regional capital of central Somalia’s Mudug region.

“Galkaayo is divided into two halves, north and south, which fall in the separate regions of Puntland and Mudug respectively. MSF said it had been forced to operate separate hospitals in north and south Galkaayo because patients could not cross the frontline that splits it in two.

“Mudug, home to some 350,000 people, is divided along clan lines into North and South Mudug. The Majeerten sub-clan of the Darod clan dominate North Mudug, while the Habar Gedir sub-clan of the Hawiye clan are in South Mudug.” [10x]

PUNTLAND

6.160 The United Nations Commission on Human Rights, in its report by its independent expert Ghanim Alnajjar dated 11 March 2005, noted:

“In “Puntland”, the human rights issues mostly concerned economic and social rights. Large-scale illegal fishing by foreign trawlers (complicated by recent drought and floods), and the cumulative effects of the long-standing ban on livestock were infringing the economic and social rights of the people of “Puntland” and thwarting development in the region. The need to reinforce the educational and health infrastructure of the region was noted. While on mission in “Puntland”, the independent expert examined the extent of the effects of the 26 December 2004 Indian Ocean tsunami on the Hafun peninsula. Local officials and the local population expressed gratitude for the emergency assistance received to date, but urged that longer-term interventions focus on restoring their livelihood, particularly fishing.” [4a] (p2)

6.161 In his report, Ghanim Alnajjar reported on his visit to Puntland:

“The independent expert visited Garowe, Bossaso and Hafun in “Puntland”, from 3 to 5 February [2005]. He remarked that this being his third visit to “Puntland”, the security situation was much improved compared to his previous two visits.

“The independent expert’s first meeting there was with the President of “Puntland” in Garowe on 3 February [2005]. The President noted that “Puntland” had been relatively safe in the past year and that peace and security was not their primary worry at this stage. He outlined, rather, that “Puntland’s” current problems were: (a) the effects of the four-year drought; (b) the impact of freezing rains which killed thousands of livestock in a single night; (c) the effects of the tsunami on the coastal areas of “Puntland”; and (d) the lack of infrastructure in the region. He also stated that poverty and development were crucial issues for “Puntland”.

“The independent expert raised the issue of economic rights in the “Puntland” region. The large-scale illegal fishing off the vast unguarded “Puntland” coast continues. There are over 200 large ships in “Puntland” waters and there are no coast guards. The independent expert also raised the problem of trafficking in “Puntland”.

“The President explained that it was very difficult to police “Puntland’s” long coast due to a lack of human and financial resources. He also explained that “Puntland” was essentially rich in natural resources that were unexploited due to an inability to attract foreign investment, but that, ironically, the coastal waters and fisheries areas were ruthlessly exploited by foreign vessels. He claimed that it had not proved possible to conclude agreements with foreign Governments about their vessels since they wished to enter into agreements with Somalia and not just with “Puntland”.

The independent expert once again advised that the region should establish an arrangement similar to that for civil aviation, which would permit international recognition and protection of the coastline. He also encouraged the promotion of commercial investment for the development of the ports, with marketing based on a thorough assessment of port needs.” [4a] (p11)

6.162 The same report noted that Ghanim Alnajjar visited areas in Puntland affected by the December 2004 tsunami, and noted his findings:

“As noted above, on 5 February [2005], the independent expert travelled to Hafun, a small fishing village on a peninsula in north-eastern coastal area of “Puntland”, to witness the effects of the tsunami, any human rights implications, and efforts to ameliorate the situation. The effects of the 26 December 2004 tsunami in the Indian Ocean were far-reaching, arriving as far as the eastern coast of Africa. The Hafun area had an estimated population of 6,000 people; from accounts received from the mayor of Hafun, about 19 people were confirmed dead and 132 are missing as a result of the tsunami striking the area. Most of the dead and missing are fishermen. There were also 130 boats missing, 18 transport boats were destroyed and many lobster storage freezers were also lost. The local school, clinic/hospital, district court, mosque as well as other buildings were destroyed. In many structures, the water level had reached 2 metres.” [4a] (p20)

6.163 The UNSCR of June 2005 noted:

“There have been no significant incidents between “Somaliland” and “Puntland” in the disputed regions of Sool and Sanaag, and some reports suggest a slight reduction of force levels, although there appears to be no progress towards a political solution.” [3g] (p8)

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SOMALILAND

6.164 The United Nations Commission on Human Rights, in its report by its independent expert Ghanim Alnajjar, dated 11 March 2005 reflected:

“The autonomous region of “Somaliland” continued to be relatively secure throughout 2004. The independent expert perceived some calm and optimism to resolving the Sool and Sanaag border conflict between “Somaliland” and “Puntland”. The authorities are undertaking modest infrastructure projects and NGOs continued their local human rights work albeit with little or no resources. Of concern are a slight increase in police brutality, an alarming trend in juvenile suicides and the forced return of refugees to “Somaliland”. There were also reports of impunity, threats to human rights defenders and journalists as well as to freedom of association and opinion. The matter of the scheduled elections in “Somaliland” was discussed with various authorities and the independent expert received guarantees that the election would indeed be held. The conflict in the contested border regions of Sool and Sanaag, continued between “Somaliland” and “Puntland”, causing serious human rights violations, and resulting in prisoners of war on both sides.

“A highlight of the independent expert’s mission to “Somaliland” was the negotiated release of Zamzam Ahmed Dualeh of “Puntland”, a 17-year-old girl who had been sentenced to five years’ incarceration for espionage and for lying about her clan identity. There were concerns by local and international observers that the teenager had been tried as an adult without due process and that she had been abused and sexually assaulted while in custody. The independent expert assisted in securing her release and accompanied her back to her home region of “Puntland”. The independent expert offered his support to Zamzam Ahmed Dualeh should she wish to pursue her case, and he received an agreement from “Somaliland” authorities to investigate her allegations of abuse.” [4a] (p2)

6.165 The report added:

“The independent expert visited Hargeisa: “Somaliland”, from 31 January to 2 February [2005]. The situation in “Somaliland” continued to be relatively calm compared to other areas of Somalia, particularly the southern and eastern regions. The border regions of Sool and Sanaag, however, remained “contested areas” between “Somaliland” and “Puntland”, causing serious human rights violations, and resulting in the taking of prisoners of war on both sides. In October 2004, unusually bloody clashes between “Somaliland” and “Puntland” forces in the Sool region left over 100 people dead.

“It was noted by some observers that the human rights situation in “Somaliland” was not on all counts improving. It was noted that human rights defenders had improved their capacities and skills in the region, but that in the current political environment the defenders were wary of repercussions from authorities that might arise in the course of carrying out human rights work. A complicating factor was that the outside world appeared reluctant to condemn human rights abuses which occurred for fear of jeopardizing the fragile “peace process” and rebuilding phase.

“There remains the issue of impunity for human rights violations in many parts of “Somaliland”. The lack of a fully functioning government and administrative apparatus make it very difficult to follow up on human rights violations and to hold any party accountable.” [4a] (p14-15)

6.166 As noted in the UNSCR of June 2005:

“On 2 April [2005], an absolute majority in “Somaliland’s” House of Representatives endorsed an election bill accepting the amendments suggested by “President” Dahir Riayle Kahin. Reports indicate that 61 members of those present in the House voted in favour, while 4 abstained. Earlier, the House had demanded a national census and the demarcation of regional borders ... However, “President” Kahin rejected the demands of the House of Representatives and referred the issue to the “Supreme Court”, which supported his position. Elections for the House of Representatives are scheduled to be held in September 2005.

“On 6 April [2005], the Chairman of the Kulmiye Political Party in “Somaliland”, Ahmed Mouhammed “Silanyo”, held a press conference in Hargeysa accusing the authorities of violating the constitution of “Somaliland” and harassing his supporters.

“An AU delegation led by Deputy Chairman Mazimhaka visited “Somaliland” from 1 to 4 May. The delegation was met by public demonstrations criticizing the AU and the international community for failing to recognize the progress achieved in “Somaliland”. The delegation was briefed by the authorities on “Somaliland’s” determination to protect its sovereignty. Mr. Mazimhaka stated that recognition of “Somaliland” was within the purview of AU member States. The former President of Zambia, Kenneth Kaunda, visited “Somaliland” from 19 to 21 May [2005] at the invitation of the authorities. He stated that he would share his findings with AU and other leaders in Africa. Earlier, an official of the United Kingdom of Great Britain and Northern Ireland had visited Hargeysa on 27 April [2005] to hold discussions on the parliamentary elections.” [3g] (p7)

6.167 The June 2005 UNSCR also noted:

“In mid-April [2005], heavy rain and floods hit Hargeysa in “Somaliland”, causing widespread damage to infrastructure. The United Nations has assisted over 6,000 people affected by flooding in “Somaliland” and southern Somalia through the provision of relief supplies, access to safe water and preventative measures against outbreaks of cholera and malaria.” [3g] (p9)

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ANNEX A: Chronology of Events

- 800's** Somali people began to migrate from Yemen.
- 1500's** Sultanate of Adel disintegrated into small states.
- 1860's** France acquired foothold on the Somali coast, later to become Djibouti.
- 1875** Egypt occupied towns on Somali coast and parts of the interior.
- 1887** Britain proclaimed a protectorate over Somaliland.
- 1888** Anglo-French agreement defined boundary between Somali possessions of the two countries.
- 1889** Italy created a protectorate in central Somalia, later consolidated with territory in the south ceded by the Sultan of Zanzibar.
- 1925** Territory east of the Jubba river detached from Kenya to become the westernmost part of the Italian protectorate.
- 1936** Italian Somaliland combined with Somali-speaking parts of Ethiopia to form a province of Italian East Africa.
- 1940** Italians occupied British Somaliland.
- 1941** British occupied Italian Somalia.
- 1950** Italian Somaliland becomes a UN trust territory under Italian control.
- 1956** Italian Somaliland renamed Somalia and granted internal autonomy.
- 1960** British and Italian parts of Somalia became independent, merged and formed the United Republic of Somalia; Aden Abdullah Osman Daar elected President.
- 1963** Border dispute with Kenya; diplomatic relations with Britain broken until 1968.
- 1964** Border dispute with Ethiopia erupts into hostilities.
- 1967** Abdi Rashid Ali Shermarke beats Aden Abdullah Osman Daar in elections for President.
- 1969** Muhammad Siad Barre assumed power in a coup after Shermarke is assassinated.
- 1970** Barre declared Somalia a socialist state and nationalised most of the economy.
- 1974** Somalia joined the Arab League.
- 1974-75** Severe drought caused widespread starvation.

- 1977** Somalia invaded the Somali-inhabited Ogaden region of Ethiopia.
- 1978** Somali forces pushed out of Ogaden with the help of Soviet advisers and Cuban troops.
- 1981** Opposition to Barre's regime began to emerge after he excluded members of the Mijertyn and Isaq clans from Government positions, which are filled with people from his own Marehan clan.
- 1988** Peace accord with Ethiopia.
- 1991** Opposition clans ousted Barre who is forced to flee the country. Former British protectorate of Somaliland declares unilateral independence.
- 1992** US Marines land near Mogadishu ahead of a UN peacekeeping force sent to restore order and safeguard relief supplies.
- 1995** UN peacekeepers leave, having failed to achieve their mission.
- 1996** Warlord Muhammad Aideed dies of his wounds and is succeeded by his son, Hussein.
- 1997** Clan leaders meeting in Cairo agreed to convene a conference of rival clan members to elect a new national Government.
- 1998** Puntland region in northern Somalia declares unilateral independence.
- 2000** **August:** Clan leaders and senior figures meeting in Djibouti elect Abdulkassim Salat Hassan President of Somalia.
October: Hassan and his newly-appointed prime minister, Ali Khalif Gelayadh, arrive in Mogadishu to heroes' welcomes.
October: Gelayadh announced his Government, the first in the country since 1991.
- 2001** **January:** Somali rebels seized the southern town of Garbaharey, reportedly with Ethiopian help.
February: French oil group TotalFinaElf signs agreement with transitional Government to prospect for oil in south; one of main faction leaders, Mohamed Qanyareh Afrah, signs accord recognising interim Government, reportedly in return for promise of ministerial posts.
April: Somali warlords, backed by Ethiopia, announce their intention to form a national Government within six months, in direct opposition to the country's transitional administration.
May: Dozens are killed in Mogadishu's worst fighting in months between transitional Government forces and militia led by warlord Hussein Aideed.
May: Referendum in breakaway Somaliland shows overwhelming support for independence.
August: Forces of the opposition Somali Reconciliation and Restoration Council seized Kismayo for General Mohammed Hirsi Morgan.
August: UN appeals for food aid for half a million people in the drought-hit south.
September: UN, EU evacuate foreign aid workers in period of uncertainty in wake of attacks on US.

November: US freezes funds of main remittance bank over suspected al-Qaeda links. UN humanitarian official says move is helping to push country towards economic collapse.

2002 April: Warlords in southwest unilaterally declare autonomy for six districts and form "Southwestern Regional Government".

May: New President of breakaway Somaliland Dahir Riyale Kahin takes power after death of Mohamed Ibrahim Egal and pledges to preserve sovereignty.

October: 21 warring factions and transitional Government signed a ceasefire under which hostilities will end for duration of peace talks.

2003 April: First presidential elections in breakaway Somaliland. The incumbent Dahir Riyale Kahin won by narrow margin.

2004 January: Breakthrough at peace talks in Kenya; warlords, politicians signed a deal to set up new Parliament.

May/June: More than 100 killed in upsurge of fighting. Deadly clashes between ethnic militias in southern town of Bula Hawo.

August: New transitional Parliament inaugurated at ceremony in Kenya. In October the body elects Abdullahi Yusuf as president.

December: Prime Minister Ali Mohammed Ghedi is approved in office by Parliament, 12 days after being ousted by the body in a vote of no confidence. Large waves generated by an undersea earthquake off Indonesia hit the Somali coast and the island of Hafun. Hundreds of deaths are reported; tens of thousands of people are displaced.

2005 May: Explosion kills at least 10 people and injures many more at a rally in Mogadishu where Prime Minister Ali Mohammed Ghedi is giving a speech.

June: Somali Government begins returning home from exile in Kenya, but there are bitter divisions over where in Somalia the new parliament should sit.

Source [14o]

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ANNEX B: Somali Clan Structure

Clan family	Sub-clans/groupings	Residential location
DIR	Issa Gadabursi Bimal	All regions of Somalia. Also Ethiopia, Djibouti, Kenya
ISAAQ	Habr Awal: Saad Muse Issa Muse Ayub Habr Garhadjis: Habr Yunis Aidagalla Arab Habr Jaalo (Habr Toljaalo): Mohamed Abokor Ibrahim Muse Abokor Ahmad (Toljaalo)	All regions of Somalia especially Lower Shabelle and Hiran. Also Kenya and Ethiopia
DAROD	Marehan Ogaden Harti Confederation: Majerteen Dulbahante Warsangeli	All regions of Somalia. Also Kenya and Ethiopia
HAWIYE	Hawadle Waadan Habr Gedir Abgal Murosade Gaalgale (Galjael, Galje'el)	Hiran and Gedo Also Kenya, Ethiopia
DIGIL	Dabarre Jiddu Tunni Geledi Garre Beledi	Mainly Lower Shabelle, also Middle Juba, Bay, Hiran, Gedo and Mogadishu. Also Kenya and Ethiopia
RAHANWEYN	The "Eight": Maalinweyna Harien Helleda Elai, and others	Bay, Bakool, Gedo. Also Kenya and Ethiopia
	The "Nine": Gassa Gudda Hadama Luwai Geledi, and others	Bay, Bakool, Gedo, Middle Juba, and Hiran. Also Kenya and Ethiopia

For more detailed information on the Somali clan structure, refer to the 'Genealogical table of Somali clans' at Annex 3 of the JFFMR December 2000. See also Section 6B Somali clans. [7a] (p80-87)

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ANNEX C: Main Minority Groups

- Minority group: **BANTU**
 Ethnic origin: Bantu communities in East and Central Africa
 Est. pop: 15% (of the 7m total)
 Location: In the riverine areas across the Juba and Shabelle rivers: Jilib, Jamame, Buale, Sakow, Merka, Qoryoley, Afgoye, Jowhar, Balad, Buloburte, Beletweyne
 Language: Somali (both Maay and Mahatiri; Mushunguli)
 Religion: Islam and small percentage of Christian (about 300 people) mainly from the Mushunguli communities in Kakuma refugee camp
 Clan affiliation: Some Bantu sub-clans in the Lower Shabelle region identify themselves with Digil and Mirifle in the Lower Shabelle region
 Traditional skill: Small scale – farming and labourers
- Minority group: **RER HAMAR**
 Ethnic origin: Immigrants from Far East countries
 Est. pop: 0.5%
 Location: Shangani and Hamarweyne districts in Mogadishu; and Merka
 Language: Somali (Rer-Hamar Dialect)
 Religion: Islam
 Clan affiliation: Some sub-clans have patron clans within Hawadle
 Traditional skill: Business, fishing
- Minority group: **BRAWAN/BRAVANESE**
 Ethnic origin: Arab immigrants mainly from Yemen
 Est. pop: 0.5%
 Location: Mainly in Brava
 Language: Bravanese
 Religion: Islam
 Clan affiliation: No patron clans
 Traditional skill: Business, fishing
- Minority group: **BAJUNI**
 Ethnic origin: Kiswahili people from Kenya Coast
 Est. pop: 0.2%
 Location: Kismayo, and islands off coast: Jula, Madoga, Satarani, Raskamboni, Bungabo, Hudey, Koyama, and Jovay islands.
 Language: Bajuni
 Religion: Islam
 Clan affiliation: No patron clans
 Traditional skill: Mainly fishing
- Minority group: **GALGALA**
 Ethnic origin: Samale
 Est. pop: 0.2%
 Location: Mogadishu and Gedihir in the Middle Shabelle region
 Language: Somali (Mahatiri)
 Religion: Islam
 Clan affiliation: Identify themselves as Nuh Mohamud; Clan patrons – Osman Mohamud and Omar Mohamud sub-clans of Majerteen
 Traditional skill: Wood craft making, pastorals

Minority group: **GAHEYLE**
 Ethnic origin: Samale
 Est. pop: 0.1%
 Location: Erigabo (Sanag)
 Language: Somali (Mahatiri)
 Religion: Islam
 Clan affiliation: Warsengeli (Darod)
 Traditional skill: Pastoralists

Minority group: **BONI**
 Ethnic origin: -
 Est. pop: 0.1%
 Location: Along the border between Kenya and Somalia
 Language: Somali (Mahatiri)
 Religion: Islam
 Clan affiliation: No patron clan
 Traditional skill: Hunters

Minority group: **EYLE**
 Ethnic origin: Sab
 Est. pop: 0.2%
 Location: Mainly in Burhakaba, Jowhar and Bulo Burte
 Language: Somali (Some use May, and others Mahatiri)
 Religion: Islam
 Clan affiliation: Rahanweyn
 Traditional skill: Hunters and Gatherers

Minority group: **MIDGAN (GABOYE)**
 Ethnic origin: Samale
 Est. pop: 0.5%
 Location: Scattered in the north and central Somalia, Hiran, Mogadishu and Kismayo
 Language: Somali (Mahatiri)
 Religion: Islam
 Clan affiliation: Isak in Somaliland, Darod in Puntland Hawadle, Murasade and Marehan in Galgadud region [31b] (p3)
 Traditional skill: Shoemakers

Minority group: **TUMAL and YIBIR**
 Ethnic origin: Samale
 Est. pop: 0.5% and 0.5%
 Location: North and Central Somalia, Hiran, Mogadishu and Kismayo
 Language: Somali dialect of the clan to which they are attached [7a] (p58)
 Religion: -
 Clan affiliation: Isak in Somaliland, Darod in Puntland Hawadle, Murasade and Marehan in Galgadud region [31b] (p3)
 Traditional skill: Blacksmiths/Hunters

Minority group: **ASHRAF**
 Ethnic origin: Arab immigrants from Saudi Arabia
 Est. pop: 0.5%
 Location: Merka, Brava, Bay and Bakool
 Language: Mainly May, some Mahatiri

Religion: Islam
Clan affiliation: Rahanweyn
Traditional skill: Farmers and Pastoralists

See also Section 6B Minority groups.
[31b] (p11-12)

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ANNEX D: Political Organisations

Islamic Union Party (al-Ittihad al-Islam)

Islamist group aims to unite ethnic Somalis from Somalia, Ethiopia, Kenya and Djibouti in an Islamic state. Despite being virtually decimated following Ethiopian attacks, the group has been perceived as attempting to spread fundamentalism and was subject to international attention following the terrorist attacks in the US in September 2001. The group has in fact dropped its radical agenda and poses no terrorist threat. [17a] (p10) [1a] (Political Organizations)

DSA (Digil Salvation Army)

Clan-based group created in 1999 and allied to Mr Aideed in fighting the RRA in the Shabeellaha Hoose region. [17a] (p10)

JVA (Juba Valley Alliance)

Grouping of Ogaden, Marehan and Abar Gedir clans. Placed their territory under the control of the TNA in May 2002. Founded 2003, and its President is Bare Adan Shire. [17a] (p10) [1a] (Political Organizations)

RRA (Rahawayn Resistance Army)

Clan-based group, allied to the SRRC, behind the self-proclaimed south-western Somalia administration. Chairman is Mohamed Hasan Nur. [17a] (p11) [1a] (Political Organizations)

RSA (Rahawayn Salvation Army)

Clan-based group opposed to RRA administration in the Bay and Bakool regions. [17a] (p11)

SDM (Somali Democratic Movement)

Hawiye group operational in Mogadishu and the Bay and Bakool regions. The SDM appears to have formed an alliance with the SNA. [17a] (p11)

SNA (Somali National Alliance)

Founded in 1992, as an alliance between the Southern Somali National Movement (which withdrew in 1993) and the factions of the United Somali Congress, Somali Democratic Movement and Somali Patriotic Movement. Its Chairman is Hussein Mohamed Aidid. A splinter group of the United Somali Congress (USC). It is itself divided into two AbarGedir/Hawiye political factions, one led by Mr Aideed and one by Mr Osman "Ato". The SNA appears to have formed an alliance with the SDM. [17a] (p11) [1a] (Political Organizations)

SNF (Somali National Front)

Marehan/Darod group based in the Gedo region. [17a] (p11)

SNSC (Somali National Salvation Council)

Alliance of 12 political groups, headed by Musa Sude Yalahow, formed in 2003 to oppose the Nairobi peace talks. [17a] (p11)

SPM (Somali Patriotic Movement)

Darod group formed in 1989 to oppose the Siad Barre regime. Ousted from Kismayu, its base since 1993, in June 1999. Represents Ogadenis (of the Darod clan) in southern Somalia; this faction of the SPM has allied with the SNF in opposing the SNA. Its Chairman is Gen. Aden Abdullahi Noor ('Gabio'). [17a] (p11) [1a] (Political Organizations)

SPA (Somali Peace Alliance)

Political and military coalition formed in Garoe in August 1999, comprising the armed forces of Puntland, the RRA, the SPM and a faction of the SNF. [17a] (p11)

SRRC (Somali Reconciliation and Restoration Council)

Alliance of factions created to oppose the TNA in March 2001 at Awasa, Ethiopia. [17a] (p11)

SSA (Somali Salvation Alliance)

Ali Mahdi Mohamed's Abgal/Hawiye political grouping, a splinter group of the USC. [17a] (p11)

SSDF (Somali Salvation Democratic Front)

Originally a Majerteen-Darod resistance group formed in 1978 to operate against the Siad Barre regime in the north-east. It is now the political organisation behind the self-proclaimed Puntland administration. Founded 1981, as the Democratic Front for the Salvation of Somalia (DFSS), as a coalition of the Somali Salvation Front, the Somali Workers' Party and the Democratic Front for the Liberation of Somalia. Operates in central Somalia, although a smaller group has opposed the SNA around Kismayu in alliance with the SNF. Chairman is Mohamed Abshir Monsa. [17a] (p11) [1a] (Political Organizations)

USC (United Somali Congress)

Founded 1989; in central Somalia. Overthrew Siad Barre in January 1991; Party split in 1991, with this faction dominated by the Abgal sub-clan of the Hawiye clan, Somalia's largest ethnic group. The USC is led by Abdullahi Ma'alin, and its Secretary General is Musa Nur Amin. Initially included the Aideed faction, it is now more commonly allied with the SSA or the SNA. [17a] (p11) [1a] (Political Organizations)

USP (United Somali Party)

North-eastern group involved in the creation of Puntland. [17a] (p11)

SAMO (Somali African Muki Organisation)

represents Bantu minority population member of SSA. The leader is Mowlid Ma'ane, also part of the G8 at the Nairobi peace talks. [10i]

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ANNEX E: Prominent People

ADEN Col. Barre “Hiirale”

Leader of the Juba Valley Alliance (JVA), which controls the southern port city of Kismayo and the surrounding Juba valley area. He is a member of the TFP and was named into the cabinet but has so far declined to be sworn in as a minister. He is from the Marehan sub-clan of the Darod clan. [10w]

AFRAH Mohamed Qanyare

Mogadishu faction leader allied to Mr Aideed and Minister of National Security in Mr Ghedi's cabinet. A member of the SRRC (Somali Reconciliation and Restoration Council). [17a] (p9)

AHMED Abdullahi Yussuf

Interim President in the Federal Transitional Parliament (FTP). Mr Abdullahi is a former Somali Salvation Democratic Front (SSDF) leader and a former President of Puntland. [17a] (p8)

AIDEED Hussein Mohamed

Son of General Mohamed Farah Aideed. Mr Aideed is Minister of Internal Affairs in the cabinet of Mr Ghedi. A member of the SRRC, his USC/SNA forces control much of south Mogadishu and large tracts of southern Somalia. [17a] (p8)

ALI Abdirahman Mohamed

A former general in the Somali army, appointed as Defence Minister in the cabinet of Mr Ghedi. [17a] (p8)

FARAH Hassan Abshir

A former Prime Minister of the TNA and former Interior Minister of Puntland. [17a] (p8)

GHEDI Ali Mohamed

Interim Prime Minister in the FTP. Mr Ghedi has taught at Mogadishu University and worked for the AU. He has no formal links to armed groups. [17a] (p8)

HASSAN Abdiqassim Salad

Former president of the transitional national Government. He handed over to Abdullahi Yusuf and went back to Mogadishu. He is from the Habar Gedir sub-clan of the Hawiye clan. [10w]

HASSAN Abdikassim Salat

Former interim President in the Transitional National Assembly (TNA). Mr Hassan has close ties with the Islamic courts and the business community in Mogadishu. [17a] (p8)

HIRSI Gen. Ade Muse

President of the self-declared autonomous region of Puntland. Lived in exile in Canada but returned to Somalia in 2001 to lead opposition forces against Abdullahi Yusuf, then leader of Puntland, until 2003 when they signed a peace deal. He is from the Majeerteen subclan of the Darod clan. [10w]

HIRSI Gen. Muhammad Said “Morgan”

Siad Barre's son-in-law and former Defence Minister who currently holds no position in the TFG. He controlled Kismayo until his forces were defeated by forces led by Hiirale

and Serar in 1999. He is a member of the Majeerteen sub-clan of the Darod clan. A member of the SRRC. [10w] [17a] (p9)

IBROW Salim Aliow

Finance Minister in the cabinet of Mr Ghedi. [17a] (p9)

ISMALI Abdullahi Sheik

Foreign Minister in Mr Ghedi's cabinet. A former diplomat. [17a] (p8)

KAHIN Dahir Riyale

President of the self-styled Somaliland Republic. Relatively new to politics, before being appointed Vice-President in 1997 his only experience of public administration was a 15-year stint as a secret police officer under the Siad Barre regime. [17a] (p8)

MOHAMED Ali Mahdi

Interim President after the fall of General Siad Barre; former leader of the United Somali Congress (USC)/Somali Salvation Alliance (SSA); current level of influence unclear but still considered a Mogadishu faction leader. [17a] (p8)

OSMAN Ali Hassan "Ato"

Construction Minister in the cabinet of Mr Ghedi. A former chief financier of General Aideed, his United Somali Congress (USC)/Somali National Alliance (SNA) forces control parts of south Mogadishu. He also belongs to the SRRC. [17a] (p8)

QALINLEH Mohamed Ali Aden

Former RRA spokesman. Appointed Governor of the RRA administration in the Bay region in 1999. [17a] (p9)

SHATIGUDUD Mohamed Nur

President of south-western Somalia. One of five co-chairmen of the SRRC, and Agriculture Minister in Mr Ghedi's cabinet. [17a] (p9)

SILANYO Ahmed Mohamed Mohamoud

Presidential candidate for the Kulmiye party in the Somaliland elections. A former chairman of the Somali National Movement (SNM). [17a] (p8)

YALAHOW Musa Sude

A Mogadishu faction leader initially allied to Mr Aideed. [17a] (p9)

YUSAF Mohamed Abdi

A former Prime Minister of the TNA. [17a] (p9)

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