

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

# Somalia

## Country Report

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## I. General Background

Presentation by Mr Moe A. Hussein, comments by Mr. Kalunga Lutato

### I.1 Somalia in transition - a context analysis

After more than a decade of civil strife, Somalia continues to evoke images of disfunctionality, suffering and a complete failure of its leaders to bring order to a country and its people. The country's present political and military impasse and its genesis is largely influenced by the country's total collapse of administration and regulation in 1991. Furthermore, the subsequent failure of the 'New World Order' intervention of the international community in the form of UNOSOM I & II has only aggravated the situation. Thus, it will take some time before the potential of Somalia can be fully grasped and appreciated by the outside world.

At the beginning of the 21st century, the reality of Somalia is a situation in which the positive impact of the civil society and a functional administration are slowly taking root and where large-scale violent conflict had significantly abated until the June – August 2001 period, when several conflicts erupted simultaneously in the Northeast (Bari region – part of Puntland State), Middle/Lower Juba and Middle Shabelle regions.<sup>1</sup> Yet, the rebuilding of Somali society is such that visible progress is being made, incorporating real advances including the development of an independent and active media. FM radio and television stations are being set up in many different parts of the country, especially in Mogadishu which continues to have a very negative image in the eyes of the international community. With the current political opening provided by the conclusion of the Arta peace process Somalis are setting ways to establish a degree of peace which has not existed since the fragmentation of society started in the 1980s.

How did the Somali people survive such a long period of upheaval without an overarching protection and safety net of conventional public institutions? This year's UNDP human development report on Somalia shows that due to the years of conflict Somalia has some of the worst human development indicators of the world. Anywhere else in the world this would prompt emergency response, but within a process of the normalisation of emergency, Somalis have adapted over the last ten years to rapid social and political change through extensive social networks for social support. Indeed, within the vacuum of normal governance many actors have prospered and in particular the unregulated private sector has profited from the international aid and service sector. The interrelations of high tech communication (Internet, global markets and migration) makes Somalia a template of how failed states can survive and over time restructure themselves economically and functionally.

In the North two *de facto* authorities have been established – Somaliland in the Northwest and Puntland in the Northeast. Both territories constitute autonomous regions of Somalia. While Somaliland declared its independence in 1991, the Puntland State Charter explicitly states that Puntland State is part of a future federal system of Somalia. Nevertheless, during the spring 2000 Somali National Peace Conference (SNPC) in Djibouti, the Puntland administration effected emergency laws that deterred anyone from attending the conference, having initially sent a delegation consisting of members of the administration and civil society.

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<sup>1</sup> Please refer to the website of the UN Integrated Regional Information Network for details and up-dates on fighting: <http://www.irinnews.org/>

While not being internationally recognised, the two *de facto* governments in the North have many characteristics in common with other states. In the south, the communities, religious institutions and clan elders have taken over many of the duties and responsibilities of governments - through traditional systems and mosques and through institutions known as „shir“ which is basically a local council or conference of traditional leaders, religious leaders or elders.

The manifold social breakdown has transformed the gender relationships. Somali women today are increasingly at the forefront in business and organised civil society associations, even though there is continued political marginalization of women.

The prospect of a healing process is even more evident today in Somalia. After a period of dialogue, reconciliation and peace have become a realistic possibility for Somalia. One sign of the political change is the completion of the Arta peace conference that started in Djibouti in May 2000 and lasted for seven months. It was concluded at the end of August 2000, with the adoption of a Transitional National Charter (TNC). The Transitional National Charter provides for the constitution of a transitional national assembly (TNA). From that assembly a transitional national government (TNG) was established. Since October 2000 the TNG is based in Mogadishu and operates from there.

While the TNG initially enjoyed tremendous public support in most parts of the country, its steady progress to expand its territorial control and establishment of effective administration has nevertheless been impeded. There are a number of groups and actors - among them major warlords in control of the capital - opposed to it. The TNG and the international community have started a slow attempt to reach out to these groups, namely the warlords and the two *de facto* states in the North. If all actors could be convinced of the benefits of peace and stability in the country for everyone, then maybe Somalia can get ahead.

As stated in the Transitional National Charter and called upon by the UN Security Council it is envisaged that during the transitional period all political groups in the country and particular those which have remained outside the Arta peace process will engage in a peaceful and constructive dialogue with the TNG in order to promote a national reconciliation and facilitate the democratic elections scheduled for 2003.

In March 2001, Ethiopia has reactivated its efforts to remain a pertinent actor in the Somali national peace and reconciliation process by convening all faction leaders opposed to the TNG, particularly the Mogadishu-based warlords as well as the faction leaders who had attended the Arta peace conference and later on declared their opposition to the TNG, in the Ethiopian town of Awasa. The members at the Awasa meeting founded the Somali Reconstruction and Restoration Council (SRRC). The SRRC framework basically duplicates the TNG by providing for a rotating presidential council which took its headquarters in Baidoa, Bay region (for details on the SRRC please refer to para 1.4 (d) of Mr Lutato's presentation). Since the formation of the SRRC, most Somalia observers note that the political agenda of this alliance very much depends on the political and financial support of Ethiopia.

In order to support the Arta peace framework and the fragile transitional national government the UN Security Council has invited the UN Secretary-General to prepare a proposal for a peace-building initiative for Somalia. This proposal, however, is currently on hold as the UN security assessment does not allow for an establishment of a UN peace-building office in Somalia. In his latest Somalia report to the Security Council published in October 2001, the UN Secretary-General again expressed his

opinion that due to the unchanged security situation he cannot „recommend the deployment of a post-conflict peace-building mission in Somalia.“<sup>2</sup>

There are also new regional initiatives emerging, e.g. the meeting of members of the TNG and the SRRC organised by the Kenyan president Arap Moi in late October 2001. Despite initial difficulties, the Nairobi meeting was declared a success by both the TNG and the SRRC representatives, who announced further peace talks in the future.<sup>3</sup>

Responding to a question from the audience about the chances for the TNG to really gain control in Mogadishu Mr Hussein stated that one should compare the development to the situation in Somaliland. If one examines how law and order was achieved there, it would appear that clan reconciliation underwent a long process of conferences. It took at least 1 ½ years after the second president of Somaliland was elected until significant progress was achieved. One case in point is the airport of Hargeisa which was not fully controlled by the Somaliland administration. In southern Somalia, given the complexities and large number of internal and external participants to the conflict, one will conclude that the task in front of the TNG is enormous. It is believed that an acceptable level of reconciliation could very well take an even longer period. Moreover, the social and economic destruction of Mogadishu is a lot worse than that of Hargeisa. The illegal import of Somali money and the subsequent crash of the markets was another negative impact on the economy.

On October 29, 2001 the TNA adopted a vote of no-confidence on the government of Prime Minister Ali Khalif Galaydh, citing the continuing insecurity and the failure to bring peace to the country within one year after the government came into office.<sup>4</sup> On 12 November 2001, Abdiqasim appointed Hassan Abshir Farah, a former minister and ambassador, as Prime Minister.<sup>5</sup>

The decision of Abdiqasim Salad Hassan not to send reinforcements to support the businessmen attacked by Hussein Aideed's militia in the port of Mogadishu on 12 May (for further information see para 3.16 of Mr Lutato's presentation) might have damaged his relationship with his financial sponsors but is said to have strengthened his standing in the community. After that incident there have been a number of meetings in Mogadishu between different clans.

Mr Lutato stated that the ongoing discussions between the TNG and its opponents are a very positive indicator. In this context it is important to know that when the TNG arrived in Mogadishu all five warlords were opposed to it whereas now only three opponents are left while two other warlords have joined the TNG. This is of course a continuing process and will take at least several months, if not a year; discussions and negotiations in Somalia do tend to take quite a long time. At the moment, it is too early to try and judge the TNG's capacity to reach lasting reconciliation.

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<sup>2</sup> UN Security Council: Report of the Secretary-General on the situation in Somalia (S/2001/963), 11 October 2001, para 72f.

<sup>3</sup> IRIN: SOMALIA: Nairobi talks end in "success", border reopened, 5 November 2001 [Internet [http://www.irinnews.org/report.asp?ReportID=12788&SelectRegion=Horn\\_of\\_Africa&SelectCountry=SOMALIA](http://www.irinnews.org/report.asp?ReportID=12788&SelectRegion=Horn_of_Africa&SelectCountry=SOMALIA) accessed 11 November 2001]

<sup>4</sup> IRIN: SOMALIA: Parliament votes out interim government, 29 October 2001 [Internet [http://www.irinnews.org/report.asp?ReportID=12560&SelectRegion=Horn\\_of\\_Africa&SelectCountry=SOMALIA](http://www.irinnews.org/report.asp?ReportID=12560&SelectRegion=Horn_of_Africa&SelectCountry=SOMALIA) accessed 11 November 2001]

<sup>5</sup> BBC: New PM in Somalia, 12 November 2001 [Internet

## **I.2 The situation in Somaliland and Puntland**

### **Background**

As mentioned above there are two *de facto* governments in the North of Somalia: Somaliland and Puntland. The boundaries of Somaliland are inherited from the colonial British protectorate. Within the regions of Somaliland there are various clans residing and represented in the government. When the Puntland administration was established in August 1998, Puntland claimed parts of the regions of Sanaag, Sool and the district Buuhoodle of Togdheer region due to kinship as well as participation of some of the representatives of communities from these regions in the formation of the state. Clan affiliation is also part of the political basis of the Puntland administration.

Puntland therefore may be considered a single clan state. Puntland established a governmental structure that is seen to be catering to one segment of the Somali population rather than to the entire population in its clan diversity. This is a crucial difference between the Puntland administration and Somaliland, and even the outcome of the Arta Process for the Transitional National Government.

The boundaries of Puntland in the South (Mudug region) are limited by the town of Gaalkayo and by the areas inhabited by those clans that form the basis of the Puntland state. This boundary divides North and South Mudug. People who reside in the southern part of the region and people who reside in the northern part of the region belong to two different clans - the Majerteen of the Darod family in the north and the Habr Gedir of the Hawiye family in the south. Notwithstanding the present clan line, the inhabitants of this region have co-existed and have strong common relations based on intermarriages, commerce, traditional security mechanisms, etc. But the current political rupture in the country and the disintegration within Somali society have actually created a division between clans.

In spite of the contentious issue of territorial claims made by the Puntland administration, the authorities of both regions have maintained relative peace and stability in their relations with each other and in comparison to the south before the establishment of the TNG.

Recently, with holding a referendum on a new constitution, the Somaliland administration has embarked on the much awaited transition to constitutional governance. The authorities claim that 97% of the voters were in favour of the proposed constitution which asserts the independence of „Somaliland“<sup>6</sup> and provides for the establishment of a multi-party system and a series of elections for municipal/district, parliamentary and presidential levels starting in February 2002.

In the meantime, there has been a constitutional debate in Puntland since the Supreme Court of Puntland announced the expiry of the Executive and Parliament's mandates by 30 June 2001 according to article 34.3 of the State Charter. This followed after Colonel Abdullahi Yusuf received an extension of term for another three years through parliament, a decision which was contested by a group of traditional elders. Colonel Yusuf rejected the decision of the Supreme Court, removed the Chairman of the Court, who had assumed office as the legal interim president, and had this action ratified by the House of Parliament. This ratification was again contested by a council

<sup>6</sup> Both the TNG and the Puntland administration rejected the referendum as it violates the Act of Union of 1960. UN Security Council: Report of the Secretary-General on the situation in Somalia (S/2001/963) 11 October 2001, para 18

of elders; attempts for a peaceful solution of this crisis failed and after fighting broke out in Bosaso on 6 August 2001, Colonel Yusuf moved to his hometown Gaalkayo. As of this writing, there is a community meeting with over 400 participants taking place in Garowe to amend the Charter and elect a president and parliament. Colonel Yusuf has declared the meeting to be illegal and refused to participate. Please refer to the website of the UN Integrated Regional Information Network ([www.irinnews.org](http://www.irinnews.org)) for updates on the situation in Puntland.

### **The question of returns to Somaliland and Puntland**

Mr. Lutato stated that in the view of UNHCR return to these regions is safe for people originating from Somaliland and Puntland. Mr. Hussein adds that in Somaliland the number of voluntarily returns is very high. There are people who return from the Diaspora within assisted programmes or they go on their own e.g. to establish business initiatives in their home area. In Somaliland and Puntland return is probably safe. But there is a difference between those people who return from Western industrialised countries with ideas and financial resources to cope and those who simply try to survive. In fact, returning from abroad one must have more resources than a returnee from the refugee camps. Otherwise, returnees often become internally displaced in society and even a burden on the community. In light of the economic problems in Somalia today — including the livestock export ban to the Gulf states and the import of counterfeit money, remittances sent home by Somalis living abroad support a large part of Somalis at home and are the only way the economy, especially in the North, is maintained. The entrepreneurial business in the North flourishes, extending to airline services and the telecommunication sector. Every time 60 people fly back from a business trip abroad or a dozen people return from the diaspora to see how their families are doing, they inject money in the economy. Nobody has figures of how much money is being sent back, but some estimate that it could well be millions of US\$. Many of those who remained in Somalia are thus supported by those outside. If they do not return to the country, they continue to alleviate the burden of their families.

#### **Estimates on returns**

From 1993 to April 2001 UNHCR assisted 252.243 people to return to Somalia (spontaneous returns are not included in this figure). In April 2001 we assisted 5.569 people to go back to the northern part of Somalia (Somaliland, Puntland).

During the height of the Somali refugee crisis there were more than a million people outside Somalia. Not only Somali nationals were affected, but even Ethiopian refugees of Somali ethnicity, who were in UNHCR camps in Somalia at the time, left the country. From this point of view the above mentioned 252.243 people are a very small figure compared to spontaneous returns.

#### **Possibility for returnees from Somaliland and Puntland to reach these areas safely from Europe**

The representative from UNHCR stated that if returnees are deported the deporting country has to ensure that there is transportation to the region concerned. In case of voluntary return, the way is usually via Djibouti to different parts of Somalia, even to Mogadishu and Puntland. With regard to return to Somaliland it has to be noted that the political problems between Djibouti and Somaliland have led to a border closure affecting air, land and sea borders. But transit through Ethiopia is possible. Twice a week, there are flights from Addis Ababa to Hargeisa by Ethiopian Airlines. A return to Somaliland via Puntland is also possible.

A participant from the Danish Immigration Service stated that Denmark concluded a return agreement with Somaliland in 1997 and on that basis has returned 10-11 rejected asylum seekers. This agreement was a success. Denmark has also an agreement with Puntland, which is more difficult to implement as the administration in the Northeast is not as established as in Hargeisa. It has to be noted that it is possible to travel between Hargeisa and Garowe without any problem. The official from the Danish Immigration Service can confirm that every Somali arriving at Hargeisa can travel to any place in the rest of Somalia by bus or other transportation.

Mr Hussein added that in recent months an increase of commercial flights to many parts of Somalia could be witnessed. There are several Somali operated commercial airlines flying Somalia. But the most notable development are the regular flights of Ethiopia Airline and Regional Airlines (British-Airways affiliated) to Hargeisa. There are at least 6 scheduled flights to Hargeisa every week.

Responding to a question whether the Somaliland and Puntland governments are quite reluctant to receive forced returns, Mr Lutato stated that UNHCR does not have this information. The office would not consciously look for data regarding forced return.

### **I.3 RRA - claimed territories**

The RRA (Rahanwein Resistance Army) territorial claim covers vast areas of Somalia, including part of the west bank of the Juba River as their traditional home land. The RRA leadership has repeatedly stated its aim to establish a regional administration in the regions under their control. Since June 1999 they have had control over the Bay and Bakool regions after capturing the Bay capital Baidoa from Hussein Aideed's USC/SNA with large-scale Ethiopian backing. The areas under control of the RRA are still conflict areas.

The three northern districts of Gedo have accepted the support of the Ethiopian government. Militia was trained on the other side of the border. Those who control the districts are supported financially and militarily by the Ethiopian government. There was a certain level of stability and security in this area from 1998 until the beginning of 2001, which for example made it possible for a foreigner to travel freely without any guards. A number of clashes and insecurity throughout most of the South is attributed to the split of the RRA into those favouring the SNF and other factions supported by Ethiopia (this includes the RRA Chairman) and those groups and personalities supporting the TNG. The RRA leadership has repeatedly arrested clan elders on the grounds that they had sought a discussion with the TNG.<sup>7</sup>

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<sup>7</sup> UN Security Council: Report of the Secretary-General on the situation in Somalia (S/2001/963) 11 October 2001, para 14

## **I.4 The political economy of conflict in Southern Somalia**

### **Gedo**

#### Main actors/clans:

Marehan, Ogaden (Auliyan subclan), Rahanwein, Bantu, some subclans of Hawiye and others.

SNF: The Somali National Front (SNF), a Marehan subclan militia, is split into two wings: One group is supported by Ethiopian military to control the three northern districts of the Gedo region. A fourth district has been suspected to have fallen under the control of a fundamentalist group called 'Al-Ittihad' – however, over the last four months, there are persistent rumours that they no longer control the area. The Al-Ittihad group was expelled from Luuq district by the combined forces of Ethiopian Army and SNF (wing II) in 1996.

The other wing of SNF along with key traditional elders have taken part in the Arta Somali National Peace Conference, [2000]. The chairman of the group is a member of the Transitional National Assembly, although he did not yet return to Mogadishu to take up his seat.

RRA: The Rahanwein Resistance Army which controls most of Bay and Bakool regions has recently opened an office in Luuq on the west bank of the Juba river.

Other Factions: other clan factions have no political representation in Gedo.

#### Key conflicts include:

In the early 1990s conflicts started between the Marehan subclans of the Somali National Front (SNF). With the help of Ethiopian armed troops, SNF II controls the main commerce routes to Kenya and Ethiopia and thus provides a security buffer zone for Ethiopia

Contention between indigenous groups (the so-called Guri) and outsiders (new arrivals following the civil strife in the country known as Galti) over control, leadership, and resources is also prevailing. After 1991 the „Galti“ arrived in Gedo, being displaced from the central regions of Somalia and Mogadishu. Once a conflict between families arises, the newcomers are considered as outsiders by the Guri (indigenous people) and cannot count on support. This is a source of conflict one has to be aware of.

Conflicts between majority and minority clans concern in particular land ownership, access to aid, employment, and other economic resources. There is also a number of clans living in the region as pastoralists and farmers, who are however politically marginalised. Recently-arrived communities have introduced their political agenda and have assumed military and political leadership throughout the region. This has sparked both intra- and inter-clan fighting.

Clashes between Ethiopia and the Islamic Al-Ittihad have repeatedly erupted in the region since 1996. It has led to the marginalisation and disintegration of the leadership of this Islamist movement.

Fighting between pro-TNG forces and the Ethiopia-backed SNF splinter faction has caused the displacement of approximately 10,000 persons over the Kenya and Somalia border as well as an increased number of land mines on the roads.

### **Hiran**

Hiran is another important region. The second largest river of Somalia runs through the region. The town of Beletweyne is significant for cross-border and north-south commercial trade. The region which is divided by the river and the east bank of the river has thus far attracted most aid and aid agencies.

Main actors/clans: Hawadle, Galjael, Jajeele, Makane, Badi Adde, Habr Gedir, and others

The Hawadle are the pre-dominant clan on the east bank. They have a functioning traditional system headed by a traditional leader called Ugas. The Ugas Khalif who passed away about a year ago had an enormous political power and usually handled most conflicts with neighbouring clans rather successfully. Although it took over a year to agree on one of his sons as successor, the fact that the region remained peaceful shows the functioning of the traditional conflict resolution mechanism.

As in Gedo, there is significant tension between the groups supporting the TNG and the Ethiopian backed factions leaders.

### **Kismayo - Middle/Lower Juba**

Kismayo is a very important city with a modern seaport and airport. Throughout the ten years of civil war, the strife to control these commercial and strategic infrastructures has remained a main source of conflict.

Main actors/clans: Ogaden, Harti (Majerteen, Marehan, Dulbahante, and Warsengali), Marehan, Araamale, Galjael, Biamal, Shakal, Bajuni, and other coastal population.

The main actors in Kismayo town itself are the Marehan and the Ayr. The Ayr are a subclan of the Habr Gedir. The Marehan and the Habr Gedir/Ayr subclan who are both from the central regions have put their political differences to rest in the last 15 months. They had joined forces in the so-called Juba Valley Alliance (JVA) to capture Kismayo town from the Darod General Mohamed Saed Hersi 'Morgan' who had controlled Kismayo from 1991 until June 1999 when it was taken by the Juba Valley Alliance.

Kismayo was again the site of intense fighting between Morgan's forces and the JVA at the end of July and the beginning of August 2001. On 6 August, General Morgan, supported by militia from the SRRC alliance and presumably also by Ethiopia, captured Kismayo town after two weeks of fighting with the JVA forces. Within twenty-four hours, control of the town changed hands in a surprising move of the JVA with significant support and reinforcement from the TNG and militias from Mogadishu. By recapturing the town on the following day, the JVA sparked debates throughout Somalia, particularly in the capital Mogadishu among TNG and TNA members. Many Somalis felt Kismayo requires a more lasting solution and inter-clan reconciliation rather than control of it by invading militias. In the aftermath of their defeat, the SRRC alliance fled from Kismayo to Baidoa, Bay region. The alliance then convened in Gode, a Somali region of Ethiopia to discuss why they failed to maintain control of the town.

The region is still conflict-prone. The SRRC alliance might once again attempt to take Kismayo and its surroundings by force. The TNG also intends to establish control in Kismayo.

On October 16, the regional capital of the Middle Juba Region, Bu'aale, was captured by forces loyal to the Somali Reconciliation and Restoration Council (SRRC). The JVA is again reported to deploy forces in order to retake the town.<sup>8</sup>

In the past, the region of Kismayo was very green with a lot of trees, but tree-cutting and export of charcoal has become one of the main commercial activities of certain unscrupulous business persons. Also, as uncontrolled exploitation of the environment is prevalent throughout the country, the dumping of waste products into the sea and in regions such as the Juba valley is suspected to have occurred in recent years and could cause severe environmental problems in future.

Galti/Guri: In Lower Juba there are similar dynamics at work as in Gedo. Many of those who had lived in Mogadishu moved southwards to Lower/Middle Juba, creating a conflict between indigenous clans and outsiders following the onset of the civil strife in the country.

SPM: The Somali Patriotic Movement was founded in late 1989 by a group of disgruntled Ogaden military officials from the southern region, particularly the Jubas. After the civil war, there has been an attempt to transform the faction in the interest of all Darod subclans and specifically of the Ogaden.

### **Lower Shabelle**

**Major clans/actors:** Hawiye clans (Habr Gedir), some Digil subclans, Bantu, Dir

In recent years, the Lower Shabelle region received attention because of its attempt to impose a civil structure of law and order with Sharia courts. This attempt proved not very successful because it was as if the militia changed from the clan uniform to those of the court militia which have continued to fight each other as well as other clans in the region. The leaders of the Sharia court system are mainly Habr Gedir, predominantly of the Ayr subclan. In his October 2001 report to the Security Council, the UN Secretary-General reports that the Sharia courts and their militia are being gradually absorbed by the TNG.<sup>9</sup>

The Digil Salvation Army which is allied with the Rahanwein Resistance Army has been fighting the Habr Gedir militia since 1999.

The TNG wants to establish itself in the region and has therefore appointed a number of ministers and delegates who originate from that region; so far, however, the TNG has not been able to control this region. In mid-November 2001, TNG armed forces have reportedly taken control of Marka, the regional capital of Lower Shabelle and occupied the police station.<sup>10</sup>

<sup>8</sup> IRIN: SOMALIA: Fear of renewed clashes in the south, 21 October 2001 [Internet [http://www.irinnews.org/report.asp?ReportID=12432&SelectRegion=Horn\\_of\\_Africa&SelectCountry=SOMALIA](http://www.irinnews.org/report.asp?ReportID=12432&SelectRegion=Horn_of_Africa&SelectCountry=SOMALIA) accessed 11 November 2001]

<sup>9</sup> UN Security Council: Report of the Secretary-General on the situation in Somalia (S/2001/963) 11 October 2001, para 8

<sup>10</sup> IRIN: SOMALIA: Government military takes control of Marka 7 November 2001 [Internet [http://www.irinnews.org/report.asp?ReportID=13265&SelectRegion=Horn\\_of\\_Africa&SelectCountry=SOMALIA](http://www.irinnews.org/report.asp?ReportID=13265&SelectRegion=Horn_of_Africa&SelectCountry=SOMALIA) accessed 11 November 2001]

## **Mogadishu**

Major actors in Mogadishu include the TNG and three warlords controlling different parts of the capital. Hussein Mohammed Aideed, Osman Ali Ato and Muse Sudi Yalahow have joined the Somali Reconciliation and Restoration Council in March 2001. Two other warlords have decided to support the TNG since its arrival in Mogadishu: Hussein Haji Bod declared his support for the TNG in December 2000 and Mohamed Qanyare Afrah joined the TNG as the minister of fisheries in February 2001

Musa Sudi Yalahow is a significant player in Mogadishu, but he was not elected as a chairman of the SRRC. Very little is known about him. Yalahow controls parts of northern Mogadishu, i.e., Karan district along the harbour and the vicinity of Mogadishu airport, i.e., Medina district. This is one reason why the TNG cannot open the main infrastructure without major firefight, as Yalahow controls strategic locations of Mogadishu from both sides.

The TNG reopened police stations in all 14 districts of Mogadishu. In one district, where the police station was located in the area controlled by Musa Sudi Yalahow, the TNG moved it to another location - outside of his control.

These five regions (Gedo, Hiran, Kismayo, Lower/Middle Juba and Lower Shabelle) are considered to be conflict regions. UNHCR considers all regions north of Gaalkayo as stable enough for promoted repatriation. For asylum seekers originating from this area (Somaliland, Puntland) UNHCR encourages individual refugee status determination, whereas for asylum seekers from the southern sector UNHCR encourages neighbouring countries to carry out refugee status determination on a prima facie basis as they are coming out of an area which UNHCR thinks is an area of potential conflict.

## **I.5 Questions and answers**

### **Judicial system**

The government of the state collapsed, but the Penal Code and the judicial laws that existed under the previous administration are still in force. Wherever there is a basic judicial or administrative structure they are applied. Somaliland uses the same codes as the previous government. Training programmes are funded by a number of donors as well as by UNDP as part of their peace-building efforts. Projects are carried out in Somaliland and recently also in Puntland. Judicial training will be based on the system as it existed prior to the collapse. However, as no unified government has yet been established, one should expect a debate about the legal system to evolve.

### **Detention conditions/torture**

Prisons are very small and detention conditions are not very good. There is a shortage of medical treatment. Torture is assumed not to be very common because it would lead to repercussions from the clan of the victim.

### **Human rights organisations**

There are a number of human rights organisations active in different parts of the country. In Mogadishu, there is the well-known Ismail Jum'ale Human Rights Organisation. The UN Commission for Human Rights has its offices within the UNDP Somalia unit and has provided some training to these organisations, particularly in Somaliland and Puntland. (In Puntland one can also find Human Rights Watch.) In the Bay region there is also at least one human rights organisation whereas for Kismayo and the other regions it is not known how many organisations are active there.

## II. Specific Groups at Risk

### Presentation by Kalunga S. Lutato, Representative, UNHCR Branch Office for Somalia, Nairobi, June, 2001

#### 1. Introduction

- 1.1. Following the forced collapse of the Siad Barre administration in 1991, and despite numerous efforts aimed at achieving peace and stability, Somalia has yet to achieve a comprehensive peace acceptable to all stakeholders in the country.
- 1.2. Although no comprehensive peace has been achieved, there are areas of Somalia which have enjoyed peace and stability for several years now. These are the areas in the North (the Northwest or "Somaliland", and the Northeast or "Puntland State of Somalia"). In these two regions, civil administrations, brought about by general consensus, have assumed control of the territories and have been vested with authority to maintain law and order.
- 1.3. Since their coming to power, these civil administrations have done everything possible to ensure that generalised insecurity is eliminated. Therefore, they have tried, and succeeded, in maintaining peace and stability in these two regions. This effort, has, in turn, inspired confidence in Somalis, both locally based and those in the diaspora, to invest their resources and embark on economic ventures which have brought relative growth to some sectors of the economy in these regions. However, opportunity for further investments, especially for locally based businesspersons, is largely thwarted by repeated bans on livestock exports to the rich, oil-producing Arab countries. These bans are a result of suspicion of the presence Rift Valley Fever in the livestock originating from the Horn of Africa.
- 1.4. Stability has not been established in the southern sector of the country, despite efforts to emulate what has happened in the north. Most important among these efforts are the following:
  - (a) The establishment of Benadir (or Capital) Regional Administration in March 1998. However, because of major differences between the principal parties (faction leaders) involved in the formation of this regional administration, it never became operational and, by April 1999, it became effectively dead.
  - (b) The creation of a Jubaland Administration by both the Somali Patriotic Movement (of General Mohamed Said Hersi, alias "Morgan" and his allies) and the Absame clan leaders. The Absame clan leaders held a conference in September and October 1998 in Gududey, Jilib district, Middle Juba Region, and resolved that a Jubaland Administration needed to be created. To try and make this idea operational, General "Morgan" and his allies, in February 1999, announced the start of such an administration by grouping the districts of Afmadou, Badade, Hagar and Kismayo, of the Lower Juba Region, into an administrative unit to which other areas of the two Juba regions were expected to be added later. However, this effort, too, did not amount to very much as by June 1999, General "Morgan" and his allies were forced out of their stronghold of

Kismayo by their opponents. Therefore, the idea of a Jubaland administration effective died.

- (c) The establishment of the Transitional National Government (TNG) in Mogadishu and expectations that this would lead to the pacification of the south. Although, the TNG established itself in Mogadishu in October last year (i.e., 2000), the anticipated pacification of Mogadishu and the rest of the southern regions of Somalia has not taken place. Skirmishes still occur in Mogadishu and generalised insecurity is still prevalent in southern Somalia.
- (d) The proposed creation of a Southwestern Regional Administration during the meeting, held in El Barde, Bakool Region, by some southern faction leaders, in January this year. This meeting drew in such figures as Hassan Mohamed Nur (aka "Shatigudud") of the Rahanwein Resistance Army (RRA), General "Morgan", General Aden Abdullahi Nur (aka "Gabio") both of the Somali Patriotic Movement (SPM), and, strangely, the President of "Puntland State of Somalia", Colonel Abdullahi Yusuf Ahmed. The proposed administration was to cover six southern regions: Bakool, Bay, Gedo, Middle and Lower Juba as well as Middle Shabelle. However, before a final decision could be made on how to make this proposal operational, the meeting was adjourned with a view to reconvening, in the same place, after 40 days. But that did not happen. Instead, these leaders and all the Mogadishu-based faction leaders opposed to the TNG (Hussein Mohamed Aideed, Osman Ali Ato, Musse Sude Yalahow) met in Awassa, Ethiopia, in March this year. At the close of this meeting, these faction leaders proclaimed the formation of a body they are calling the Somali Reconciliation and Restoration Council (SRRC). The SRRC Charter empowers this body with "holding a National Reconciliation Conference with the aim of instituting a government of an all inclusive Nation Unity" (Article 2 of the Charter, third paragraph). This body has a Presidential Council made up of five co-Chairmen, and has named 23 Under-Secretaries who are assigned ministerial-type functions. Therefore, it appears that the original idea of the El Barde meeting has been abandoned in favour of the establishment of a governmental structure parallel to the TNG. This new body has its base in Baidoa in Bay region.

The establishment of this body has not brought about the pacification of the south, but has tended to heighten the tension between the TNG and those opposed to it. Therefore, so far, all the efforts that have been made to pacify the south seem not to have been entirely successful. However, one should watch the way this new scenario evolves before one can be entirely categorical about this.

## **2. UNHCR Policy on Somali Refugees/Asylum Seekers**

- 2.1 UNHCR, in October 1999, adopted a situational approach to Somali refugees and asylum seekers. This was decided on at a policy-setting meeting held between 25 and 27 October in Nairobi, Kenya. The aim was to review the situation of Somali refugees and asylum seekers and bring some harmony to the way they should be treated.

- 2.2 After having reviewed the varied conditions in the country, and recognising that Somalia could not be treated as one homogenous entity with regard to security and administrative conditions, it was decided that a clear distinction should be made between northern and southern Somalia.
- 2.3 For the purposes of UNHCR policy, the division of the country into north and south was to coincide with areas recognised as being stable and areas recognised as not yet stable because of the absence of civil administrative structures to guarantee security. Therefore, the areas administered by the "Somaliland" and "Puntland" administrations would fall into the northern sector of the country, and the rest into the southern sector. Thus, for this purpose, UNHCR considers the part of the country from the city of Gaalkayo to the north as the northern sector. Everything south of Gaalkayo, therefore, falls into the southern sector of the country.
- 2.4 With regard to asylum seekers, it was agreed that where new Somali asylum seekers were coming from areas where fighting and insecurity were prevalent, the grant of *prima facie* refugee status should be applied to such individuals. **These areas were generally considered to fall into the southern sector of the country.**
- 2.5 **New Somali asylum seekers coming out of the northern sector of the country**, which is much more stable than the south, ***needed to have their claim to refugee status individually determined.*** This is in recognition of the fact that for several years now, both "Somaliland" and "Puntland" had not experienced events which would force any law abiding resident to flee those regions.
- 2.6 Moreover, it was also agreed that, ***regardless of area of origin, asylum requests by new Somali asylum seekers arriving in countries not immediately neighbouring Somalia should be individually determined.*** This is in recognition of the fact that Somalia's neighbours continue to generously extend their hospitality to their less fortunate brothers and sisters who come knocking on their doors seeking a safe haven from conditions that threaten their lives.
- 2.7 With regard to repatriation, the same distinction has been kept as far as the division of the country into sectors is concerned. UNHCR actively **promotes repatriation to the northern sector of the country**, while only **facilitating the repatriation of those who make specific requests to the agency to return to the southern sector of the country.**
- 2.8 When UNHCR promotes repatriation to any area, the general understanding is that the factors that drove refugees out of that area no longer exist; that their well founded fear of persecution or of personal danger should, under those circumstances, no longer be there. In the case of Somalia, UNHCR has determined that refugees who fled areas which are now in the northern sector can return in safety and in dignity to their habitual areas of former abode. The same cannot be said in the case of areas in the southern sector of the country. This is why UNHCR is still encouraging the granting of ***prima facie refugee status*** to those people being forced to leave the southern sector; and insisting on an in-depth briefing and advice on the objective security conditions in those areas whenever refugees opt to repatriate to them.

- 2.9 Promotion of repatriation, therefore, entails the **dissemination of information about the conditions in the areas of intended return**. UNHCR mounts campaigns in refugee camps and settlements to pass on information of what the security and political situations are in the areas of origin. Such information campaigns are supplemented by UNHCR-sponsored visits of refugee leaders to areas of origin. These visits are intended to convince these leaders that what they and their people are being told through information campaigns is in fact the objective truth. Such leaders, on return to refugee camps, confirm this to their people and thus reinforce the messages UNHCR is trying to pass to the general refugee population. The result should, ideally, be a decision, on the part of the individual refugee, to repatriate. That decision, UNHCR believes, should be an informed one (thus the information campaign and verification by refugee leaders) and **should be voluntary. UNHCR will not force a refugee to repatriate** despite the fact that the office itself is convinced that such a refugee will not be in danger if he repatriated.
- 2.10 With regard to Somalia, information campaigns have been and are still being carried out to promote repatriation to the northern sector of the country. Visits of refugee elders from camps in Ethiopia, Djibouti and Kenya have taken place to the northern sector of the country as part of this promotion exercise. Last month (between 24 and 30 May), refugee leaders from the Aisha refugee camp in Ethiopia undertook such a UNHCR-sponsored visit to prospective areas of return in Awdal Region, Northwest Somalia or "Somaliland", as part of the exercise to promote repatriation from that camp. The visit is reported to have been very successful.
- 2.11 Since areas of Somalia to which UNHCR is promoting repatriation have experienced war recently, part of the information campaign involves making potential returnees aware of the dangers posed by land mines. Thus, mine awareness campaigns are mounted in refugee camps to ensure that returning refugees can recognise land mines and other unexploded ordinance as well as recognise markings which demarcate mine fields. These campaigns are intended to make returnees avoid and report the sighting of such strange objects, as well as avoid cultivating or grazing their herds in areas that are marked as mine fields.
- 2.12 The presence of mines in areas where returning refugees are supposed to settle can act as a deterrent to repatriation. Indeed, part of the problem with large-scale repatriation from Djibouti to "Somaliland" (before the current political tension, occasioned by the Somali peace process, between them begun) has been the presence of land mines in areas of return. Refugees have insisted that they wished to see those devices removed from their settlement areas before they could return. Happily, work is now being undertaken to survey and demarcate mine fields in the areas concerned, with funding from European countries and UNDP. Hopefully, when the current political tension, which has led to border closures, is defused, those refugees in Djibouti will decide to repatriate.

- 2.13 Under normal circumstances, promoted refugee repatriation, should be underpinned by a legal instrument. This instrument is the **tripartite agreement** involving UNHCR, the government of the country of origin and the government of the country of asylum. The tripartite agreement spells out the responsibilities and obligations of each of the parties that sign it. Thus, for instance, through the tripartite agreement, undertakings are made that the country of asylum will not prevent refugees who wish to return home from doing so; that the country of origin will not refuse entry to its citizens who have been in exile; that such citizens will not be penalised or in any way harassed for having gone into exile, etc.
- 2.14 Because of the legal weight attached to undertakings made by the parties to a tripartite agreement, UNHCR can only sign such agreements with governments that are internationally recognised. Therefore, the fact that, in Somalia, UNHCR is promoting repatriation to areas which are governed by administrations that are not internationally recognised, has presented us with a rather peculiar problem in this respect. While we are convinced that the northern sector of the country has achieved the conditions for promoted refugee repatriation, we cannot underpin that repatriation by an internationally recognised legal instrument, on the Somalia side. We therefore have had to be pragmatic. We have had to secure the basic elements that go into a tripartite agreement in separate bilateral arrangements between us and each country of asylum, and between us and the regional authorities in both "Somaliland" and "Puntland". These arrangements are supplemented by vigorous lobbying of the concerned local authorities and monitoring of the situation of returnees to ensure that their human rights are respected. Fortunately, although not necessarily underpinned by a legal instrument, provisions made in such arrangements with regional administrations in Somalia have been respected.
- 2.15 In carrying out the actual repatriation programme, we are conscious of the fact that the state of the infrastructure in most areas inside Somalia is less than ideal, if extant at all. We are also conscious of the fact that if nothing were done to rehabilitate such infrastructure in areas of return, especially, water, health and education facilities, most refugees might not wish to stay in the areas they return to when they know that such facilities exist in the camps they have just left. Therefore, most of the financial resources that UNHCR has voted to the repatriation programme are used in efforts of facilitating returnee reintegration. This is not to say that the individual refugee family does not get a repatriation package. It does. This package is made up of two blankets and two jerry cans, as household items, a plastic sheet (to meet initial shelter needs), food for a nine-month period, and a small cash grant to enable the family reach its final destination from the point where international transport stops. The whole family package, when provided in monetary terms, comes to US dollars one hundred and ninety-six - US \$196 - (whereas most reintegration projects cost several thousand US dollars). In addition, the cost of international travel is also borne by UNHCR.
- 2.16 Reintegration projects, therefore, do not target individual refugees/returnees, but the communities in which such returnees will be re-inserting themselves. This strategy is deliberate. Since the major aim of the repatriation and reintegration programme is to stabilise populations in those areas where they go to settle after their period in exile, UNHCR does not wish to generate animosity between the returnees and those who did not leave by appearing to

favour returnees. Therefore, reintegration projects are designed to benefit everyone in those communities. Moreover, in trying to facilitate reintegration, through enhancing the absorptive capacity of areas of return, UNHCR is conscious of the fact that the numbers of those who will be returning to such communities are not limited to those who had crossed international borders, but also the internally displaced persons (or IDPs), and the demobilised militia men. Therefore, in planning the scope of reintegration projects, all four elements of the population of an area of return have to be factored in: those who did not leave, the IDPs, the demobilised militia men and the returning refugees. By making facilities available to all, it is hoped that harmony in the community can be achieved and maintained and further population movements can be avoided.

- 2.17 However, provision of basic facilities is only the first step in the stabilisation of populations in areas of return. Indeed UNHCR does not pretend that what it does can achieve the whole aim, even when groups of individuals (ideally, returnees and non-returnees) are assisted in starting small-scale income generating ventures. But it is a start that can be built on. **UNHCR's projects address immediate needs.** Much more assistance, channelled in programmes that are developmentally oriented, will be needed in these areas for sustainable reintegration to be fully achieved. Some such projects/programmes, which will address the issue of sustainable reintegration, and which have a regional orientation, have been developed by UNHCR and UNDP with collaboration of IGAD. Pilots of these projects are expected to start by July this year in several districts in "Somaliland" and "Puntland".
- 2.18 Therefore, when repatriation is promoted, UNHCR undertakes to mobilise resources from the international community to assist in the movement and reintegration of Somali refugees. However, when repatriation is **merely facilitated**, this undertaking is not there because conditions in the southern sector of the country do not always permit the presence of personnel who can monitor the implementation of reintegration projects. Therefore, if a refugee, despite being advised that, in the view of UNHCR, conditions in the area he wishes to return to are not suitable for promoted repatriation, still insists on going, he will be informed that there will be no reintegration assistance available where he is going. Further, he will be informed that he will only be assisted with the cost of international transport and be provided with a small cash grant to cover his expenses between the port of entry and his final destination. This is usually what is available to those refugees who insist on returning to Mogadishu or other parts of southern Somalia under current conditions, but require UNHCR assistance in doing so. **Moreover, because UNHCR international staff are not present in those areas to which repatriation is merely facilitated, the monitoring of the human rights situation of such returnees is not possible.**
- 2.19 On the return of Somali asylum seekers whose claims are rejected by possible countries of asylum, the UNHCR official position is informed by the October 1, 1997 paper entitled ***Return of Rejected Cases: UNHCR'S Role***, which is recognised as the current position on this subject.

- 2.20 The policy-setting meeting on Somali refugees and asylum seekers referred to earlier, having reviewed the various provisions of this document, concluded as follows with regard to the Somali asylum seeker situation:
- i. Where UNHCR was satisfied that the individuals concerned had gone through a proper and fair eligibility status determination procedure, the Organisation would be in a position to undertake the following activities:
    - (a) Provide information on developments in the country of origin as they affect return.
    - (b) Distribute information in the country of origin to underpin return.
    - (c) Identify and provide information on possibilities for post-return reintegration assistance.
  - ii. It was especially noted that UNHCR would require additional resources, both human and material, in order to undertake the above activities.
  - iii. In the event that asylum countries provided assistance packages to rejected asylum seekers in order to encourage them to return home, UNHCR should advise such countries to harmonise the assistance packages they provide.
  - iv. Where countries of asylum wish to link the return of rejected asylum seekers with provision of assistance in Somalia, UNHCR could advise on the use of such funds to ensure that such assistance contributed to economic development and the creation of opportunities for returnees to become self-sufficient. This would also help ensure that such bilateral funding was complementary and not counter-productive to UNHCR activities in Somalia.
  - v. Where there was prior bilateral understanding between the country of asylum and civil administration authorities in Somalia, UNHCR would have no objection to the return of a rejected asylum seeker. However, where this did not exist UNHCR would encourage countries of asylum to consider individual claims to asylum in order to avoid the creation of asylum seekers "in orbit".
- 2.21 Therefore, although UNHCR would not normally get involved with rejected Somali asylum seekers, under the above provisions, the Organisation can be of assistance to such individuals and the rejecting countries, provided the procedures of refugee status determination have been properly followed and the individuals have been found not to be of concern to UNHCR.
- 2.22 **Internal Flight Alternative:** This is an alternative that should be examined with a great deal of caution. Internal flight into such stable areas as Hargeisa, Bosaso and Gaalkayo has led to the mushrooming of IDP camps in the most inhospitable conditions. This phenomenon has resulted in subjecting people to more hardship, including disease, than the safety they went in search of. Although cities like Hargeisa and Bosaso have thrived as a result of the relative stability they have enjoyed, they have not succeeded in creating economic conditions which could provide adequate employment and sustenance for the large numbers of people who fled there from others parts of Somalia, especially from the south.

- 2.23 This alternative has been used largely by those who have clan affiliation with the predominant clans in these cities. Others from other areas have also moved there in search of safety. But the fragility of the administrations, the scarcity of resources, would dictate that no more pressure be put on these cities and areas lest what stability they currently enjoy be compromised and open conflict and instability result from competition for very limited resources. Therefore, one would urge caution and support for the on-going peace efforts which, if successful, would bring about a comprehensive resolution to the Somali problem. Such support is required at several levels:
- i. Bringing whatever influence countries have to bear on the opponents of the peace process to achieve reconciliation between the various antagonistic parties.
  - ii. Providing the new administration (TNG) with the resources that it needs to embark on and achieve its initial tasks.
  - iii. Insisting to the TNG that overtures and concrete steps have to be taken to bring into the new Somali administration those political and other actors who are still outside the peace process.

### **3. Groups at Risk**

- 3.1 At the beginning of the Somali civil conflict, there was a strong political element inherent in the conflict: everyone thought that this was a struggle to oust an unpopular regime from power and to bring in a new political dispensation. However, this conflict quite quickly degenerated into inter- and intra-clan warfare. Clan militias were formed in „defence of clan interests,“ to counter any real or perceived threat. Such threats could be over possession of territory or other resources (either natural or acquired), or one posed to the personal safety or security of clan members.
- 3.2 A major threat could involve occupation of land which one clan considered its „traditional,“ territory by another clan. The first clan would, in this case justify fighting the second clan on the basis that its traditional land had been invaded. However, sometimes, conflict flared up as result of one clan appropriating movable property from another. This would most probably involve livestock or, in urban settings, such things as vehicles, pieces of machinery, etc. In the attempt to recapture such inappropriately acquired clan property, fighting erupted. At other times, conflict flared up because a person from one clan had been killed by a person from another clan and traditional ways of arbitrating such conflicts were bypassed or dispensed with because those involved felt that the other side was or would not be willing to observe traditional practices. This latter cause of conflict would be motivated by revenge and set into motion a vicious cycle of killings and counter killings.
- 3.3 The misappropriation of land and property has been recognised as a major problem arising from this civil conflict. During the planning stages of conference that brought about the TNG, the symposium that set the agenda for the conference recommended, among other things, the departure of people occupying lands and property of others as a way of promoting peace among the various sectors of Somali society. This has clearly not happened. Therefore, for example, Digil clan militias continue to engage Hawiye clan militias for control of areas of Lower Shabelle which the Digil regard as "occupied" by Hawiye clanspeople.

- 3.4 In this incessant cycle of dispossession and conflict, it is usually the smaller clans (or sub-clans) or minority groups that suffer most at the hands of more powerful and numerically superior clans or groups. In southern Somalia, the case of the Bantu, a group which has largely inhabited the fertile valley areas of the Juba river and the islands off the coast of Kismayo [since coming to Somalia reportedly as slaves from farther south], is a good illustrative example. The farm lands of the Mushunguli and the island dwellings and fishing boats of the Bajuni have been invaded and taken over or looted by more powerful Hawiye clans people (farm lands) and/or a combination of Hawiye and Darod militias (Bajuni property).
- 3.5 These and other minority groups inhabiting both rural and urban areas have been forcibly dispossessed of their property, their women have been raped or forcibly married off, some have been killed in the process, and, thus, many have been forced into exile. Examples of some of these minority groups are the Rer Hamar of Mogadishu, the Asharaf, who could be found in most major towns as religious groups, the Barawan of Lower Shabelle, and those identified as Arabs in Mogadishu, Lower Shabelle, Lower Juba and Bay regions. Some of these minority groups have suffered such a fate because, according to other Somalis, they never fully interacted and intermarried with other Somali groups during the periods of stability. Therefore, when law and order broke down, they became targets of this kind of treatment. Others have been envied for the kind of prosperity they have acquired prior to the breakdown of law and order. Thus, the chaos brought about by the civil war, provided those who envied such groups an opportunity to get the property of those they considered wealthy.
- 3.6 Small clans or minority groups, because of fear of falling prey to larger and more powerful clans, therefore forged relationships with neighbouring and numerically superior clans. This is what has been the case with the Bajuni of Lower of Juba. For example, prior to the fall of Kismayo to the forces allied to Hussein Aideed in June 1999, the Bajuni, in Kismayo and in their islands, enjoyed the protection of the more powerful Darod (Majerteen and Ogaden) militia of General Morgan and his allies. However, since General Morgan's militia was routed and driven out of Kismayo, the Bajuni both in that city and in their island homes have fallen prey to those who routed their protectors. Their property has been thoroughly looted.
- 3.7 Apart from people belonging to small clans or minority groups being at risk of having their human rights violated, those who hold political views which run contrary to the views of the authorities or the dominant group also run the risk of having their human rights violated in Somalia. Since the conference that brought about the TNG has generated a lot of debate and has led to the adoption of quite rigid political positions, supporters of the TNG or opponents of it, depending upon where they find themselves, could be at risk.
- 3.8 In Northwestern Somalia or Somaliland, legislation was enacted in the regional parliament that made participation in the Arta Conference that brought about the TNG an act of high treason. This piece of legislation was later reinforced by a security decree which created a "national security committee" to enforce the legislation. As a result, for example, one Garad **Abshir Salah, a Dulbahante clan leader**, who had attended the Arta Conference, was arrested on **11 September, 2000, in Berbera** and was subsequently tried for high treason and sentenced to seven years' imprisonment. Although the Somaliland authorities ensured that this clan leader was provided with legal representation and that his trial was observed by a representative of the High Commissioner for Human Rights, the man was

actually imprisoned. However, Abshir Salih was pardoned by President Egal of Somaliland, following demonstrations by his supporters, after spending 35 days in prison.

- 3.9 Sometimes such arrests have led to violence during which people have lost their lives. This was the case, on **11 November, 2000**, when supporters of **Sultan Mohammed Abdul Khadar**, of the Egalle sub-clan, demonstrated in Hargeisa. The previous day, the Sultan and four of his companions had been arrested at Hargeisa Airport, as they arrived from attending the Arta Conference, via Dubai. As the police reacted to quell the demonstrations, three people were killed: one policeman and two civilians. Reports stated that between 40 and 70 of the demonstrators were subsequently arrested.
- 3.10 Since Djibouti hosted the Arta Conference, contact between "Somalilanders" and the Government of Djibouti seems to be forbidden. On 22 May this year, **Mr. Suleiman Mohamoud Adan**, a prominent **SNM member (SNM: the Somali National Movement** which fought the Siad Barre regime for control of Northwest Somalia or Somaliland) was arrested at Hargeisa airport, as he returned from abroad, for having held meetings "with the President of Djibouti, **Ismail Omer Ghelle**, and other Arta faction members like **Hussein Salah**" (this is probably Mr. Hussein Salah Muse, Deputy Minister in the Office of the President), according to an official statement quoted in the Hargeisa press. According to the press, Mr. Suleiman Mohamoud Adan's colleagues claim that he has been held "incommunicado". Mr. Suleiman Mohamoud Adan was reported by the BBC as having been released on Thursday, June 7.
- 3.11 In the Northeast or Puntland, demonstration against the stand of the authorities on the Arta Conference and its resulting TNG have also been held from time to time. The March 23, 2000 demonstrations in Bosaso resulted in the death of one person when police fired on demonstrators. Another political demonstration held on 2 February, 2001, in Bosaso, Puntland police opened fire on the demonstrators, killing one woman and several others. 15 persons were subsequently arrested and local human rights organisations claimed that they were tortured. The 15 were released on 17 February without charge or trial.
- 3.12 On July 13, 2000, fighting erupted between members of the Habr Gedir sub-clan of the Hawiye and members of the Majerteen sub-clan of the Darod in Gaalkayo city because of differences of opinion on the political course Somalia should follow (i.e., to support or not support the Arta peace process). This particular fight spread up to 40 kilometres north of the city of Gaalkayo and left an unknown number of people dead.
- 3.13 In southern Somalia, the Rahanwein Resistance Army (RRA) broke up pro-TNG demonstrations on 17 October, 2000, in Baidoa, but there were no casualties. These demonstrations had been organised by the traditional clan leadership of the Rahanwein. Subsequent to this, on 4 November, 2000, the RRA arrested 17 traditional leaders of their own clan for supporting the TNG. The arrest of these traditional leaders led to a confrontation between the RRA controlled militia and the militia controlled by the traditional leaders. Two people were reported to have died. This confrontation led to some Rahanwein elders to seek refuge in the bush. The arrested elders were released a week later.

- 3.14 On 6 January, 2001, the Speaker of the Transitional National Assembly (TNA) and the TNG Minister of Education and their escort were attacked by RRA militia. The two TNG officials were on a visit to Tieglow in Bakool Region, the Speaker's home. Nine people were killed in this attack and the Speaker and the Minister of Education were forced to flee for their lives on foot. They finally made it back to Mogadishu.
- 3.15 During the same period, fighting erupted between pro-TNG and anti-TNG RRA militias, just outside Baidoa. Six people were killed and many others were wounded in this confrontation.
- 3.16 In Mogadishu, violence directed at the people associated with the TNG by those who are opposed to the Arta Conference has been quite common. In some instances, those allied with the TNG have also attacked anti-TNG groups. For example, on October 18, 2000, General Yussuf Talan, who had just been appointed by the TNG to head militia demobilisation in Mogadishu, was assassinated in a street near the Sahafi Hotel in Mogadishu. On November 13, 2000, Hassan Ahmed Elmi, a member of the TNA was also assassinated in front of his home in the Medina district of Mogadishu. Another member of the TNA, Mohamed Dualle Haaf, was ambushed by people who either wished to abduct or kill him on 17 November, 2000. Mr. Haaf escaped unharmed from the ambush, but 7 other people were killed and 10 others were wounded. On 11 and 12 May 2001, militia belonging to businessmen allied to the TNG attacked Hussein Aideed and his escort and trapped them inside Mogadishu port where Aideed had gone to meet his allies. The TNG is reported to have negotiated a safe passage for him on 12 May, but this was after 50 people had been killed and many others had been wounded in the fighting and quite a lot of property around the port area had been destroyed.
- 3.17 From the above examples; it is clear that one's political position with regard to the current peace efforts in Somalia can put one's life at risk from those holding opposing views.
- 3.18 It is also clear from the above examples and numerous other reports of looting, murders and kidnappings that there is very little respect for human rights in many parts of Somalia. This is even more so in the south (and especially in Mogadishu) where humanitarian workers have now become regular targets. For example, on 15 June, 2000, a grenade was tossed into the compound of the NGO COSV in Merka. Fortunately there were no injuries reported. Again, in Merka, on July 12, some Biyamal clan militias attacked the compound of the international NGO Water for Life (WFL). One WFL security guard was critically injured. On 26 July, 2000, several heavily armed vehicles (called "Technicals"), accompanied by about 50 militiamen, attacked the compound of the NGO *Action Internationale contre la Faim* (ACF) in Mogadishu south. A local warlord (Osman Ali Ato) is believed to have ordered that attack. Two international staff members of ACF were taken hostage. They were only released after the International Committee of the Red Cross intervened on their behalf. On the night of September 19, a WHO guesthouse in Merka was attacked by several gunmen who wanted to force entry into it. Armed WHO security guards repulsed the attack which lasted about 20 minutes. Two UN security officers who had gone there to spend the night had to be evacuated following this attack. On 27 March 2001, six UN international staff members and three MSF-Spain staff members were taken hostage in Mogadishu, after a UN convoy was ambushed by militia controlled by Muse Sudi Yalahow's faction as it headed out of the MSF-Spain compound. The compound was

attacked by heavily armed militia and was eventually over-run and ransacked and thoroughly looted by the attackers. The hostages were released in batches, after vigorous intervention by both the TNG and the greater international community. The first five, which included all the MSF staff members, were released on the following day, the next two on March 30, and the last two on April 4.

## **II. 4 Questions and answers**

**(Mr Kalunga S. Lutato, comments by Mr. Moe A. Hussein)**

### **Security situation in the refugee camps in Kenya**

Mr Lutato stated that one has to take into account the area where the camps of Somali inhabitants are situated. The area itself is very prone to insecurity. There is considerable impact of the Somali conflict on this area, resulting in numerous cases a lot of murder, rape, hijacking of vehicles. This does not spare the camps themselves. A lot of measures have been taken by UNHCR Kenya to increase the safety in these camps. One of these measures was lobbying the Government of Kenya to put in place security measures to safeguard the camps as well as donors to support measures aimed at reducing insecurity in the camps. The US government has been very supportive and has provided money to UNHCR to make firewood available in the camps for the most vulnerable female headed households. It is not a generalised distribution of firewood to everybody but it selectively targets those who might be most at risk. Why is the availability of firewood so important in this context? Because it is women who go out to collect wood in the bush, where they are at risk of being attacked and especially of being raped. This measure has reduced the numbers of rapes. Secondly, UNHCR has lobbied strongly for the Kenyan government to bring a mobile court within the precincts of the camps. This has made it easier for people who have been arrested and charged with rape to be brought to justice which again has had an impact on the number of rapes. Thirdly UNHCR has provided funds to the Kenyan government to make police available in the camp areas. Housing, transportation, and body armours have been provided. The vehicles are also used to patrol the areas surrounding the camps. Thus, it can be said that there is a security problem, but aspects of the problem are being addressed.

### **Particular issues relating to the situation of minority clan members**

*(please refer also to Danish Immigration Service: Report on minority groups in Somalia. Joint British, Danish and Dutch fact-finding mission in Nairobi, Kenya 17 to 24 September 2000)*  
 [Internet <http://www.udlst/sjle1/somaliaeng00/indhold.html>]

#### **Can members of Siad Barre's clan (Marehan) move to the Northeast?**

Mr Lutato stated that in theory Siad Barre's relatives could move to the north-east; he is, however, currently not aware of anybody of the Siad Barre family who has gone to Puntland. Mr Hussein adds that in theory anyone belonging to the Marehan subclan can reside anywhere in Somalia – but one cannot predict how acceptable members of Barre's immediate family will be. Recently some people who had worked for the Barre regime returned to Hargeisa and other places to retain their property. As for Puntland and the Northeast, there is commerce between the areas resided predominantly by the Marehan and people from the Northeast. When Puntland was established, it contemplated if in fact the Marehan who live in the 'Abudwak' Northwest Galgudud region should take part in the formation of Puntland State.

Yibir

Mr Lutato responds that while one very much has to look at the specific situation, minorities in general tend to become victimised when law and order break down. UNHCR would rather not make general statements on the situation of a group such as the Yibir, but rather check the specific area/place of origin to verify if the Yibir might face problems there.

Mr Hussein stated that Yibir originate more or less from the north, from Somaliland. I have not heard of Yibir that reside in the south. Somaliland is safe enough for returnees from the diaspora and from the refugee camps in Ethiopia. There is no special reason to Mr Hussein's knowledge why Yibir should be targeted while others are not. Currently, a minority group can feel safe under the conditions that exist in the northern part of Somalia as long as they originate from this area. There is no per se persecution of them as long as they do not get involved in the politics of the area. Many returnees are interested in their survival and in improving their own as well as the situation of their community. It may be different if they belong to an advocacy organisation. There may be certain individuals who politicise their situation and want to get some attention from their administration. Those individuals may have problems and run the risk of being mistreated.

Bravanese

On a question regarding the Bravanese, Mr Lutato stated that they are an urban population and have never quite integrated. They have been subjected to a great number of human rights violations during the civil war. Many of them fled to Mombasa. Today, abuses against them are not continuing, but they do have bad memories and most of them would not want to return.

Bajuni

The Bajuni - fishermen living on the island off the shore of Kismayo - are an example of a minority group which struck an allegiance with whoever was in power on the mainland. They were protected by General Morgan until June 1999 when he was beaten by the Juba Valley Alliance. In 1998 UNHCR had repatriated the Bajuni from Mombasa to the islands and provided them with reintegration assistance to re-establish their livelihoods. The new occupying force perpetrated human rights violations against the Bajuni, including the looting of the islands. All their possessions were looted. The Bajuni do lack protection as they are dependent on the clan holding power but as we have seen in June 1999 this may change and they would then easily be subjected to abuses.

Benadir

The name "Benadir" is not referring to a clan but used to designate certain groups living in the capital. Therefore, one would have to know more details before being able to assess the situation of an individual belonging to the „Benadir“.

**Access to humanitarian aid and health care**

Humanitarian access depends on the group or forces in control of a given region or area. Due to the instability and insecurity in the south there are problems with [humanitarian] access. Apart from Lower Juba and Kismayo, there is absolutely no coverage by humanitarian organisations, but a specific assessment has yet to be made.

From November 2000 to August 2001, emergency conditions across Somalia abated significantly due to the combination of good rainfall, adequate river levels, above average crop production, improved availability of ground water and pasture. However, during that period in the North of the country, the arrival of the long dry jilaal season, compounded by the continuing livestock ban and devaluation of the Shilling – lead to depletion of household asset bases.

Endemic diseases such as tuberculosis, malaria, cholera, respiratory infections, and Kala-Azar, as well as pockets of severe malnutrition, continue to be widespread and indicate the importance of international assistance in this sector.

Throughout Somalia, health coverage is provided by specialised UN agencies and international non-governmental organisations. However in some regions, and particularly in southern Somalia, coverage is handicapped by the lack of access of agencies due to the prevailing insecurity. In Mogadishu there are at least five hospitals that receive assistance from international agencies, including the ICRC. Due to the frequent occurrence of hostilities and militia clashes they tend to be over-crowded, yet only offer reduced levels of service and provision of material. Some programmes undertake outreach mobile activities for vaccinations and distribution of drugs to remote areas.

In the North the health coverage situation, by comparison, is relatively better. Several international NGOs provide health-related assistance in Somaliland and Puntland. The Burao Hospital is presently operating mainly because of the assistance provided by the diaspora from Somaliland. The diaspora group rehabilitated the hospital and procured equipment, including generators. Before the diaspora intervened, international agencies had not been able to sustainably support the major hospital. Furthermore, Hargeisa Hospital and a number of private clinics make available health services. This year a new maternity hospital 'Edna Aden Hospital' started to operate. Edna Aden privately built the hospital with contributions from the general community of Somaliland, international organisations and organised diaspora groups.

### **Trafficking of minors**

Tracing family member and reunification is regularly carried out by agencies such as Save the Children and ICRC. The information can also be broadcast on the Somali service of the BBC. Trafficking of minors is not seen as sending them abroad for personal gains, but rather as an opportunity for that individual. There will be some financial gains in the trade. However, the current knowledge is based on second-hand stories.

### **Female genital mutilation**

Mr Lutato stated that female genital mutilation (FGM) is quite common although there are seminars, including seminars funded by UNHCR, to sensitise the female population in particular. This however, is not enough, because it is an issue that is perceived as an important element of the culture. As of today, the practice is ongoing and quite widespread.

### III. Other issues

#### III.1 Documents

Currently, no passports are being issued in Somalia. The last official issuing of Somali passports was in 1991. At present, it is possible for someone to obtain a Somali passport in Europe or elsewhere for USD 100 or even less. However, Dr. Ali Khalif Galaydh, the former Prime Minister of the TNG has announced that Somalia has succeeded recently to print 'new National passports' with stringent security features. The new Somali passports are printed in France, reportedly with hard-to-forge security features conforming to international standards. The government promised to immediately start to issue these passports to Somalis all over the country, and it expects other nations to take note of this. The Somaliland authorities have recently issued their own passports, but so far usage is limited to travelling to neighbouring countries and as well as to official use by the administration's senior officials.

The only existing national passports in use in Somalia is the green passport introduced before the collapse of the state. At the moment it is still used by TNG officials travelling abroad.

The Somali passport does not seem to be accepted anywhere in the world at the moment, except in some Arab countries. Somali businesspersons and travellers from Somalia are allowed entry into Gulf and Arab States. Usually visa arrangements are made by the [Somali] airlines. As regards the neighbouring countries, Somali passports are still accepted in Djibouti, Ethiopia and to a lesser extent in Kenya.

#### How do UNHCR offices check the identity of persons?

When individuals wish to seek asylum, we cannot realistically expect them to possess a document that was issued years before the collapse of the Somali government. We rely much more on questions that will establish that a person is from a particular area. It is not realistic to demand an ID card.

#### Do people living in Somalia use any personal documents?

No personal documents are issued right now. If an authority that is able to control the whole territory does eventually emerge, consideration might be given to personal documents. Yet again, the introduction of a national ID card cannot be decided by one person or one department, but will have to go through a sort of national parliamentary process. There are countries which object to the idea of a national ID card for people not travelling abroad. This goes back to colonial times when the colonised were required to carry an ID card whereas the colonisers were not. Maybe the issue of an ID card will be picked up in Somalia when there is a central government controlling the entire area. However, at the moment, to the best of my knowledge, the two authorities in the North, which have the most organised governmental structures, do not issue such documents. Moreover, large areas are not under the control of any authority which could issue such documents. This will probably still take some time.

In Somaliland a certain form of ID card is being issued, without everyone being required [to have it]. A document which many people carry is driving license.

### **III.2 Determination of clan affiliation**

Both experts state that unless you have someone who is a very good native speaker of Somali and can detect slight variations, it is almost impossible to establish ethnic identity through linguistic means. Looks do not allow for a conclusive judgement either. Given the artificial boundaries dividing the countries, it is very difficult to determine clan and regional and even national affiliation. As regards clan affiliation, one can find all Somali clans within Ethiopia and northern Kenya in many of the UNHCR-run camps. However, there are maps to where approximately clans reside. One can ask about their place of residence and place of birth. If one has an honest interpreter, it would also be possible to approximate the place of origin from the dialect of the Somali language. Between the North, South and Northeast there are minor differences in the pronunciation of certain words and sounds: 'd' or 'r' for written words.