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## Somalia

### Country Reports on Human Rights Practices - [2005](#)

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Somalia, with an estimated population of 8.5 million, has been without a central government since 1991. The country is fragmented into three autonomous areas: the Transitional Federal Government (TFG) in the south, the self-declared Republic of Somaliland in the northwest, and the State of Puntland in the northeast. In August 2004 a 275-member clan-based Transitional Federal Assembly (TFA) was selected, and in October 2004 the TFA elected Abdullahi Yusuf Ahmed, former Puntland president, as the Transitional Federal president. In December 2004 Yusuf Ahmed appointed Ali Mohammed Ghedi as Prime Minister. Presidential elections in Somaliland, deemed credible and significantly transparent, were held in April 2003. During Somaliland parliamentary elections in September there was little evidence of election violence or intimidation, and most voters were able to cast their ballots without undue interference. In January after years of internecine power struggles, Puntland's unelected parliament selected General Adde Musse as president. The civilian authorities did not maintain effective control of the security forces.

Security conditions were relatively stable in many parts of the country, but during the year serious inter-clan and intra-clan fighting continued in the central regions of Hiran and Middle Shabelle, the southern regions of Bay, Bakol, Gedo, Lower Shabelle, Middle Juba, Lower Juba, and in Mogadishu. Infighting among factions of the Rahanweyn Resistance Army (RRA), which controlled Bay and Bakol, continued as RRA leaders fought to assert control over Baidoa. No group controlled more than a fraction of the country's territory.

The country's human rights record remained poor and serious human rights abuses continued. Unemployment, malnutrition, drought, floods, ethnic fighting, the Indian Ocean tsunami, and the displacement of more than 400 thousand persons exacerbated the country's already extremely poor human rights situation. The following human rights problems were reported:

- abridgement of citizens right to change their government
- politically motivated killings
- unlawful killings
- kidnapping
- torture, rape, and beatings
- impunity
- harsh and life threatening prison conditions
- arbitrary arrest and detention
- denial of fair trial
- limited privacy rights
- restrictions on freedom of speech, press, assembly, association, religion, and movement
- discrimination and violence against women, including rapes
- female genital mutilation (FGM)
- abuse of children
- trafficking in persons
- abuse and discrimination against clan and religious minorities
- restrictions on workers' rights
- forced labor, including by children
- child labor

### RESPECT FOR HUMAN RIGHTS

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

#### a. Arbitrary or Unlawful Deprivation of Life

Since the collapse of the government in 1991 tens of thousands of persons, mostly noncombatants, have died in interfactional and interclan fighting. Incidents of arbitrary deprivation of the right to life occurred in the following contexts: factional militia fighting for political power and control of territory and resources, including revenge reprisals; criminal activities, widespread banditry, settlement of private disputes over property and marriage; and revenge missions after incidents such as rapes, family disagreements, and abductions. The vast majority of killings during the year resulted from clashes between militias or from unlawful militia activities; several occurred during land disputes, and a number involved common criminal activity. Numerous killings continued as a result of inter-clan and intra-clan fighting between the following

groups: The RRA sub-factions in Bay and Bakol regions; the Somali National Front sub-factions in north Gedo; the Awlyahan and Bartire subclans in Buale; the Dir and Habar Gidir subclans in Galkacyo; the Dir and Marehan subclans in Galgudud; the former Transitional National Government 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.

On January 2, in Somaliland police allegedly shot and killed two unarmed persons and wounded two others near the Ministry of Public Works. The police unit leader and a police officer were arrested and being detained awaiting trial at year's end. Also in January a police officer allegedly shot and killed a person who was clearing roads for the municipality, reportedly at the instigation of a resident. The police officer remained in detention, and the authorities were investigating the incident at year's end.

During the year hundreds of civilians were killed, mostly during inter-clan or intra-clan militia clashes. For example, in the Kenya-Somalia border area of el-Waq, April and July fighting between the Garre and Marehan clans resulted in dozens of deaths, the displacement of thousands, and the closure of the border crossing in Mandera. In April fighting in central Somalia, in Galkayo and Obiyo, between subclans Habar Gidir Sa'ad and Habar Gidir Sulieman resulted in numerous deaths. In June fighting in Beledweyne between militias from the Galje'el and Jajele subclans, reportedly triggered by a land dispute and revenge for the killings of two Jajele men and one Galje'el man, resulted in at least 30 killings.

Medecins sans Frontieres said in a press statement that during the first half of the year it treated more than 500 cases of violent trauma injuries in its two hospitals in the town of Galkayo, the regional capital of central Somalia's Mudug region.

No action was taken against the responsible members of the security forces or militias who committed killings in 2004 and 2003. There were no developments in the reported killings due to inter- or intra-clan fighting in 2004 and 2003.

Landmines throughout the country resulted in human and livestock casualties, denial of pastoral and cultivable land, and road closures. The Landmine Monitor project reported that anti-personnel and anti-vehicle mines were available in the country, and could be bought from weapons markets in Mogadishu and other towns. In February an explosive device detonated on a street corner in Mogadishu while an African Union (AU) team was present to assess the security situation. The explosion killed two bystanders and injured six. No suspects were identified.

During the year several journalists were killed (see section 2.a.).

Attacks against humanitarian and nongovernmental organization (NGO) workers resulted in at least three deaths during the year (see section 4). In October a UN security official was shot and killed in Kismayu. No suspects had been identified at year's end. In April the trial of 10 persons accused of masterminding attacks on international aid workers in Somaliland began. In November a Somaliland court convicted 15 Somali men of responsibility for the killings and sentenced eight of them to death. An investigation into the death of a fourth aid worker, Annalena Tonelli, was reopened in light of new evidence, and the court ordered investigations into the roles of Aden Hashi 'Ayro and Ahmed Abdi Godane to continue at year's end.

During the year there were a number of apparently politically motivated killings by unknown assailants. In most cases, the victim had made statements in support of the deployment of international peacekeeping forces to the country to facilitate the relocation of the 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. Observers noted that some of the killings were intended as a warning to the TFA, the TFG, and any outside intervention force. In January three men shot and killed Abdurahman Diriye Warsame, a veteran of the insurgency against former president Siad Barre. On January 22, gunmen shot and killed Mogadishu police chief General Yusuf Sarinle. In May a former military officer, Colonel Mohamed Sa'id Abdulle was killed near his home in Mogadishu. There were at least nine other politically motivated killings of former security officials, activists, or intellectuals during the year. No suspects had been identified in these cases or in other politically motivated cases from previous years.

In May during a rally at the stadium in honor of the TFG prime minister's visit, an explosive device went off, killing 14 and injuring at least 38 persons. The explosion could have been an accidental discharge of a grenade by a bodyguard, although it remained unclear at the year's end.

#### b. Disappearance

There were no reports of politically motivated disappearances, although cases easily might have been concealed among the thousands of refugees and displaced persons.

During the year, there were numerous kidnappings by militia groups and armed assailants who demanded ransom for hostages. The UN Independent Expert on Human Rights in Somalia (UNIE) noted after his January-February visit to the country, that the incidence of kidnapping remained high. The majority of kidnappings were reported in the southern regions, especially Mogadishu, where ransoms allegedly funded purchases of weapons and ammunitions. In recent years UN staff or consultants have been kidnapped periodically in the country (see section 4). There were no investigations or action taken against the perpetrators of any kidnappings during the year.

There were no investigations or action taken against the perpetrators of kidnappings in 2004 or 2003.

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

The unimplemented Transitional Federal Charter (TFC) 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.

Security forces, police, and militias also abused and beat persons during the year. During a January 26 to February 7 mission to Somaliland, the UNIE noted an increase in police brutality in Somaliland. Acts of violence, including several killings, continued against TFG supporters or members (see section 1.a.).

On February 2, 16-year-old Zamzam Ahmed Dualeh was unconditionally freed by authorities and released into the custody of the UNIE. In August 2004 in Hargeisa, Somaliland police arrested and detained Dualeh and Omar Jama Warsame, her taxi driver, on espionage charges; both allegedly were beaten in detention, and Dualeh claimed that six policemen tortured and raped her. In December 2004 Dualeh was tried as an adult without legal representation and sentenced to five years' imprisonment. The four attorneys retained by local human rights activists to represent Dualeh were detained and sentenced to four years' imprisonment after they asked the judge to withdraw from the case due to alleged bias; in December 2004 the attorneys were released on appeal after they paid a fine.

[There continued to be reports of rapes, largely committed by militia members. Factions have used rape as a weapon of war to punish and intimidate rival ethnic factions.](#)

There were reports of rapes of Somali women and girls in refugee camps in Kenya (see section 2.d.).

There were prisoners of war in Somaliland and Puntland. Other human rights violations occurred in the contested border region of Sool and Sanaag.

Militia and other groups attacked humanitarian and NGO workers, which resulted in deaths and injuries (see section 4).

No action reportedly was taken against Somaliland or Puntland forces, warlord supporters, or members of militias responsible for torturing, beating, raping, or otherwise abusing persons in 2004 or 2003.

Although reliable statistics were not available, a large number of persons were killed and injured as a result of inter-factional and inter-clan fighting (see section 1.a.).

#### Prison and Detention Center Conditions

Prison conditions remained harsh and life threatening. The main prison in Hargeisa, built in 1942 to hold 150 inmates, held over 800 prisoners. After his January-February visit, the UNIE stated that in comparison to his previous visits in 2002 and 2003, the prison had deteriorated to an appalling condition. The UNIE noted that the prisons lacked funding and management expertise. Overcrowding, poor sanitary conditions, a lack of access to adequate health care and inadequate food and water supply persisted in prisons throughout the country. Tuberculosis, HIV/AIDS, and pneumonia were widespread. Abuse by guards reportedly was common in many prisons. The detainees' clans generally were required to pay the costs of detention. In many areas, prisoners were able to receive food from family members or from relief agencies.

Juveniles frequently were held with adults. A major problem continued to be the incarceration of juveniles at the request of families who wanted their children disciplined.

The Puntland Administration permitted prison visits by independent monitors. Somaliland authorities permitted prison visits by independent monitors, and such visits occurred during the year.

#### d. Arbitrary Arrest or Detention

In the absence of constitutional or other legal protections, various factions continued to engage in arbitrary arrest and detention, and there was no system of due process.

#### Role of the Police and Security Apparatus

The police were generally ineffective. Corruption within the various police forces was endemic. Members of titular police forces throughout the country were often direct players in politically-based conflict, and owed their positions to other politically active individuals. 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. Police generally failed to prevent or respond to societal violence.

#### Arrest and Detention

Judicial systems are not well established, are not based upon codified law, do not function, or simply do not exist in most of the country. Respect of codified law requiring apprehension with warrants based on sufficient evidence issued by authorized officials; prompt judicial determinations; prompt access to a lawyer or family members; or other legal protections for the detained was rare. There is no evidence of a functioning bail system or equivalent.

Arbitrary arrest was a problem. Authorities in Puntland and Somaliland arbitrarily arrested journalists during the year as did faction and militia leaders (see section 2.a.).

In July gunman seized the crewmembers of an UN World Food Program (WFP) ship (see section 4).

There were no known reports of political detainees.

Lengthy pretrial detention was a problem. Persons were sometimes held for extended periods while awaiting trial. Militias and factions detained persons for unduly long periods without trial and without charge.

#### e. Denial of Fair Public Trial

The unimplemented TFC provides for an independent judiciary; however, there is no national judicial system. The charter replaced the 1990 constitution; however, for many issues about which the charter is silent, the constitution still applies.

The charter 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 government, or some elements of the three. For example, in September the managing operator of K-50 airport was killed by a local man who was angry over removal of teashops from the terminal area. An aviation security force apprehended the man, who was turned over to traditional authorities. They summarily found him guilty and condemned him to death. Under the system of customary justice, clans often held entire opposing clans or subclans responsible for alleged violations by individuals.

There were functioning local Shari'a-based entities in various parts of southern Somalia that usually operated within clan parameters. Amnesty International reported that they did not meet international standards of fair trial.

#### Trial Procedures

The unimplemented TFC 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 laws, such as Somaliland and Puntland.

The Somaliland constitution provides for an independent judiciary; however, the judiciary was not independent in practice. Although Somaliland has a constitution based on democratic principles, it continued to use the pre-1991 laws. There was a serious lack of trained judges and of legal documentation in Somaliland, which caused problems in the administration of justice. Untrained police and other persons reportedly served as judges. The UNIE reported that local officials had a tendency to interfere with legal matters. The UNIE also raised concerns about the Public Order Law in Somaliland, which reportedly has been used to detain and imprison people without trial.

The Puntland Charter has been suspended since the infighting between Abdullahi Yusuf and Jama Ali Jama began in 2001. The Charter provides for an independent judiciary; however, the judiciary was not independent in practice. The Puntland Charter also provides for a Supreme Court, courts of appeal, and courts of first reference. In Puntland 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.

In July there was a clash between the traditional justice methods and the state judiciary when Puntland President Adde Musa would not allow blood compensation by the clan of an accused killer of a police officer. President Musa insisted Puntland courts handle the case with the possibility of a death sentence if the accused was found guilty. On July 20, the sub-clan of the accused attacked the hotel outside where President Musa and TFG President Yusuf were residing, which resulted in the deaths of several security guards. The subclan also freed their imprisoned clansman.

#### Political Prisoners

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The unimplemented TFC provides for the sanctity of private property and privacy; however, looting, land seizure, and forced entry into private property continued in Mogadishu and elsewhere, although on a smaller scale than in previous years. The Puntland charter and the Somaliland constitution recognize the right to private property; however, authorities generally did not respect this right in practice.

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The unimplemented TFC 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. 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. In its annual survey on press freedom, Freedom House has ranked the country as "not free" every year from 1972-2004.

Somaliland has two daily newspapers--one government and one independent. There also was an English language weekly newspaper.

The majority of citizens obtained news from foreign news broadcasts, primarily the BBC, which transmitted a daily Somali-language program. The major faction leaders in Mogadishu, as well as the authorities of Somaliland, operated small radio stations. There were reportedly 11 FM radio broadcasts and 1 shortwave station in Mogadishu. 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. There was at least one FM station in both Puntland and Somaliland.

During the August general assembly of the Somali Journalist Network in Mogadishu, delegates pointed out that warlords, regional administrations, independent militias, clan-governed Islamic courts, and armed business groups posed security problems for journalists.

Harassment of journalists including detention without charge, assaults, and killings increased during the year. In February according to BBC news, a BBC international journalist, Kate Peyton, was shot from a passing car in front of her hotel shortly after arriving in Mogadishu. She was reportedly speaking to TFG officials about the security situation and whether it was safe for the government to relocate to Mogadishu. She died later from her wounds. No suspects were identified. In June a well-known radio commentator and poet was shot and killed in Mogadishu. Also in June a HornAfrik female reporter was shot and killed while attempting to cover the dismantling of a militia checkpoint in Mogadishu. In September the chairman of supreme council, Mohamed Barre Haji, and the secretary general, Omar Faruk Osman, of the National Union of Somali Journalists (NUSOJ) received death threats.

Numerous journalists were arrested. In April two journalists in Somaliland were dismissed from Radio Hargeisa and subsequently detained reportedly for the sake of national security; they were subsequently released. On June 30, authorities in Puntland arrested two STN journalists in Bossasso and held them for 13 days before they were released without charges. In September a journalist was detained after he failed to publish the proceedings of a press conference held by Yusuf Ali, the self-appointed governor of the Hiiran region. Supporters of Yusuf Ali reportedly put a pistol to the journalist's head and ordered him to tell his editor to publish the press conference. The NUSOJ facilitated the journalist's release. Militia loyal to Mohamed Dheere detained Abdullahi Kulmiye Adow after a controversial report on the TFG. He was released several days later and expelled from Jowhar. In September the editor of *Kaaha Bari* weekly newspaper, which is the oldest newspaper in Puntland, was arrested after reportedly publishing an article critical of an agreement between Puntland authorities and oil refineries.

In September authorities in the Puntland city of Bossasso arrested STN radio editor Awale Jama Salad, who had reported on his July detention at Bossasso prison, according to NUSOJ. Those reports, broadcast on STN and picked up by some local newspapers, alleged that officials at Bossasso prison were taking bribes to free prisoners and that conditions in the jail spread disease. Authorities accused Awale Jama of defamation and publishing false information, although he had not been officially charged, NUSOJ said. Authorities released Awale Jama after four days of detention in the Bossasso prison and the Puntland Intelligence Service headquarters.

There were no further developments in the 2004 and 2003 cases in which journalists were harassed and arrested.

In September 2003 Somaliland's information minister, Abdullahi Mohammed Duale, issued a statement banning independent television and radio stations in Somaliland, alleging that they posed a threat to national security; the ban remained in effect at year's end. Somaliland Television, which operated under a temporary license, was exempt from the ban. In March Somaliland police allegedly attempted to shut down a new radio station, Radio Horyaal, on the grounds that it was illegal because it was not registered.

Authorities did not restrict access to the Internet.

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.

## b. Freedom of Peaceful Assembly and Association

### Freedom of Assembly

The unimplemented TFC and the Somaliland constitution 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. The government of Somaliland banned political demonstrations following the closely contested April 2003 multiparty elections (see section 3).

In May 100 members of the minority Gaboye community were detained after holding demonstrations in Hargeisa in response to a fatal shooting of one of their clansmen by a police officer. They were held incommunicado for a short period and then freed without charge.

## Freedom of Association

The unimplemented TFC provides for freedom of association; however, the charter was not enforced during the year.

The Puntland charter provides for freedom of association; however, the Puntland administration banned all political parties.

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 since the April 2003 elections.

Professional groups and local NGOs operated as security conditions permitted. The UN and other NGOs were evacuated from Jowhar in September due to security concerns.

## c. Freedom of Religion

There was no legal provision for the protection of religious freedom, and there were some limits on religious freedom. The unimplemented TFC establishes Islam as the national religion. Some local administrations, including Somaliland and Puntland, have made Islam the official religion in their regions.

Only Shafi'iyyah, a moderate Islamic doctrine followed by most citizens, is allowed in Puntland. Puntland security forces monitored religious activities very closely. In Puntland, religious schools and places of worship must receive permission from the Ministry of Justice and Religious Affairs to operate; such permission was granted routinely.

Under the regulations in Somaliland, religious schools and places of worship are required to obtain the Ministry of Religion's permission to operate. The ministry must approve entry visas for religious groups, and certain unspecified doctrines were prohibited.

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.

Non-Sunni Muslims often were viewed with suspicion by members of the Sunni majority. There was strong social pressure to respect Islamic traditions. Organized Islamic fundamentalist groups, whose goal was the establishment of an Islamic state, were actively engaged in the private sector and in political activities throughout the country.

## Societal Abuses and Discrimination

The small Christian community kept a low profile. Christians, as well as other non-Muslims who proclaimed their religion, sometimes faced societal harassment.

There were no reports of anti-Semitic acts, and there is no known Jewish community in the country.

For a more detailed discussion, see the 2005 [International Religious Freedom Report](#).

## d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The unimplemented TFC 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. In the absence of a recognized national government, most citizens did not have the documents needed for international travel.

In June roadblocks in and around Mogadishu were removed in an effort to secure Mogadishu for the TFG. Members of parliament and civic leaders succeeded in removing 10 of 43 roadblocks in the city, agreeing to pay the freelance militia operating them \$70 per month in compensation. Militia members who refused to abandon their roadblocks in some instances were confronted by angry crowds who shouted at them and diverted traffic away to deny them revenue. Some of these roadblocks were subsequently re-established.

The law does not prohibit forced exile; however, none of the authorities used forced exile during the year.

## Internally Displaced Persons (IDPs)

In January the UNIE estimated that more than 5 percent of the total population of 6.8 million, or approximately 370 to 400 thousand was categorized as most highly vulnerable IDPs, most of them women and children, residing within host communities in public buildings and temporary settlements. The largest populations were in Mogadishu (250 thousand) and Kismaayo (18,500) with the remainder scattered around the country.

As security conditions showed some stability in the northern parts of the country, refugees and IDPs returned to their homes. According to UN High Commissioner for Refugees (UNHCR) figures, 11,633 Somali refugees were repatriated to Somaliland and Puntland areas during the year, although data on countries of origin were not available. Despite sporadic harassment, including the theft of humanitarian provisions from convoys by militiamen, repatriation to the northern parts of the country generally took place without incident. The UNIE continued to report that IDP settlements in Somaliland were overcrowded, had poor sanitation, and offered little or no access to employment and education. No local, regional, or UN authorities have taken responsibility for the settlements.

This situation differs dramatically from that in the south of the country, where UNHCR can count only six returnees. As harvests failed to materialize in December due to the failed "Deyr" rains, populations in the south were on the move, with the expectation of IDP and refugee flows rapidly developing in 2006.

#### Protection of Refugees

The 1990 constitution and unimplemented TFC do not include provisions for the granting of asylum or refugee status in accordance with the definition in the 1951 UN Convention relating to the Status of Refugees or its 1967 protocol, and there was no official system for providing such protection. In practice the authorities provided some protection against *refoulement*, the return of persons to a country where they feared persecution. The authorities granted refugee status or asylum.

The authorities in Somaliland have cooperated with the UNHCR and other humanitarian organizations in assisting refugees and asylum seekers.

There continued to be reports of rape of Somali women and girls in refugee camps in Kenya during the year. Somali bandits who crossed over the border perpetrated the majority of the rapes; Kenyan security forces and police committed a small number of the rapes. There were rapes, defilements, and abuse of Somali refugees in Kenyan refugee camps, according to the UNHCR. The rapes usually followed looting attacks by bandits and occurred when women and girls left the camps to herd goats, collect water or firewood, or at night when bandits entered the refugee camps. Many of the rapes reportedly resulted in pregnancies.

The security at these camps remained a problem, such as at Kakuma camp where rape was among the most frequently reported crimes, some reportedly perpetrated by members of the local Kenyan community. At some camps, such as Dadaab, refugees formed committees to combat such abuse with some success although women and children remained vulnerable to rape, abuse, and exploitation. In November 2004 the rape of a woman by three Turkana men outside the camp ignited a series of retaliatory incidents of violence, until UNHCR and police interceded. UNHCR also reported on the importance of evidence gathering after several acquittals of accused rapists due to lack of evidence.

#### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

In the absence of a fully functioning central government, citizens cannot exercise the right to change their government. In most regions, local clan leaders functioned as de facto rulers. Although many such leaders derived their authority from the traditional deference given clan elders, most faced opposition from intra-clan groups and political factions.

#### Elections and Political Participation

In 2002 in Eldoret, Kenya, the Inter-Governmental Authority for Development-sponsored Somalia National Reconciliation Conference (SNRC) convened more than 400 delegates representing all clans and a wide spectrum of political, military, and traditional leaders to form a new government; Somaliland did not join the conference. Early in 2003 the SNRC moved to Nairobi, where a transitional charter was adopted but subsequently contested by several factions. In September 2004 the SNRC adopted, but did not implement, the TFC for a five-year TFG, which replaced the Transitional National Government, and selected a 275-member TFA, which replaced the Transitional National Assembly. In October 2004 the TFA elected Abdullahi Yusuf Ahmed, the former president of Puntland, as Transitional Federal president; Abdullahi Yusuf subsequently appointed Ali Mohammed Ghedi as prime minister. In December 2004 the president and prime minister swore in a new cabinet, which, in December 2004 received a vote of no confidence in the TFA. In January parliament gave a vote of confidence to a new, 89-person cabinet nominated by Prime Minister Ghedi. The new cabinet was formed according to the "4.5 formula," fixing proportional representation in the cabinet by clan.

Representatives of the self-declared Republic of Somaliland did not recognize the results of the SNRC.

Presidential elections in Somaliland were held in April 2003 with the participation of three political parties: the Democratic United Peoples' Movement (UDUB), the Solidarity Party (Kulmiye), and the Party for Justice and Democracy. The incumbent UDUB President, Dahir Riyale Kahin, won the election by a small margin of only 80 votes. Kulmiye initially disputed the results; however, it was resolved through mediation by traditional elders. Unofficial diplomatic observers considered the elections credible and sufficiently transparent. Parliamentary elections, which had been repeatedly postponed, were held in September. There were 246 candidates running for 82 parliament seats. Once inaugurated, the parliament will be an elected rather than appointed body.

In Somaliland there is a constitution and bicameral parliament with proportional clan representation, and an elected president and vice president. The Hargeisa authorities have established functioning administrative institutions in virtually all of the territory they claim, which equaled the boundaries of the Somaliland state that achieved international recognition briefly in 1960 before entering into a union with the country. In 2001 a referendum was held with 97 percent of voters supporting Somaliland independence.

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 subclans 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. During 2003 General Adde Musse, a former army general, organized Jama Ali Jama's militiamen, drawn primarily from the Majerten Osman Mohamoud subclan, 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 2004 as TFG president.

Somaliland and Puntland continued to contest the Sanaag and Sool regions and the Buhodle district during the year (see section 1.a.). Both governments maintained elements of their administrators at the Sanaag and Sool regions, and both governments exerted influence in various communities.

There were 22 women in the 275-seat TFA, and 1 female minister and 4 female deputy ministers in the TFG. However, the number of women in parliament did not fulfill the legal requirement that at least 12 percent of the 275-member parliament be reserved for women. A woman, Fowiza Mohamed Sheikh was appointed cabinet minister for Gender and Family Affairs in the TFG. A woman held the post of Foreign Minister in the Somaliland cabinet, and two women were elected to the lower house of parliament; 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.

There were 31 members of the minority Bantu or Arab ethnic groups in the 275-seat TFA, and 4 in the TFG Cabinet. The Somaliland parliament and cabinet had no members of minority groups.

#### Government Corruption and Transparency

Official corruption was endemic throughout the country, and there were no laws that provided for public access to government information.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

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, including the Mogadishu-based DIJHRC, 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 and in efforts to secure Mogadishu for the TFG.

On March 1, the TFG Ministry of Environment and Disaster Management sent a letter to the NGO Consortium, an umbrella group of international nongovernmental organizations involved in relief and development work in the country, to request that all contract work with local NGOs be routed through the ministry. Critics contended that the policy intended to place local civil society groups and NGOs under restrictive government regulations and had the potential to compromise the independence and capacity of civil society organizations in the country. The letter specifically stated that, "each Ministry has the responsibility to overtake its mandated duties that is (sic) currently exercised by local NGOs and issue license for those competent NGOs. Hence, no local NGO has a full right to implement any project regarding our ministry's duties unless licensed and registered by our concerned office. Those competent local NGOs will cooperate with the Ministry according to the rules and regulations." The NGO Consortium Secretariat responded on behalf of its constituency on May 10, asking only that the ministry provide the referenced "rules and regulations", since none had yet been promulgated. There was no further communication from the ministry, and there has been no known attempt to enforce the licensing requirement at year's end.

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 three deaths. In April there were two separate attacks on international aid agencies that claimed the life of one Somali national and injured three, including a foreign nun. In July assailants broke into the home of peace activist and NGO worker Abdulqadir Yahya Ali who they subsequently shot and killed. In recent years UN staff or consultants were kidnapped, often for use as leverage by ethnic Somali former UN workers dismissed by the organization and seeking compensation. Most hostages were released unharmed after mediation by clan elders. The UNIE reported that four lawyers and human rights defenders were detained in Somaliland. They were later released.

Attacks on NGOs also disrupted flights and food distribution during the year. On July 27, gunmen seized the MV Semlow with 10 crewmembers from Kenya, Tanzania, and Sri Lanka, plus 850 tons of food aid sent by the WFP for 28 thousand tsunami survivors. In July the WFP suspended all shipments of humanitarian assistance to the country. An International Maritime Organization report listed the country's coast as one of the most dangerous areas for piracy. In October the 10 crewmembers were released and most of the food aid was intact, according to press reports. The release reportedly was orchestrated through a deal between the gunmen and a local businessman.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The unimplemented TFC prohibits discrimination on the basis of gender and national origin; however, societal discrimination and violence against women and widespread abuse of children continued to be serious problems. The Somaliland Constitution prohibits discrimination on the basis of gender and national origin; however, these rights were not respected in practice.

## Women

Domestic violence against women was a serious problem. There are no laws that specifically address domestic violence; however, both Shari'a and customary law address the resolution of family disputes (see section 1.e.). 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. Sexual violence in the home was reportedly a serious problem, linked to general gender discrimination. UNHCR reported that in refugee camps husbands frustrated by losing their traditional role as provider sometimes abused their wives.

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. NGOs documented patterns of rape of women with impunity, particularly those who have been displaced from their homes due to civil wars or were members of the minority clans. Police and militia members raped women, and rape was commonly practiced in inter-clan conflicts. Traditional approaches to dealing with rape tend to ignore the victim's situation and instead communalize the abuse by negotiating with members of the perpetrator's clan. Victims sustained subsequent discrimination based on attributions of "impurity." There were reports of rapes of Somali women and girls in refugee camps in Kenya during the year (see section 1.c.). Women and girls in displaced persons camps were also especially vulnerable to sexual violence, contributing to the spread of HIV/AIDS.

In Somaliland there was an increase in incidents of gang rape in urban areas, primarily by youth gangs, members of police forces and male students. Many of these cases occurred in poorer neighborhoods and among immigrants, refugee returnees, and rural displaced populations. Many cases were not reported.

The practice of FGM is widespread throughout the country. 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 was illegal; however, the law was not enforced. In Puntland legislation prohibited FGM in northeastern areas of the country; however, in practice the law was not effectively enforced. UN 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.

Prostitution is illegal; however, it was practiced. Because it is culturally proscribed, it was not reported, and there were no statistics on its prevalence.

Women do not have the same rights as men and were subordinated systematically in the country's overwhelmingly patriarchal culture. Polygyny was permitted, but polyandry was not. 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 as for a male victim. As a predominantly Muslim society, many women wore traditional religious dress.

Several women's groups in Mogadishu, Hargeisa (Somaliland), Bossasso (Puntland), and Merka (Lower Shabelle) actively promoted equal rights for women and advocated the inclusion of women in responsible government positions. The UNIE noted an improvement in recent years in the profile and political participation of women in the country.

Women's groups were active in efforts to secure Mogadishu for the TFG.

## b. Children

The authorities were generally not committed to children's rights and welfare.

The lack of resources limited the opportunity for children to attend school. Approximately 22 percent of the school-aged population attended school, according to UNICEF officials. Disproportionately more boys than girls were enrolled in school. Overall enrollment rates have been on the rise in recent years with considerable regional variability. Since collapsing in 1991 education services have been revived in various forms: a traditional system of Koranic schools; a public primary and secondary school system financed by communities, foreign donors and the administrations in Somaliland and Puntland; a system of Islamic charity-run schools; and a system of privately-run primary schools, secondary schools, universities, and numerous vocational training institutes. There were three secondary schools in Somaliland and several secondary schools in Mogadishu; however, only 10 percent of those few children who entered primary school graduated from secondary school. Schools at all levels lacked textbooks, laboratory equipment, and running water. Teachers were trained poorly and paid poorly. The literacy rate was estimated at 25 percent throughout the country; however, reliable statistics did not exist. There was a continued influx of foreign Muslim teachers into the country to teach in private Koranic and Madrassa schools. These schools were inexpensive and provided basic education; however, there were reports that these schools required the veiling of small girls and other conservative Islamic practices normally not found in the local culture. In south-central regions of the country, over 100 thousand children were enrolled in educational establishments funded by Islamic charities.

Medical care was rudimentary, and only a small percentage of children had access to adequate medical facilities. There was a chronic lack of qualified health professionals, weak management of health services, inadequate resources and infrastructure to finance a public health system, an urban bias in health provision and a weak drug certification regime.

There was no information available on the prevalence of child abuse in the country; however, it was a problem. There were reports of rapes of Somali girls in refugee camps in Kenya during the year (see section 2.d.). UNHCR reported that children at refugee camps were victims of rape, sodomy, early/forced marriages, and unwanted pregnancies (see section 1.d.). A 2003 UNICEF report noted that nearly a third of all displaced children reported rape as a problem within their family, compared to 17 percent of children in the general population.

FGM was performed on approximately 98 percent of girls (see section 5, Women).

Children remained among the chief victims of the continuing violence. Boys as young as 14 or 15 years of age have participated in militia attacks, and many youths were members of the marauding gangs known as "morian" (parasites or maggots). This year's annual report of the Secretary-General on children and armed conflict documented grave violations against children in Somalia. The report focused violations that are being systematically committed against children in Somalia: killing or maiming of children; the recruitment or use of child soldiers; attacks against schools or hospitals; rape or other grave sexual violence against children; abduction of children; and denial of humanitarian access for children.

The Somaliland Republic constitution contains no minimum age of recruitment into the armed forces. There were no reports of minors under-18 in its forces, and the authorities generally accepted that recruits should not be under 20-years-old, but an inadequate system of birth registration made it difficult to establish the age of recruits.

During the year the UNIE conducted his fourth annual fact-finding mission, which raised the issue of *asi valid*, a custom whereby parents place their children in prison for disciplinary purposes and without any legal procedure. Many of these juveniles were incarcerated with adults (see section 1.c.).

Child prostitution was practiced; however, because it is culturally proscribed and was not reported, there are no statistics on its prevalence.

Trafficking in children for forced labor was a serious problem (see section 5, Trafficking).

Child labor was a problem (see section 6.d.).

#### c. Trafficking in Persons

The pre-1991 law prohibits trafficking; however, there were reports of trafficking during the year. The unimplemented TFC does not specifically prohibit trafficking. Puntland was noted by human rights organizations as an entry point for trafficking. The UNIE reported that trafficking in persons remained rampant in Somalia and that the lack of an authority to police the country's long coastline contributed to trafficking. Various forms of trafficking are prohibited under the most widespread interpretations of Shari'a and customary law, but there was no unified policing in the territory to interdict these practices, nor any authoritative legal system within which traffickers could be prosecuted.

Trafficking in children for forced labor was a serious problem. There were reports of a significant increase in the trafficking of children out of the country to relatives and friends in western countries where they worked or collected welfare and sent money back to family members in the country.

The country was a source and destination for trafficked women and children. Armed militias reportedly trafficked Somali women and children for sexual exploitation and forced labor. Some victims were trafficked to the Middle East and Europe for forced labor or sexual exploitation. Trafficking networks also were reported to be involved in transporting child victims to South Africa for sexual exploitation.

Authorities within Somaliland and Puntland have expressed a commitment to address trafficking, but corruption and a lack of resources prevented the development of effective policies. Many of these individuals were known to condone human trafficking. In the absence of effective systems of revenue generation, no resources were devoted to preventing trafficking or to victim protection across the majority of the country. Government officials were not trained to identify or assist trafficking victims. NGOs worked with IDPs, some of whom were possibly trafficking victims.

#### d. Persons With Disabilities

In the absence of a functioning state, the needs of persons with disabilities were not addressed. There were several local NGOs in Somaliland that provided services for persons with disabilities. Associations of disabled persons reported numerous cases of discrimination to the UNIE.

There was widespread abuse of persons with mental illness, and it was common to chain such persons to a tree or within their homes for up to seven years.

#### e. National/Racial/Ethnic Minorities

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.

Minority groups and low-caste clans included the Bantu (the largest minority group), the Benadiri, Rer Hamar, Brawanese, Swahili, Tumul,

Yibir, Yaxar, Madhiban, Hawrarsame, Muse Dheryo, and Faqayaqub. The UNIE estimated that minority groups living in the country might constitute up to one-third of the population, approximately two million persons. 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. Minority groups had no armed militias and continued to be subjected to killings, torture, rapes, kidnappings for ransom, and looting of land and property with impunity by faction militias and clan members. These groups continued to live in conditions of great poverty and to suffer numerous forms of discrimination and exclusion.

On June 6, a member of a minority clan was killed when a local militia placed explosives on the side of his house while he was sleeping, in an effort to seize his farmland.

The UNIE expressed concern that members of minority clans were excluded from the Somali National Reconciliation Process and from the Transitional Federal parliament and government.

## Section 6 Worker Rights

### a. The Right of Association

The 1990 constitution and the unimplemented TFC 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 TFC, the Puntland Charter, and the Somaliland Constitution establish the right of freedom of association, but no unions or employer organizations existed.

### b. The Right to Organize and Bargain Collectively

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. In June there were private strikes by private transportation groups in protest of higher fuel costs. Also in June, a number of Puntland businesses shut down to protest higher taxes. There are no export processing zones.

### c. Prohibition of Forced or Compulsory Labor

The pre-1991 Penal Code and the unimplemented TFC prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred (see sections 5 and 6.d.). 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.

### d. Prohibition of Child Labor and Minimum Age for Employment

The pre-1991 Labor Code and the unimplemented TFC prohibit child labor; however, child labor was a problem, and there were child soldiers (see section 5). 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. From 1999-2003, UNICEF estimated that 32 percent of children, 29 percent of males and 36 percent of females, 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. The lack of educational opportunities and severely depressed economic conditions contributed to child labor.

### e. Acceptable Conditions of Work

There was no organized effort by any of the factions or de facto regional administrations to monitor acceptable conditions of work during the year. There is no national minimum wage and with an estimated 43 percent of the population living in extreme poverty with a per capita income of less than \$1 (approximately 1,700 Somali shillings) per day, there was no mechanism to enforce a decent standard of living for a worker and family.

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\* The United States does not have diplomatic representation in Somalia. This report draws in part on non-U.S. Government sources.