



**Australian Government**

**Department of Foreign Affairs and Trade**



# **DFAT COUNTRY INFORMATION REPORT SOMALIA**

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## ACRONYMS

AU	African Union
AMISOM	African Union Mission in Somalia
CSO	civil society organisation
FGM	female genital mutilation
FGS	Federal Government of Somalia
GBV	Gender-based violence
HRW	Human Rights Watch
ICRC	International Committee of the Red Cross
ICU	Islamic Courts Union
ILO	International Labor Organization
IDP	Internally Displaced Person
NISA	National Intelligence Security Agency
SNA	Somali National Army
TFG	Transitional Federal Government
UNFPA	United Nations Population Fund
UNHCR	United Nations Refugee Agency
UNODC	United Nations Office on Drugs and Crime
UNOSOM	United Nations Operation in Somalia



# 1. PURPOSE AND SCOPE

1.1 This Country Information Report has been prepared by the Department of Foreign Affairs and Trade (DFAT) for protection status determination purposes only. It provides DFAT's best judgement and assessment at time of writing and is distinct from Australian Government policy with respect to Somalia.

1.2 The report provides a general, rather than an exhaustive country overview. It has been prepared with regard to the current caseload for decision makers in Australia without reference to individual applications for protection visas. The report does not contain policy guidance for decision makers.

1.3 Ministerial Direction Number 56 of 21 June 2013 under s 499 of the Migration Act 1958 states that:

Where the Department of Foreign Affairs and Trade has prepared a country information assessment expressly for protection status determination processes, and that assessment is available to the decision maker, the decision maker must take into account that assessment, where relevant, in making their decision. The decision maker is not precluded from considering other relevant information about the country.

1.4 This report is based on DFAT's on-the-ground knowledge and discussions with a range of sources. Due to security restrictions, travel to Somalia was not possible so all interviews were conducted in Nairobi, Kenya. This report takes into account relevant and credible open source reports, including those produced by the UK Foreign and Commonwealth Office, the US Department of State, the World Bank, the International Organisation for Migration; those from relevant UN agencies, including the Office of the United Nations High Commissioner for Refugees, the United Nations Office on Drugs and Crime, the United Nations Children's Fund, and the United Nations Development Programme; recognised human rights organisations such as Human Rights Watch and Amnesty International; Somali and Kenyan non-governmental organisations and reputable news organisations. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source.

## 2. BACKGROUND INFORMATION

### RECENT HISTORY

2.1 The United Republic of Somalia was formed on 26 June 1960 from areas of the Horn of Africa formerly colonised by Britain and Italy. Following three Presidents between 1960 and 1969 (including one who was assassinated), Mohamed Siad Barre's military-led socialist government took power in 1969. Opposition to Barre's regime grew in the 1980s and led to the Somali Civil War, when Barre was eventually overthrown by rebel forces in 1991. Sporadic conflict has continued since, exacerbated by the formation of the Islamist terrorist group al-Shabaab (linked to al-Qaida) in 2006.

2.2 Somalia shares borders with Kenya, Ethiopia and Djibouti and has an Indian Ocean coast to its east. It is divided into seven states; Somaliland and Puntland operate autonomously, and the newly created states of Jubaland, South-West, Galmudug, Benadir and HirShabelle make up south-central Somalia. As explained below in paragraph 2.16, Somaliland and Puntland operate effectively autonomously from the Federal Government of Somalia (which is based in Mogadishu). This report will focus primarily on south-central Somalia, although the figures in the following background sections refer to all of Somalia, including Somaliland and Puntland. Al-Shabaab is most active in south-central Somalia and controls significant amounts of territory in the region.

2.3 In addition to decades of sustained and widespread conflict and political instability, Somalia is also prone to severe drought and floods which has worsened the effects of the long-running humanitarian situation. Famines killed 220,000 Somalis in 1992 and 260,000 in 2010-12. The risk of famine is constant, including as a result of the current 2017 drought. Over a million Somalis are internally displaced or have fled the country due to conflict and drought. The internally displaced population is around 1.1 million and over 300,000 Somali refugees live in the Dadaab refugee camp in neighbouring Kenya.

### DEMOGRAPHY

2.4 A census has not been conducted in Somalia since 1975 and it is difficult to determine the population of Somalia given the nomadic lifestyle, internal displacement and refugee movements. As of July 2016, the US Government estimates the population of Somalia to be 10.8 million but the 2014 Population Estimation Survey conducted by the UN Population Fund (UNFPA) estimated a population of 12.3 million, of which 42 per cent resided in urban areas, 26 per cent were nomadic, 23 per cent were rural and nine per cent are internally displaced. Somalia has the seventh-largest internally displaced population in the world. Somalia is a very young society: 75 per cent of the population is below 29 years of age.

2.5 Somalia is largely an ethnically homogenous society: 85 per cent of the population is Somali. The remaining 15 per cent of the population are Arab or Bantu (a vast ethnic group that is scattered across sub-Saharan Africa). Culturally, however, Somali society is hugely diverse as it operates through a clan system, which has greater influence over politics and communal relations than ethnicity. Leadership, security, governance, the justice system and access to credit, jobs and resources all revolve around clan affiliations. The clan system is constantly changing and therefore mapping or monitoring the alliances within the clan

system is difficult. The main clans include the ‘noble clans’ who are traditionally nomadic cattle owners: the Hawiye, the Darod, and the Dir. The Rahanweyn is the collective clan name for the mostly sedentary agro-pastoralist clans. These four major clans are further divided into sub-clans and numerous sub-sub-clans. Different clans dominate different regions of Somalia, based on their control of key resources and major cities or towns. Since independence in 1960, the Darod and Hawiye have dominated Somalia’s political leadership.

2.6 Somalia’s official language is Somali (Maay and Maxaa-tiri) and Arabic is the second language. English and Italian are also spoken.

2.7 The official religion is Islam (Sunni), based mostly on the Shafi’i school, although there is a small population that follow Sufism (a mystical form of Islam). There are a small number of Shia Muslims, but no data on exact numbers. There are a small number of Christians who practice secretly and whose numbers include Christians who have converted from Islam (a crime punishable by death in Somalia). A small population practise traditional or animistic faiths.

## ECONOMIC OVERVIEW

2.8 After 25 years of conflict and political instability, Somalia’s economy is fragile. Somalia is the fifth poorest country in the world, with income per capita estimated at USD435 and a GDP of around USD5.9 billion. Half the population lives below the poverty line (as defined by the World Bank; less than USD\$1.90 per day).

2.9 Key obstacles to economic growth include a high trade deficit (imports make up two-thirds of Somalia’s GDP), high levels of poverty, high unemployment and a youth bulge. Exports (most of which is livestock exported to Arab Gulf countries) make up 14 per cent of GDP. Inadequate levels of domestic revenue mean the government cannot afford to provide services to its population. The Somali economy is heavily reliant on remittances (estimated to be 1.3 billion USD per year) and international aid to finance its shortfalls.

2.10 Corruption is a major issue in Somalia. Transparency International ranked Somalia last in its 2016 Corruption Perceptions Index, citing a lack of legislation, oversight and enforcement from the state. The UN Monitoring Group on Somalia reported in September 2015, that the ‘impunity enjoyed by those who have engaged in misappropriation of public finances perpetuates a culture of corruption in Somali politics’.

## Health

2.11 Life expectancy in Somalia is 55 years. The under-5 infant mortality rate is 137 per 1,000 births, compared to 47.5 in neighbouring Kenya. Somalia has one of the highest rates of malnutrition in the world. The *Provisional Constitution* grants the right to access healthcare and clean potable water. In practice, there is no functioning national health system and access to healthcare services is severely limited. According to UNICEF, only 45 per cent of the population has access to clean water, and only 25 per cent has access to adequate sanitation. The International Committee of the Red Cross (ICRC) provides the majority of the health services in south-central Somalia, including in al-Shabaab-controlled areas.

## Education

2.12 Article 30 of the *Provisional Constitution* grants the right to free education up to secondary school and requires that all schools should adopt a standardised curriculum, with the teaching of Islam compulsory

in both public and private schools but not in those owned by non-Muslims. However, Somalia's education system collapsed in the mid-1980s and since then there has been very limited access to schooling throughout Somalia, and especially in the south-central region. The most recent gross enrolment ratio from 2007 shows that only 29 per cent of children are enrolled in primary school, and only 40 per cent of these are girls. Only 18 per cent of children in rural areas attend school. There is no data on education completion rates.

## Employment

2.13 Formal unemployment in Somalia is high; the most recent overall unemployment rate (from 2012) was 54 per cent. According to the 2015 UNDP Human Development Report, the youth unemployment rate is 67 per cent and there is limited formal female labour participation (around 37 per cent of females over 15 years of age are employed, based on World Bank data).

2.14 The 2012 UNDP Human Development Report on Somalia found that over 60 per cent of young people have intentions to leave the country for better livelihood opportunities. DFAT assesses that extreme poverty and widespread lack of economic opportunity in Somalia, particularly access to employment and education, are significant push factors for external migration.

## POLITICAL SYSTEM

2.15 Somalia was without an effective government from 1991 until the Federal Government of Somalia (FGS) was formed in 2012. During these two decades, Somalia was considered a failed state by the majority of the international community. The political, security and humanitarian situation in Somalia remains unstable and complex. State-building continues at the federal level, but progress is slow and the Government's capacity to provide basic services or respond to humanitarian or conflict-related disasters is low.

2.16 Key political events since the end of the Barre Government in 1991 to the present-day are:

- On 18 May 1991, Somaliland, a region in north-western Somalia, declared independence and has operated as an autonomous region since. Somaliland's independence is not recognised by the international community.
- The United Nations Operation in Somalia (UNOSOM), a peacekeeping force, was established in July 1992 but withdrew in 1995. The African Union Mission in Somalia (AMISOM) was established in 2007 and its peacekeeping mission remains active. The United Nations Assistance Mission in Somalia (UNSOM) was established in June 2013 and leads on peace, reconciliation and stability efforts in conjunction with the Federal Government of Somalia, AMISOM and other UN country teams.
- In August 1998, Puntland, a region within north-eastern Somalia, declared autonomy as an independent entity within a federal Somalia.
- The Transitional Federal Government (TFG) was established in 2004 but did not exercise much control beyond the capital, Mogadishu. In June 2006, the Islamic Courts Union (ICU) took control of Mogadishu. In December 2006, Ethiopia invaded Somalia and toppled the ICU, removing the only centralised government authority.
- In late 2006, the most radical elements of the former ICU reformed as al-Shabaab and used conflict and violence to take control of territory in south-central Somalia. In February 2012, al-Shabaab pledged allegiance to al-Qaida.
- The TFG was replaced by the Federal Government of Somalia (FGS) in September 2012 and the *Provisional Constitution* was drafted.



2.17 The internationally-recognised Transitional Federal Government (TFG) was established in 2004 with the aim to restore effective governance. The TFG's mandate ended in 2012 and the Federal Government of Somalia (FGS) was formed in September 2012. Federalism is new to Somalia and the composition of federal member states was not agreed upon until 2016, ahead of the federal parliamentary elections held in late 2016 into early 2017. Somalia's political system operates on the basis of clan representation and while there are some political parties, there is not a majority party or an opposition party. In 2016 a bill was signed requiring all politicians to register with a political party by October 2018 in preparation for elections in 2020. The intention of the bill is to lessen the influence of the clan system on the political system but DFAT understands that these political parties are likely to be closely related to clan affiliations.

2.18 The Federal Parliament is divided into a lower house, the House of the People, and the Upper House. The House of the People has 275 seats which are distributed between the federal member states, in line with the 4.5 power-sharing formula, whereby representation is divided proportionally amongst the four majority clans; the Hawiye, Dir, Darod and Rahanweyn and the .5 collectively represents the minority clans (including the Bantu). The Upper House has 54 seats. In the 2016-17 elections a quota system was to allocate 30 per cent of the Lower and Upper House seats to women but this figure was not reached.

2.19 Universal elections have not been possible in Somalia for various practical reasons (lack of identity documentation and voter registration processes, logistical barriers and budget constraints). The 2016/2017 lower house elections were conducted through 14,025 delegates organised into 275 electoral colleges, one for each of the lower house seats. The 54 seats of the Upper House were elected by the state assemblies of each federal member state. The Federal Indirect Electoral Implementation Team administered the electoral process. An Independent Electoral Dispute Resolution Mechanism was also established; the mechanism verified cases of electoral malpractice and re-ran voting for five seats in the lower house.

2.20 According to the January 2017 UN Secretary-General's report on Somalia, the elections were not entirely free and fair with reports of delays, bribery, vote-buying, intimidation and manipulation but overall, the process was more peaceful and inclusive than in 2012. There was no widespread violence, other than some disruptions by al-Shabaab (see 'Security Situation' below). Both houses of parliament were inaugurated on 27 December 2016.

2.21 Mohamed Abdullahi Mohamed "Farmajo" was elected President (Head of State) in elections held on 8 February 2017. Farmajo is from a large sub-clan of the Darod. The Head of Government is the Prime Minister, Hassan Ali Khaire, who was appointed by the President and has been in the position since 2017. He is from the Hawiye clan.

2.22 There is a parallel political system in Somaliland, which runs its own Presidential and Parliamentary elections. Elections set for March 2017 have been delayed. The current President of Somaliland is Ahmed Mohamed Mohamoud. No countries have formally recognised Somaliland's independence.

## HUMAN RIGHTS FRAMEWORK

2.23 Somalia is a party to the International Convention on the Elimination of all Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child. Many international human rights are guaranteed in chapter two of Somalia's *Provisional Constitution*.

2.24 On 14 August 2016, Somalia's National Human Rights Commission bill was signed into law. The law outlines the process for establishing a human rights commission, however there is no timeline for its enactment. Somaliland operates its own human rights commission and Puntland has a human rights



defender's office; the US Department of State reported that the effectiveness of these institutions is curtailed by limited resources and inexperienced staff. Neither of these institutions is accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. Although local and international human rights organisations can operate and undertake monitoring and investigations in some areas of Somalia, access is limited due to security concerns and there is generally no access to conduct investigations in territory controlled by al-Shabaab.

## SECURITY SITUATION

2.25 The security situation in Somalia is highly volatile and security incidents and crime are a common feature of everyday life. Somalia is ranked first of 178 countries on the 2016 Fragile States Index and seventh on the 2016 Global Terrorism Index. Inter-communal violence is the major destabilising factor in Somalia, including armed conflict between clans or warlords. Other factors include: protracted conflict, severe humanitarian conditions, widespread corruption, piracy, border disputes with Ethiopia and Kenya, and the presence of al-Shabaab and other Islamist groups (including those linked to ISIL—the Islamic State of Iraq and the Levant aka Daesh). All contribute to an unstable and unpredictable security environment. In October 2016, a group of between 50 to 100 al-Shabaab fighters pledged allegiance to ISIL and proceeded to take control of the coastal town of Qandala in Puntland. Puntland security forces retook Qandala on 7 December 2016 but members of the ISIL cell remain present in the country.

2.26 Al-Shabaab is very active in south-central Somalia and continues to undertake terrorist attacks against major security and civilian targets, including government facilities, often resulting in deaths. Al-Shabaab commonly uses bombings (car bombings or suicide bombings) and the majority of their large-scale attacks take place in Mogadishu. Some recent examples of violence perpetrated by al-Shabaab include:

- In June 2016, al-Shabaab bombed two hotels in Mogadishu resulting in the deaths of two parliamentarians and injury to several civilians.
- On 11 December 2016, over 35 people were killed when al-Shabaab exploded a minivan at the Mogadishu seaport.
- Throughout October to December 2016 (while parliamentary elections were underway), suspected al-Shabaab members shot six clan elders and two electoral delegates.
- On 25 January 2017, al-Shabaab bombed the Dayah Hotel in Mogadishu, killing 38 people including two parliamentarians, three security services personnel and six hotel guards.
- Al-Shabaab claims to have killed 57 Kenyan troops, following its attack on the Kenyan Defence Force's base in remote southern Somalia on 27 January 2017. There have also been other significant attacks on AMISOM troops over the last couple of years.

2.27 The international community, especially the 'S6' (a forum established by the UN Special Representative for Somalia involving the UN, EU, UK, US, UAE, and Turkey), are heavily invested in Somalia's security but improvements are difficult to achieve. The Federal Government of Somalia does not always pay the salaries of its security forces personnel, which contributes to low morale, absenteeism (and in some cases defection to al-Shabaab) and ultimately, a lack of capacity to prevent or respond to security incidents. AMISOM forces struggle to respond to the security environment and have been widely criticised. Funding shortages led to a significant downscale in AMISOM operations in 2016. AMISOM plans to shift security responsibility to the Somali National Army and end its operations by 2021.

2.28 Due to high rates of poverty and widespread impunity, crime, including violent robbery, kidnapping and personal violence is a serious issue, particularly in Mogadishu. The UN Office on Drugs and Crime (UNODC) reported in 2013 that two-thirds of all assaults in Mogadishu involved a firearm.

2.29 Overall, DFAT assesses that the security situation in Somalia is a significant push factor for external migration.

## 3. REFUGEE CONVENTION CLAIMS

### RACE/NATIONALITY

3.1 Somalia is largely viewed as ethnically and linguistically homogenous but there is significant diversity created by the clan system, which has far greater influence over communal relations than ethnicity. The Arab and Bantu populations make up the 15 per cent of the population that is not of Somali ethnicity. These minority communities sit outside the clan system and therefore face some official and societal discrimination and are under-represented in the 4.5 system of political representation (see paragraph 2.18 and 'Bantu' below).

#### Bantu

3.2 The Bantu are a prominent ethnicity across eastern and southern Africa and are present in several countries across the region, including Kenya, Tanzania and South Africa. They are visibly identifiable in comparison to ethnic Somalis and were historically slaves to the majority clans of Somalia. According to the UK Home Office, the Bantu are now employed in low-paying agricultural work, or kept in bonded labour as domestic workers, farm labourers or herders for the majority clans. In the 1970s land was forcibly removed from the Bantu and since then they have been unable to own or purchase land.

3.3 The size of the Bantu population in Somalia is disputed. Bantu advocates suggest the Bantu make up 40 per cent of the roughly eight million people in south-central Somalia. DFAT assesses that this figure is towards the upper end of plausible estimates, but it is likely that many Bantu have emigrated either through asylum processes to the US and other western countries or are in refugee camps in Kenya. However, given the lack of census data there is no way to clarify population figures. Based on credible sources, DFAT understands that the majority of internally displaced persons (IDPs) in south-central Somalia, particularly in the IDP camps in Kismayo (in the south-east), are Bantu.

3.4 Despite potentially being a large minority, the Bantu are severely under-represented in Somali society and politics. There are currently three Bantu parliamentarians in the Lower House and one in the Upper House. The Bantu are unarmed and do not have the protection of a militia. The Bantu are often overlooked in the distribution of humanitarian aid, a process which is generally done in consultation with the majority clans who do not highlight the needs of the Bantu.

3.5 DFAT assesses that as the Bantu are not part of the clan system, they are largely excluded from mainstream Somali society. With little political representation and few physical protection mechanisms they experience a high level of official and societal discrimination and face a high risk of violence.

#### Tunni

3.6 The Tunni are a minority clan which inhabit fertile land in south-east Somalia, which historically made them the target of invading majority clans. In interviews DFAT conducted in December 2016 with

various organisations, the Tunni were not highlighted as a group currently experiencing discriminatory practices that were uniquely different to the broader discrimination issues for minorities in Somalia (which are discussed throughout this report).

## RELIGION

3.7 Article 2 of the *Provisional Constitution* states that Islam (Sunni) is the religion of the State. Article 18 of the constitution provides for freedom of religion but prohibits the propagation of religions other than Islam. All laws are required to comply with the principles of *Sharia*.

3.8 In practice, almost 100 per cent of the population are Sunni Muslim. Less than one per cent are members of other religions, including a small number of Sufi Muslims, Shia Muslims and Christians, but the size of these communities are unknown. A small population practises traditional or animistic faiths.

3.9 Religion is a sensitive topic in Somalia. DFAT understands that in the past there was some space for Christians to practice their religion but the community is now completely underground and there are no Christian churches or public places of worship. Christian converts face a higher risk of discrimination and violence than other Christians as apostasy from Islam is a crime punishable by death in Somalia. Al-Shabaab does not tolerate non-Muslims in areas under its control and has killed or harassed individuals suspected of failing to adhere to Islam or converting from Islam.

## POLITICAL OPINION (ACTUAL OR IMPUTED)

3.10 As explained in the 'Political System' section above, politics in Somalia is dominated by the clan system rather than different political parties. Discrimination is more often related to an individual's group association rather than an actual or imputed political opinion. Issues related to freedom of expression and association, group identities, and al-Shabaab ideology are discussed under 'Groups of Interest' below.

## GROUPS OF INTEREST

### Internally displaced persons

3.11 There are approximately 1.1 million internally displaced persons (IDPs) in Somalia, a figure which has remained relatively stable for over a decade. IDPs are one of the most vulnerable groups in Somalia; an estimated 70 per cent of IDP households are headed by females (widowed or abandoned).

3.12 The majority of IDPs are displaced by conflict between clan militias, natural disasters or through fleeing al-Shabaab controlled areas. Forced evictions from Mogadishu neighbourhoods also occurs from time to time. IDPs mostly reside in camps in south-central Somalia, including around one third in the Mogadishu region. According to the Norwegian Refugee Council's Internal Displacement Monitoring Centre, IDPs face a lack of access to justice and basic services, gender-based violence, forced recruitment and restriction of access to humanitarian assistance. The camps are generally managed by 'gatekeepers' who tend to be members of the clan that owns the land the camp is on. These gatekeepers control the flow of aid and goods into the camps and determine distribution processes. Reports of gatekeepers restricting access to aid for IDPs from minority groups are common, further exacerbating the situation for already vulnerable people. With no militia to protect them, security in IDP camps is a serious issue. The UK Home Office reports that



female IDPs are particularly vulnerable to rape, abduction and forced marriage, including from Somali Government forces.

3.13 DFAT assesses that IDPs face a high level of official and societal discrimination and, without adequate protection options, they face a high risk of violence.

## Parliamentarians, Government Officials, Supporters of the Somalia Government and People who have spent time in the West

3.14 A central part of al-Shabaab's vision for Somalia is an Islamic state free from perceived foreign, or 'infidel', influence. In light of this, Somalis who have spent periods in western countries for education, employment or migration reasons or are employed by international organisations can be at risk of violence from al-Shabaab. Similarly, al-Shabaab considers the Federal Government of Somalia to be closely aligned with the international community and the group continues to carry out complex attacks against locations frequented by parliamentarians and government officials, including several recent attacks on hotels in Mogadishu (see paragraph 2.26). According to the US Department of State, civilians affiliated with the government, humanitarian NGO employees and UN staff are targeted by al-Shabaab for politically motivated killings. DFAT assesses that parliamentarians, government officials, supporters of the Federal Government of Somalia or people who have spent time in the West face a moderate risk of violence from al-Shabaab and where those individuals have a high profile, are visible in the media, or do not have adequate personal security measures in place, they face a high risk of violence from al-Shabaab.

## Civil society organisations and Human Rights activists

3.15 There are a broad range of civil society organisations (CSOs) active in Somalia but there is no united civil society movement. Due to the significant inflows of international aid money over the years, aid-funded CSOs have become a common business model in Somalia. Credible contacts told DFAT that, in the absence of a functioning state system, many CSOs are closely linked to the government or individual parliamentarians as they have become key vehicles for the provision of basic services. CSOs closely linked to parliamentarians can face pressure to provide services to their constituents. The US Department of State reported that some regional administrations imposed registration requirements for CSOs as a means to extract control or benefits (preferential procurement, beneficiary selection and employment or revenue collection) from CSOs.

3.16 The *Provisional Constitution* provides for freedom of association but in practice human rights activists who criticise government policies or raise concerns with the actions of security forces can face official harassment. Al-Shabaab does not tolerate activism of any kind. In June 2016, a prominent women's rights activist and critic of al-Shabaab was shot dead in Galkayo (a divided city in north eastern Somalia, partly administered by the Puntland authorities). No one claimed responsibility for the murder and no arrests were made. DFAT assesses that activists in areas controlled by al-Shabaab face a high risk of discrimination and violence. DFAT further assesses that women human rights activists who advocate on issues that are considered taboo or sensitive, such as domestic violence, rape or female genital mutilation, face a higher risk of discrimination and violence than the average activist.

## Media

3.17 As of August 2016, Somalia had 58 radio stations, 28 newspapers and 12 Somali language television stations. Radio is the primary medium of news in Somalia. Although news websites and blogging are on the

rise, poverty and illiteracy are obstacles to accessing these mediums. Some radio stations broadcast on short-wave to achieve greater coverage, as group-listening to shortwave radio is still a common pastime in rural Somalia.

3.18 Article 18 of the *Provisional Constitution* grants the right to freedom of expression and opinion. In January 2016, the *Somalia Media Bill* was passed into law. The federal law guarantees the independence of public broadcasting, protects the right to information for journalists, and prohibits censorship or forced reporting. In practice, the authorities restrict freedom of expression and credible contacts told DFAT that self-censorship was widespread and there was no culture of investigative reporting, especially in relation to criticism of authorities, corruption allegations or security issues. The media law also stipulates that in order to have a media licence, journalists must be university-educated but no university currently offers journalism qualifications in Somalia. DFAT contacts were concerned that if the licensing agreement was enforced, many media workers would not meet the basic requirements of the law and would be barred from operating. An August 2016 UN report on freedom of expression found that the *Penal Code* charge of ‘spreading of false news’ was commonly used by authorities to close down media outlets or threaten journalists.

3.19 Somalia remains one of the most dangerous countries in the world to be a journalist; reprisal attacks and impunity are widespread. Reporters without Borders ranked Somalia 167 of 180 countries in its 2016 World Press Freedom Index. Ten journalists have been murdered in Somalia since 2014. Two journalists were killed in 2016. Abdiiaziz Mohamed Ali, a radio reporter on the independent *Radio Shabelle*, was shot and killed in Mogadishu on 27 September 2016. No one claimed responsibility for the murder and the police investigation has not led to an outcome. Sagal Salad Osman, a female journalist for the state-owned *Radio Mogadishu*, was gunned down in Mogadishu by suspected al-Shabaab militants on 5 June 2016.

3.20 Overall, DFAT assesses that journalists and media workers routinely practice self-censorship. Those reporters who criticise the government or raise corruption allegations against officials and powerful businesspeople are at high risk of official discrimination and face a high threat of violence, including death. Al-Shabaab is ideologically opposed to a free press and considers the media a tool of foreign interference. Al-Shabaab has been responsible for several assassinations of journalists, putting any media workers who criticise al-Shabaab or try to operate in areas under its control at high risk of discrimination and violence.

## Women

3.21 Article 3 of the *Provisional Constitution* stipulates that women must be included in all national institutions including in elected and appointed positions. The *Provisional Constitution* also provides for protection from discrimination in the workplace and from violence against women, including sexual abuse. According to the *Penal Code*, the punishment for rape is five to 15 years. Abortion is prohibited, given it does not comply with Sharia law as practised in Somalia, but is possible in cases of necessity such as to save the life of the mother. The principles of Sharia favour males in relation to divorce, custody of children and inheritance. Amendments to Somalia’s Citizenship Law to allow mothers to confer citizenship to their children (currently only fathers can do so) have been proposed but not yet approved.

3.22 In practice, women in Somalia face significant official, cultural and social barriers. In terms of political representation, the 30 per cent target for female political representation for the 2016/17 elections was not met. However, the election results were an improvement on the last parliament: women now make up 24 per cent of the Lower House (compared to 14 per cent in the previous parliament) and 23 per cent in the newly-created Upper House. Formal female workforce participation is limited by cultural norms that dictate women should be engaged in household work; around 37 per cent of women over 15 years of age are formally employed. Given widespread poverty and the high number of women-headed-households, there

are many women working in the informal labour sector. Female participation in education is also notably less than the male population and, according to UNICEF, only 25 per cent of women aged 15 to 24 are literate.

3.23 Overall, DFAT assesses that women throughout Somalia face a high risk of official and societal discrimination and gender-based violence. There are few support mechanisms available to women, particularly to women who are internally displaced or do not have clan connections.

## Violence against women

3.24 Violence against women, including domestic violence, rape, sexual abuse, exploitation and trafficking is widespread throughout Somalia. Somalia is not a party to the UN *Convention on the Elimination of Violence against Women*. Women without family and clan connections are more vulnerable to gender-based violence and have less access to justice than women who come from majority clans. UN Women reported that the Somali National Army and the national police operate within a patronage system that rewards loyalties, resulting in unequal access to their services, which often disadvantages women. Women also have less access to independent financial resources, which are required in the pluralistic justice system in Somalia (see 'Judiciary' in chapter 4).

3.25 In addition to generalised gender-based violence, women in Somalia face sexual abuse perpetrated by all actors in the conflict: Somali security forces, al-Shabaab, AMISOM troops, and within clan militias and communities. In 2014, Human Rights Watch (HRW) published two reports, '*Here, Rape is Normal: A five-point plan to curtail sexual violence in Somalia*' and '*The Power these men have over us: sexual exploitation and abuse by African Union Forces in Somalia*'. These reports are the most comprehensive recent reviews of sexual violence in Somalia. The evidence collected by HRW of AMISOM-perpetrated sexual violence against Somali women and girls demonstrated a relatively organised pattern of sexual exploitation. Vulnerable women were raped in or near AMISOM bases and then paid small amounts or provided with food or medicine in an attempt by troops to justify the act as transactional sex. The perpetrators ranged from junior to senior officers. Some reported incidents have been investigated by troop-contributing countries or by the African Union (AU). The AU has assessed all allegations as not credible. DFAT assesses that there is a lack of accountability in relation to sexual exploitation not only in relation to AMISOM forces, but all perpetrators, and many cases would go unreported.

3.26 Al-Shabaab practises *hudoood*, which is physical punishment for violation of Sharia law. Women who do not obey dress codes, work outside their homes, are seen conversing with men outside their family, or any other behaviour deemed inappropriate by al-Shabaab, can face public beatings, whippings or execution.

3.27 Support to women who are victims of violence is not widely available in Somalia. There is only one rape crisis centre in Mogadishu. Some international organisations provide support, through third parties. In 2016, UNICEF provided comprehensive gender-based violence (GBV) services reaching 4,200 GBV survivors (over 90 per cent female) with psychosocial support, clinical assistance, security and legal aid.

3.28 Article 443 of the *Penal Code* states that homicide committed for 'reasons of honour' (defined as finding one's spouse, sister, or daughter in the act of fornication with someone other than their husband) carries a penalty of five to ten years, whereas homicide for other reasons carries the death penalty. Honour killings have been reported from time to time but DFAT is not aware of reliable data on the current prevalence of honour killings in Somalia.

## Female Genital Mutilation (FGM)

3.29 Article 15 of the *Provisional Constitution* prohibits female circumcision viewing it as 'tantamount to torture' and Somalia's Ministry of Women Affairs has drafted a law banning FGM. In Puntland, there is a *fatwa* (an Islamic directive) prohibiting FGM and anti-FGM legislation is currently awaiting approval from

Puntland's parliament. In reality, there is a strong cultural preference for FGM and the practice is highly prevalent throughout Somalia. Many Somali men consider FGM a pre-requisite for marriage. Around 98 per cent of the female population aged 15-49 years are circumcised, 65 per cent of whom have undergone the most extreme form of the procedure (type 3, or infibulation).

### Child, early and forced marriage

3.30 The legal age of marriage is 18 but, with parental consent, marriage is legal at 16 years of age. However, according to data released in March 2016, 56 per cent of the female population under the age of 18 is married. Research undertaken by World Vision UK in 2014 found that, in Somalia, early marriage was seen as a way to protect a girl's dignity and avoid the perception that she would be more open to pre-marital sex, an act that can lead to social stigma and exclusion. The Women's Refugee Commission reported that, due to the conflict and resultant poverty, many girl children are promised to an older man in exchange for financial support for their upbringing. Al-Shabaab practises forced marriage of girl children to fighters, including through abduction.

## Children

3.31 Somalia is party to the UN Convention on the Rights of the Child and its Optional Protocols on Armed Conflict and the Sale of Children, Child Prostitution and Child Pornography, the Palermo Protocol on Trafficking in Persons and the International Labor Organization's (ILO) Convention No. 182 on the Worst Forms of Child Labor and the ILO Convention No. 138 on the Minimum Age for admission to employment and work. Somalia also has domestic legislation to regulate labour, including to prevent child labour. However, implementation of domestic and international agreements is variable and given the central government does not have control in some parts of the country, enforcement is uneven.

3.32 Conflict continues to interrupt the provision of education across Somalia and access to education is especially limited for children in remote areas and for those that are internally displaced. The effects of humanitarian disaster in Somalia are particularly devastating for children. Of the 260,000 people who died in the 2010-2012 famine, half were children under the age of five; equating to ten per cent of the under-five population in south-central Somalia at the time.

3.33 The US Department of Labor's 2015 *Findings on the Worst Forms of Child Labor* reported that almost 40 per cent of children aged 5-14 years are engaged in child labour, including in street work (such as begging). Sometimes families grant custody of their child to extended family members or community members when they cannot provide for them financially; these children are vulnerable to forced labour and sexual exploitation. Children are also at risk of human trafficking, including into Kenya.

3.34 Children are engaged (by all actors) in armed conflict in Somalia. The Somali National Army continues to recruit (sometimes forcibly) and use children, generally in auxiliary roles (logistical support or manning checkpoints) but sometimes in armed conflict. Al-Shabaab recruits children and uses them in armed conflict, including to plant explosive devices, act as human shields, undertake suicide attacks, gather intelligence or as sex slaves. Often this recruitment is forcible, but children also join for financial reasons, to gain protection or to avenge the death of a relative. Clan militias also use child soldiers.

3.35 UNICEF's Monitoring and Reporting Mechanism verified 1,003 incidents of grave violations affecting 1,769 boys and 328 girls from January to June 2016. These violations related to recruitment and use in armed conflict, abduction, killing and maiming, attacks on schools and hospitals and denial of humanitarian access. Al-Shabaab perpetrated the most violations, followed by clan militia and the Somali National Army. AMISOM committed the fewest. The UN Country Task Force on Monitoring and Reporting recorded 477 grave violations from September to December 2016 and found that 92 children were unlawfully detained on



security grounds or for alleged association with al-Shabaab. In 2016, 12 of the death sentences handed down in Puntland were to al-Shabaab child soldiers. Their sentences were revoked following pressure from the international community and they entered rehabilitation in Mogadishu. The UN reported that as of December 2016, there are 327 former al-Shabaab child members (272 boys and 55 girls) in rehabilitation and reintegration programmes in Mogadishu and Baidoa (a district capital in south-central Somalia).

3.36 DFAT assesses that legislation designed to protect children is not properly enforced by the Government. This, coupled with the recruitment of children by the Somali National Army and non-state actors such as al-Shabaab and armed militias, means that children face the risk of harm. Overall, DFAT assesses that children throughout Somalia are vulnerable and face a moderate risk of official or societal discrimination and violence, which increases to a high risk for children in south-central and those living in areas controlled by al-Shabaab.

## Sexual Orientation and Gender Identity

3.37 There are numerous societal, cultural and legislative barriers faced by the lesbian, gay, bisexual, transgender and intersex (LGBTI) individuals in Somalia. Homosexual sex is illegal in Somalia. In the *Provisional Constitution*, marriage is defined as between a man and a woman. In the *Penal Code* Article 409 states that 'whoever has carnal intercourse with a person of the same sex shall be punished, where the act does not constitute a more serious crimes, with imprisonment from three months to three years. Where the act committed is an act of lust different from carnal intercourse, the punishment imposed shall be reduced by one-third'.

3.38 In practice, there are societal and cultural barriers that preclude LGBTI individuals from living openly anywhere in Somalia. In a 2014 report, the Swedish International Development Agency described LGBTI people in Somalia as 'silent and invisible'. DFAT is not aware of any local organisations working on LGBTI issues and according to the US Department of State, there is no public discussion of sexual orientation and gender identity in Somalia. Homosexuality is a taboo subject and, if discovered, would put individuals at risk of community harassment and reprisals, sometimes taking the form of ex-communication from their families or community and often resulting in serious violence such as flogging, stoning, or sometimes death. In January 2017, al-Shabaab reported that it had publicly executed two males, aged 20 and 15 after they were found engaging in male-to-male sex. The two men were convicted of 'immoral behaviour' in an al-Shabaab-administered Sharia court and shot in a public square. There is a paucity of information on the situation for transgender individuals in Somalia, but given they can be visibly identified, it is likely they would be at even greater risk of discrimination, harassment and violence.

3.39 Overall, DFAT assesses that throughout Somalia, there are conservative views about sexual orientation and gender identity. DFAT assesses that LGBTI individuals in Somalia face a high risk of official discrimination and a high level of societal discrimination. The widely observed societal attitude that homosexuality does not exist would preclude LGBTI individuals from disclosing their sexual orientation.

## 4. COMPLEMENTARY PROTECTION CLAIMS

### ARBITRARY DEPRIVATION OF LIFE

#### Extra-Judicial Killings

4.1 Extra-judicial killings are common in Somalia and are perpetrated by all parties, including government forces, armed militia and al-Shabaab. In many of these cases the basis for the extra-judicial nature of the killing is poor training, weak discipline and a lack of central command or control. There is also a high level of impunity for acts of this nature, with no recent reports of cases being investigated or perpetrators being charged or convicted.

4.2 The UK Foreign and Commonwealth office reported that in June 2016, al-Shabaab executed four of its fighters whom they alleged were western spies. Also in June 2016, Somali authorities killed four al-Shabaab members outside of a conflict situation and displayed their bodies in Kismayo.

4.3 Anecdotally, assassinations are a common way to settle disputes in Somalia, even in personal matters, and can be arranged for as little as 50 USD. Prominent political assassinations have occurred in the past. The former President Hassan Sheikh Mohamud survived an assassination attempt two days after he was inaugurated in 2012. In 2016, there were several reported assassination attempts on parliamentarians, members of the judiciary and senior military officers. Journalists are regularly targeted in assassination attempts. Most recently, a male radio journalist was assassinated in September 2016 and in June 2016, a female journalist was assassinated. Both attacks took place in Mogadishu and neither has been investigated.

#### Enforced or Involuntary Disappearances

4.4 According to the US Department of State, there have been no recent reports of government authorities committing politically motivated or other disappearances. However, al-Shabaab and pirates do abduct or kidnap individuals, mostly foreigners, sometimes releasing them in return for a ransom.

#### Deaths in Custody

4.5 There is no information on custodial death rates but given the harsh detention conditions in Somalia (see the 'Detention and Prison' section below) it is likely that some detainees have died while in custody. These deaths are more likely due to poor conditions and widespread disease than assault from authorities. It is unlikely that deaths in custody would be investigated.

## DEATH PENALTY

4.6 After a nine-year moratorium and despite supporting the UN General Assembly resolution on the moratorium of the death penalty in 2014, the Federal Government of Somalia announced in February 2015 that it would resume the implementation of the death penalty. There are several offences under the *Penal Code* that carry the death penalty, including murder and treason. Under *Sharia* law, as applied throughout Somalia, apostasy from Islam is also punishable by death. In practice, the absence of a functioning judiciary and clear sentencing guidelines means that the death penalty is applied in various circumstances: according to anecdotal reports, executions are viewed as a neat resolution in criminal matters and are usually performed quickly after sentencing. There are no reliable figures on the current number of prisoners on death row. The method of execution in Somalia is firing squad.

4.7 According to the 2016 UN Secretary-General Report on Somalia, 64 death sentences were issued in Somalia between January and September 2016, of which 51 were handed down in Puntland. Twelve of the death sentences handed down by Puntland were to al-Shabaab child soldiers but following negotiations with the international community these sentences were revoked and the child soldiers were admitted to rehabilitation in Mogadishu. Somaliland executed seven people in 2016. The UK Foreign and Commonwealth office reported that in April 2016, the Federal Government of Somalia executed three al-Shabaab members for the killing of Somali journalists. Amnesty International reported that in September 2015, seven soldiers were executed after a military court in Kismayo convicted them of killing civilians. A military tribunal in Mogadishu sentenced two men to death in April 2015 after they were accused of killing two federal members of parliament and three intelligence officers.

## Double Jeopardy

4.8 Generally the *Penal Code* forbids re-prosecution where a person has been convicted of a crime and served their sentence overseas. However, article 7 of the *Penal Code* lists five crimes that would attract re-trial, regardless of a person either having completed their sentence abroad or been acquitted abroad: these offences are mostly related to crimes against the state of Somalia and may attract the death penalty. Article 8 of the *Penal Code* allows re-prosecution of some crimes ‘under certain conditions’, an ambiguity which is exacerbated by the overall lack of judicial capacity and ad-hoc application of laws in Somalia.

## TORTURE

4.9 The *Provisional Constitution* prohibits torture. Human Rights Watch alleged that Somalia’s National Intelligence Security Agency (NISA) routinely arrests and detains individuals without charge and is alleged to employ beatings as an interrogation tactic. The UN Monitoring Group on Somalia and Eritrea reported that it received allegations of torture committed by Somali National Army and NISA officials. DFAT is not aware of any evidence that suggests that torture is systematically or routinely undertaken by Somali authorities. However, there are limited opportunities for people claiming to be victims of torture to seek redress. There is no mechanism to determine the prevalence of torture by non-state actors. DFAT notes that the weak rule of law, fragile governance, the lack of oversight of the prison system (see ‘Detention and Prison’ below) and poor policing methods result in widespread impunity and a paucity of monitoring of potential ill-treatment (with the exception of ICRC visits to some places of detention).

# CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

## Arbitrary Arrest and Detention

4.10 According to the *Provisional Constitution*, arrested persons are to be brought before judicial authorities within 48 hours. However, due to the large number of detainees and an inefficient and understaffed judicial system, long periods of pre-trial detention, including detention without charge, are common in Somalia.

4.11 It is alleged that authorities, including Somalia's National Intelligence Security Agency (NISA), arbitrarily arrest and detain individuals, often justifying it by accusing individuals of links to al-Shabaab. Individuals are also detained for politically motivated reasons, including journalists and those critical of the government. Somaliland residents who are employed by the Federal Government in Mogadishu are sometimes detained by Somaliland authorities upon their return to Somaliland.

4.12 The US Department of State reported that al-Shabaab detains individuals under inhumane conditions for acts that it defines as 'offenses', including smoking, having illicit content on cell phones, listening to music, watching or playing soccer, wearing a bra, or not wearing a hijab. Similarly, the UN independent expert for Somalia reported in 2012 that women and girls were sometimes detained for disobeying their husbands or parents, which constituted unlawful or arbitrary detention.

## Detention and Prison

4.13 Prison conditions in Somalia are harsh, including poor sanitation, overcrowding, inadequate food, water and ventilation and widespread disease, made worse by a lack of medical facilities. Prisoners rely on family or their clan for food and any costs associated with detention. Men and women are segregated in detention, but juveniles are often housed with adults. There is no central oversight of the prison system and therefore, no data on the overall prison population. The Federal Government of Somalia does not know how many prisons exist in Somalia. Several of the regional governments run their own prisons, as do Somaliland and Puntland. There are many informal places of detention in Somalia, some clan-based and others controlled by al-Shabaab or other non-state actors. There is no reliable data on how many informal detention facilities there are. Mogadishu has one modern prison which meets international standards and was funded by the international community primarily for the detention of prisoners convicted of piracy and related offences. ICRC has access to visit known prisons, and sometimes they will discover new places of detention and inform the government of their existence. Between January and June 2016, the ICRC conducted 25 visits to 17 places of detention. The ICRC has found that, in general, prisons in Somalia do not meet international standards. The ICRC provides vocational training and supports prison health facilities in some prisons.

4.14 DFAT understands that the prison system is open to corruption and clan influence, and is known to be porous. Where a detainee is high-profile or linked to the government, their clan connections are often used to improve their treatment in prison, influence the outcome of their trial or arrange their release.



## Corporal Punishment

4.15 Corporal punishment is lawful in schools and the *Penal Code* contains lesser punishments for assault when the perpetrator is a parent. DFAT is aware of but cannot verify various reports of floggings and amputations being used as a form of punishment by al-Shabaab and other non-state actors.

## 5. OTHER CONSIDERATIONS

### STATE PROTECTION

5.1 DFAT assesses that, in practice, the formal justice and security institutions in Somalia do not have the ability to provide effective protection for the majority of the community and, in some cases, state actors such as the Somali National Army (SNA) and the police are the perpetrators of human rights abuses. Civilian authorities do not have sufficient control of the security forces and impunity and corruption is widespread in Somalia, with very limited access to avenues of redress. The majority clans rely on their own militia and alliances with other clans for protection. Minor sub-clans have limited protection from clan militia and those outside the clan system (such as the Bantu) have none.

#### Armed Forces and Police

5.2 The armed forces are under the purview of the Ministry of Defence, however DFAT understands that the Ministry's control over the Somali National Army (SNA) is weak. According to the UN Security Council there were approximately 16,000 soldiers in the SNA in 2015, mostly located in south-central Somalia. Somaliland and Puntland operate their own forces. According to the September 2016 UN Secretary-General Report on Somalia, plans to integrate regional militias into the SNA continue to move slowly.

5.3 The Ministry of National Security has purview of the national police force. The *Provisional Constitution* states that the national and regional police are responsible for protecting lives, property, peace and security. In practice, the national police force does not have a wide reach across the country. The European Asylum Support Office reported that there are only 5,200 registered police officers in the national police force. The regional governments, Somaliland and Puntland all maintain their own police forces. For example, in Mogadishu there are two police forces operating, one under the control of the central government and the other under the control of the Benadir Regional Administration (which has responsibility for Mogadishu). Members of the police force often gain their positions on the basis of clan links and tend to offer more loyalty to their clan and familial affiliations, than to the government.

5.4 The SNA and pro-government militias work alongside AMISOM in some areas of south-central Somalia. AMISOM and several international partners also provide training and support to the national police force. According to the US Department of State, 300 AMISOM police officers worked alongside the national police force in 2015 and this engagement has continued. However, much of south-central Somalia is under the control of al-Shabaab and the police and SNA have little influence in these areas.

5.5 The 2016 report of the UN Secretary-General on Somalia raised the irregular payment of salaries to the SNA and the police as a major concern in regards to the capacity and effectiveness of these institutions, with payments in arrears for between 6 and 15 months. The UK, US, EU, Japan and the UAE reportedly provide stipends to some military and police officials in the absence of federal government payments. Poor payment has led some soldiers and police officers to engage in corruption, extortion, or to defect to their clan militia or al-Shabaab. Impunity is a widespread issue, with allegations of mistreatment, unnecessary

killing of civilians and sexual abuse commonly made against the SNA, the police and AMISOM. These allegations are not routinely investigated or punished.

5.6 DFAT assesses that both the armed forces and the police (national and regional) in Somalia are generally ineffective, ill-trained and highly susceptible to corruption.

### National Intelligence and Security Agency

5.7 Somalia's National Intelligence Security Agency (NISA) generally focuses on counter-terrorism activities but the central government often uses NISA to perform regular police work. NISA is widely viewed as the most capable arm of the Somali security services but reports have been made that allege that at times, NISA acts outside its legal mandate and uses harsh interrogation tactics (see 'Torture' above). Given that NISA does not operate in a transparent way, it is difficult to assess its ability to provide protection.

## Judiciary

5.8 Having been largely dismantled or co-opted by the Barre regime, the judiciary in Somalia remains basically non-functional despite efforts to rebuild it since 1991. There remains a serious shortage of trained legal professionals and a lack of court documentation to demonstrate judicial precedents.

5.9 Laws in Somalia can be divided into three types; Xeer (or customary law), formal law and Sharia:

- **Xeer:** based on oral agreements passed down through generations and designed to manage day-to-day issues within a clan.
- **Formal Law:** largely based on the *Penal Code* which has not been updated since the fall of the Barre regime and tends to be applied in an ad-hoc way, particularly where it is deemed inconsistent with *Sharia* law. The *Provisional Constitution* is also a source of formal law.
- **Sharia:** Sharia courts have existed in Somalia for many years but rose to prominence when the Islamic Courts Union (ICU) temporarily took control of most of south-central Somalia in 2006. A strict interpretation of *Sharia* is applied by al-Shabaab in areas under its control.

5.10 The court system does not operate holistically. Somaliland and Puntland operate their own courts, and the Federal Government's court system in Mogadishu does not operate in cooperation with the courts across south-central Somalia, which are generally run by the respective regional governments. In al-Shabaab controlled areas there is no formal judicial system and defendants in al-Shabaab's *sharia* courts do not generally have legal representation. Where the judicial system does operate, due process and trial procedures are not routinely followed. In general, access to judicial mechanisms is variable. For the past few years, the UN has run a mobile courts project to increase access to justice in rural areas but has faced operational difficulties due to the security situation.

5.11 The judicial system is overburdened and there can be long delays before a case is heard due to the large number of detainees and a limited number of prosecutors and judges. According to the September 2016 UN Secretary-General Report on Somalia, judges are regularly not paid due to insufficient budgeting. Credible sources told DFAT that justice can be 'purchased' for the right price. Similarly, the US Department of State reported that government officials are known to influence the outcomes of cases. Military courts, which are comparatively well-resourced, regularly process civilian cases despite not having the jurisdiction to do so.

5.12 Overall, DFAT assesses that the informal (xeer) system provides some version of justice but it is clan-based and is therefore not transparent or predictable and can potentially disadvantage some groups, such as women, sub-clans, or those outside the clan system. DFAT further assesses that the formal legal system in

Somalia is not effective or independent; laws are not consistently applied and there is widespread corruption and impunity. The formal judiciary cannot be relied upon to provide state protection.

## INTERNAL RELOCATION

5.13 There are no legal impediments to Somali citizens relocating in south-central Somalia and many clans have historically led a nomadic life. Internal displacement due to conflict or humanitarian disaster is a common occurrence, and over 1.1 million people are currently displaced within Somalia. However, an individual's internal relocation options can be severely limited by a lack of financial resources or the absence of clan connections. Somalis tend to reside in their clan area as it is their main, and often only, source of physical and social protection. According to UNHCR's *Position on Returns to South and Central Somalia* the support of an individual's clan is vital for safety and access to basic necessities, such as food and accommodation. Some may relocate to Mogadishu or urban centres for livelihood opportunities but this does not always result in better opportunities given the large number of IDPs in Mogadishu.

5.14 The security conditions in south-central Somalia hinder freedom of movement. While urban centres may be controlled by the Federal Government or protected by the Somali National Army, AMISOM or regional militia, moving between areas often requires traversing al-Shabaab controlled areas and roads. Al-Shabaab 'taxes' those that move through areas under its control, extorting money and goods at checkpoints. As explained in paragraph 3.14, high-profile individuals with links to the government or western organisations face a high risk of violence in al-Shabaab controlled areas and could not feasibly relocate there.

## TREATMENT OF RETURNEES

5.15 Over the years, many Somalis have used both legal and illegal methods to migrate or seek asylum abroad, mostly in Europe. UNHCR reported that in 2015 Somalia was the third-largest country of origin for refugees worldwide but also accounted for 16 per cent of global refugee returns. Culturally, sending at least one young family member out on migration (referred to as 'tahriib') is seen as a way to support extended families through remittances. DFAT understands that it is not a crime in Somalia to seek asylum elsewhere and is not aware of any credible reports of mistreatment of failed asylum seekers stemming specifically from their having sought asylum overseas.

5.16 In 2015, the Federal Government of Somalia released a policy paper on returnees to Somalia, which welcomed voluntary returnees but acknowledged that Somalia cannot accept them on a large scale, given security, political and economic instability. The Government receives failed asylum seekers on a case-by-case basis where they meet the following criteria:

- They are Somali nationals, originating from within the borders of the Federal Republic of Somalia
- A risk assessment is completed for every candidate for repatriation by the country they are being deported from and by the relevant Somali authorities
- All returnees must have a fixed address in an accessible part of Somalia
- Returnees in need of psychological and mental health support cannot be returned to Somalia at present
- Somalia will not accept the repatriation of certain categories of offenders including radicalised people, sexual predators, and certain violent criminals
- All returnees with a criminal background must have completed their sentences in their host countries before arriving in Somalia
- Governments wishing to return offenders must disclose a full criminal background check to the relevant Somali authorities before a decision can be made



- Deporting governments must give each deportee \$10,000 USD to restart their lives in Somalia.

5.17 In practice, Somalia has a large diaspora in the West and there are regular flows of Somalis returning to visit, work or invest in Somalia. DFAT understands that exit and entry procedures in Somalia are not technologically advanced. A failed asylum seeker would not necessarily be identifiable at a border crossing and there is no central database that monitors whether an individual had departed illegally. DFAT understands that when a returns process is arranged by another country or organisation, the returnee is cleared by Somalia's Department of Immigration prior to their arrival at Mogadishu airport and the returnee is not questioned by authorities upon arrival.

## Returnees from Dadaab refugee camp in Kenya

5.18 Approximately 230,000 Somalis reside in the Dadaab refugee camp in Eastern Kenya. This population has no formal work rights and no path to citizenship in Kenya and is heavily reliant on the support of UNHCR and other local and international NGOs that contribute to the provision of services in Dadaab camp.

5.19 In 2016 the Government of Kenya announced plans to close Dadaab camp by November 2016, a deadline which has been extended to the end of June 2017. UNHCR facilitates a returns program for those willing to repatriate to Somalia, including USD 200 per person upon departure from Dadaab, USD 200 per person upon arrival to Somalia and a household subsidy for a six-month period. According to UNHCR, 26,800 Somalis from Dadaab voluntarily returned to Somalia in 2016. While there have been no major reports of returnees from Dadaab being subject to official or societal discrimination in Somalia, there have been some allegations of forced recruitment. There are significant barriers that impede Somalia's capacity to absorb large-scale returns and make everyday life difficult for those returning, including the inability of the Somali Government to provide basic services, land ownership issues, poor infrastructure, high unemployment and ongoing insecurity. There have been some reports of individuals returning to Dadaab, but the numbers are unknown.

## DOCUMENTATION AND RELATED FRAUD

5.20 DFAT assesses that document fraud is highly prevalent in Somalia and there are no verifiable Somali identity documents. There is no systematic birth and death registration in Somalia: UNICEF reported that only 3 per cent of births between 2005 and 2012 were registered. Most Somalis do not have valid identity documentation due to a lack of government capacity to issue documents and access restrictions for rural communities who are isolated from government offices or cannot afford travel to main cities to register. Verifying documents is impossible as there are no reliable government-held registries to compare against. Fraudulent documentation can take the form of fake documents, or genuine documents that have been obtained on the basis of fraudulent information.

5.21 Most Somalis do not have the means to obtain a passport and the majority of countries, including Australia, do not recognise the Somali passport. The Immigration and Refugee Board of Canada reported in March 2016 that a Somali passport costs \$83USD and the application must be lodged in Mogadishu, making it prohibitively expensive to many Somalis.

5.22 The Immigration and Refugee Board of Canada reported that new National Identity Cards (ID cards) have been issued in Somalia since December 2013 and earlier versions have been deemed invalid by the Somali Government. The ID card issuance process is managed by the Benadir Regional Administration in Mogadishu, not the Federal Government. The ID card costs \$12.50USD and a birth certificate, which is a prerequisite document, costs \$5USD and can be obtained at the same time. The minimum age for obtaining

an ID card is 15 years old. The ID card is reportedly not used for many purposes and is mainly used to obtain a passport.