



Submission by the United Nations High Commissioner for Refugees
for the Office of the High Commissioner for Human Rights' Compilation Report
- Universal Periodic Review:

SOMALIA

I. Background and Current Conditions

Somalia acceded to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol in 1978 (henceforth referred to jointly as the 1951 Convention). Somalia is a party to neither the 1954 Convention on Statelessness, nor the 1961 Convention on the reduction of Statelessness. Somalia signed the OAU 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa in 1969, but has neither ratified nor acceded to it.

UNHCR recommends that the TFG ratify the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) to enhance the protection of women and girls in Somalia and the Convention on the Rights of the Child (CRC) to enhance the protection of children in Somalia.

Somalia has had no functioning government since January 1991, when former President Siad Barre was ousted. The Transitional Federal Government (TFG) provides few, if any, public services and its forces are focused on maintaining what control it has left over the capital.

The territory of Somalia is *de facto* divided into three distinct administrative areas: Somaliland, Puntland and the area south of the city of Galkacyo termed southern and central Somalia. Each area is characterized by distinct political, human rights and security situations.

The south and central part of the former Republic of Somalia is governed by the TFG, but it effectively controls only 6 districts in Mogadishu, with the aid of the African Union peacekeeping force ("AMISOM"), the other 39 districts being controlled by Al-Shabaab, an Islamist insurgency and other Islamist militia. The Puntland State of Somalia, a semi-

autonomous administration in the north-east of Somalia has declared itself part of a federal Somalia and the self-declared Republic of Somaliland in the north-west, which describes itself as a separate nation.

It is recommended that the TFG (and AMISOM) take steps to ensure that all military engagement is undertaken in a manner consistent with international humanitarian law to minimize the devastation to civilians.

Somalia currently hosts some 1,866 refugees, most of which are Ethiopian and are based in Puntland (Bosasso and Garowe) and Somaliland (Hargeisa). In addition, there are an estimated 24,916 asylum-seekers, of which an estimated 20,000 are in Hargeisa (Somaliland) and in Bosasso, Garowe and Galkayo (Puntland). There are 614,127 Somali refugees in neighbouring countries: Kenya - 338,151, Yemen - 165,201, Ethiopia - 75,965, Uganda - 15,604, Djibouti - 13,193, with smaller numbers in Tanzania and Eritrea.

The current conflict in South Central Somalia, between the TFG and Al-Shabaab has engendered more than 1.46 million internally displaced persons (IDPs), of which more than 1,110,000 are in Mogadishu and South and Central Somalia, 288,000 are in Puntland and some 67,100 are in Somaliland. Since 2007, approximately 91,960 Somalis have left Somalia mainly transiting through Bosasso to Yemen, undertaking a hazardous journey across the Gulf of Aden, which has left thousands dead. The UNHCR Somalia operation oversees a refugee population of 1,866 persons and over 24,000 asylum-seekers.

Areas of Mogadishu under Al-Shabaab control are characterized by widespread human rights violations, and disregard for fundamental rights. The ongoing conflict between the TFG and AMISOM on the one hand, and Al-Shabaab on the other demonstrate blatant disregard for the tenets of international humanitarian law in relation to the protection of civilians. Consequently, the conflicts continue to engender repeated and massive displacements, leading to outflows into central Somalia, to Puntland, Somaliland and to neighbouring countries such as Kenya, Ethiopia, Djibouti and Yemen.

Since the October 2008 bombings allegedly perpetrated by Islamist infiltrators into Puntland, the Puntland administration has adopted increasingly security-conscious policies in respect of the large numbers of refugees, asylum-seekers, IDPs from south central Somalia and migrants. These policies have resulted in summary deportations of asylum-seekers and migrants and forced relocations of IDPs. Somaliland's policies towards IDPs, asylum-seekers and refugees are also underpinned by security concerns and a desire to regulate the number of these people in Somaliland.

Clan identity continues to permeate Somali culture and often results in extreme social, economic, political and cultural discrimination for minority clans. Most IDPs are of minority clan extraction and therefore face a barrage of discriminatory indignities and generally suffer human rights violations perpetrated with impunity by host communities.

II. Achievements and best practices

Issue 1: TFG's signature of the Kampala Convention.

Issue 2: The engagement of the administrations of Puntland and Somaliland with UNHCR and their commitment to tackle issues related to persons of concern to UNHCR.

In Puntland and Somaliland, the Refugee Affairs Committee (RAC) and the Refugee Eligibility Committee (REC) conduct pre-registration only and all refugee status determination (RSD) is carried out by UNHCR under its mandate. UNHCR is currently engaged in capacity-building of these bodies, with a view to eventually handing over its responsibilities for RSD to them.

Puntland and Somaliland's administrations have engaged with UNHCR and the Protection Cluster on the formulation of a policy for IDPs which is consistent with applicable international standards. Puntland's administration is also engaging with the Protection cluster on the issue of relocation of IDP settlements, in particular by gifting land to IDPs and agreement to ensure that relocations are undertaken in a manner consistent with the Guidelines on Relocation developed by the Protection Cluster.

The Puntland administration is committed to the adoption of a refugee law consistent with its obligations under the 1951 Refugee Convention and the 1967 Protocol. In addition, it has acknowledged the need for technical expertise and capacity-building for law enforcement, immigration and judiciary personnel.

The administrations of Puntland and Somaliland are also cooperating with UNHCR on the development of a rationalized and comprehensive registration system for asylum-seekers.

UNHCR would also like to note the Somaliland administration's successful, peaceful and democratic elections.

III. Future challenges and recommendations

Issue 3: Kampala Convention.

It is recommended that the TFG ratify the Kampala Convention to enhance the protection environment for IDPs.

Issue 4: Repatriation of asylum-seekers and migrants.

It is recommended that the TFG ceases to enter into readmission agreements or other Memoranda of Understanding on readmission with European and other countries for the repatriation of Somali asylum-seekers to Mogadishu.

It is recommended that the TFG lodges a formal protest with the Kingdom of Saudi Arabia in relation to the forced repatriation of Somali migrants to Mogadishu.

Issue 5: Rights of refugees and of other persons of concern to UNHCR

It is recommended that the Puntland and Somaliland administration continue and reinforce their commitment to respect the rights of asylum-seekers, refugees and IDPs by respecting the principle of *non-refoulement* and by adopting policies consistent with international norms under the applicable law.

It is recommended that the TFG, the Puntland and Somaliland administrations endeavour to establish functioning social services for the benefit of all Somalis and for refugees, asylum-seekers and other persons of concern.

It is recommended that the TFG take concrete steps to resolve the current dissonance between the Transitional Federal Charter (Article 8) and its obligations in respect of religious freedom under the International Covenant on Civil and Political Rights to which it is a signatory, in order to curb discrimination towards Somalis, migrants, refugees and asylum-seekers of Christian or other faiths, and towards so-called “apostates”.

Limited access to justice, particularly for women, the lack of capacity of the judiciary and, at times, the discriminatory application of traditional conflict resolution mechanisms are some other issues of concern. It is recommended that the legal framework in Somalia be streamlined to minimize the fragmented and arbitrary nature of the law (current mixture between secular law, Sharia law and xeer) and to provide legal certainty.

Issue 6: Refugee status determination

In Puntland and in Somaliland, the Refugee Affairs Committee and the Refugee Eligibility Committee conduct pre-registration only. Refugee status determination is entirely carried out by UNHCR under its mandate. UNHCR is currently engaged in capacity-building of these bodies, with a view to gradually handing over the responsibilities for refugee status determination to these government institutions.

Issue 7: Civil society organisations

It is recommended that both the Puntland and Somaliland administrations collaborate with civil society organizations.

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