



U.S. DEPARTMENT of STATE

Somalia*

10/3-05

Country Reports on Human Rights Practices - 2004

Released by the Bureau of Democracy, Human Rights, and Labor
February 28, 2005

Somalia has been without a central government since its last president, dictator Mohamed Siad Barre, fled the country in 1991. In 2000, the Djibouti Conference, made up of local and regional leaders, established a Transitional National Government (TNG) and selected a 245-member Transitional National Assembly (TNA), which elected Abdiqassim Salad Hassan as Transitional President. Administrations in the northwest (Somaliland) and northeast (Puntland) of the country did not recognize the results of the Djibouti Conference, nor did several Mogadishu-based factional leaders. Since October 2002, the Inter-Governmental Authority for Development (IGAD) has sponsored the Somalia National Reconciliation Conference (SNRC), which was led by Kenya in association with Ethiopia, Djibouti, Eritrea, and Uganda. Representatives of the self-declared Republic of Somaliland did not participate in the SNRC; however, all other major political and military leaders attended the conference, as well as elders, religious leaders, and members of civil society. The SNRC concluded in October, following the August 29 selection of a 275-member clan-based Transitional Federal Assembly (TFA), which replaced the TNA, and the October 10 election of Abdullahi Yusuf Ahmed as Transitional Federal President. In December, Yusuf Ahmed appointed Ali Mohammed Ghedi as Prime Minister. All transitional institutions, which were based in Kenya, had 5-year terms. During the year, the TFA adopted but did not implement the Transitional Federal Charter, which replaced the 1990 Constitution; however, for the many issues about which the Charter is silent, the Constitution still applies. There is no national judicial system.

In the northwest, the self-declared Republic of Somaliland continued to proclaim its independence within the borders of former British Somaliland but did not have international recognition. Somaliland's Government included a parliament, a functioning civil court system, executive departments organized as ministries, six regional governors, and municipal authorities in major towns. Presidential elections, deemed credible and significantly transparent, were held in April 2003 and resulted in a close victory for the ruling United People's Democratic Party (UDUB).

Leaders in the northeast proclaimed the formation of the State of Puntland in 1998. In 2001, traditional elders elected Jama Ali Jama as the President of Puntland. Yusuf refused to accept the elders' decision, and he seized by force the town of Garowe, reportedly with Ethiopian support. In 2002, President Yusuf seized Bosasso and controlled Puntland in general. In addition to Yusuf's and Jama's competing claims on the Puntland presidency, General Adde Musse in 2003 attempted to seize Puntland with Somaliland support. After intensive mediation efforts by traditional elders, Musse reconciled with Yusuf, and the two shared power. With the October election of Yusuf as Transitional Federal President, Puntland Vice President Mohammed Abdi Hashi succeeded as interim President until January 8, when the Puntland Parliament elected General Adde Musse as President.

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.

Clan and factional militias, in some cases supplemented by local police forces, continued to function with varying degrees of effectiveness throughout the country. Police and militia members committed numerous, serious human rights abuses throughout the country.

The country's population was estimated to be 8.3 million. The country was very poor with a market-based economy in which most of the work force was employed as subsistence farmers or nomadic herders. Drought, floods, ethnic fighting, the Indian Ocean tsunami, and the displacement of more than 400,000 persons exacerbated the country's already extremely poor economic situation. Unemployment and malnutrition were widespread. The livestock ban imposed by Saudi Arabia continued in effect at year's end.

The country's human rights record remained poor, and serious human rights abuses continued. Citizens did

not have the right to change their government because of the absence of an established central authority. Politically motivated killings occurred, and numerous civilians were killed in factional fighting. Kidnapping remained a problem. Prison conditions remained harsh and life threatening. Arbitrary arrest and detention remained problems. Impunity was a problem. In most regions, the judicial system relied on some combination of traditional and customary justice, Shari'a (Islamic) law, and the pre-1991 Penal Code. Citizens' privacy rights were limited. There were restrictions on freedom of speech, press, assembly, association, religion, and movement. Violence and discrimination against women, including the nearly universal practice of female genital mutilation (FGM), continued. Abuse of children remained a problem. Abuse and discrimination against clan and religious minorities in the various clan regions persisted. There was no effective system for the protection of workers' rights, and there were isolated areas where local gunmen forced minority group members to work for them. Child labor and trafficking in persons remained problems.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

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

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

No action was taken against the responsible members of the security forces or militias who committed killings in 2002 and 2003.

There were landmines throughout the country; however, statistics on the number of deaths caused by landmines were not available at year's end. According to the NGO Geneva Call, 40 persons were killed by landmines in 2003.

Attacks against humanitarian and NGO workers resulted in at least two deaths during the year (see Section 4). There were no further developments in the investigations into the 2003 killings of four humanitarian and NGO workers.

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

Inter-clan fighting resulted in numerous deaths during the year. For example, inter-clan fighting during May and June in Bulo Hawa resulted in approximately 60 deaths, numerous injuries, and more than 3,000 IDPs.

Among the dead was Mohammed Hassan Ali, a prominent local doctor, and seven children killed when a bomb they had found exploded. On August 14, 17 persons were killed and more than 30 others injured as a result of fighting between the Luway and Dabarre sub-clans of the Digil-Mirifle clan in Tuger Hosle village, Dinsor. There were no developments in the reported killings due to inter-clan fighting in 2003 and 2002.

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 Dr. Ismael Jumale Human Rights Center (DKJHRC) reported that at least 200 abductions occurred in Mogadishu during the year. For example, on October 31, gunmen kidnapped a businessman in Mogadishu and demanded a ransom of \$25,000 (385 million shillings); the businessman was released after negotiations between his family and elders representing the kidnappers.

There were no investigations or action taken against the perpetrators of kidnappings that occurred during the year, in 2003, or in 2002.

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

The unimplemented Transitional Federal Charter prohibits torture, and the Puntland Charter prohibits torture "unless sentenced by Islamic Shari'a courts in accordance with Islamic law"; however, there were some reports of the use of torture by the Puntland and Somaliland administrations and warring militiamen against each other or against civilians. Observers believed that many incidents of torture were not reported. Prison guards beat inmates in prison.

On August 15, in Hargeisa, Somaliland police arrested and detained 16-year-old Zamzam Ahmed 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. The Government charged that Dualeh, who was arrested at the home of Vice President Ahmed Yusuf Yasin, was trying to obtain secret information about Yasin; Dualeh claimed that she had mistaken the Vice President's home for that of a deputy minister, who she claimed was a relative. On December 15, Dualeh was tried as an adult without legal representation and sentenced to 5 years' imprisonment. The four attorneys retained by local human rights activists to represent Dualeh were detained and sentenced to 4 years' imprisonment after they asked the judge to withdraw from the case due to alleged bias; on December 11, the attorneys were released on appeal after they paid a fine. Human rights groups, including Amnesty International, petitioned the Government to release Dualeh or retry her as a juvenile with legal representation. Somaliland President Dahir Rayale Kahin Dualeh subsequently "pardoned" Dualeh, who was released on December 12.

Security forces, police, and militias also injured persons during the year. Acts of violence, including several killings, continued against supporters or members of the new TFG (see Section 1.a.).

There continued to be reports of rapes, largely committed by militia members; the DIJHRC reported 31 such cases in 2003. In a November 16 press release, the Mogadishu-based Somali Young Women Activists reported that former TNG militiamen displaced, robbed, and sexually assaulted the members of more than 20 families in the Lower Shabelle region. There continued to be reports of rapes of Somali women and girls in refugee camps in Kenya during the year. The majority of the rapes were perpetrated by Somali bandits who crossed over the border; a small number of the rapes were committed by Kenyan security forces and police. During the year, there were 16 reported rapes and 9 defilements of Somali refugees in Kenyan refugee camps, according to the U.N. High Commissioner for Refugees (UNHCR). The rapes usually followed looting attacks by bandits and occurred when women and girls left the camps to herd goats or collect firewood or at night when bandits entered the refugee camps. Many of the rapes reportedly resulted in pregnancies.

There were several attacks on humanitarian and NGO workers by militia and other groups, which resulted in deaths and injuries (see Section 4).

No action reportedly was taken against TNG, Somaliland, and Puntland forces, warlord supporters, or members of militias responsible for torturing, beating, raping, or otherwise abusing persons in 2003 or 2002.

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 conditions remained harsh and life threatening. Hareryale, a prison built to hold 60 inmates, reportedly held hundreds of prisoners during the year, including children. Overcrowding, poor sanitary

conditions, a lack of access to adequate health care, and an absence of education and vocational training persisted in prisons throughout the country. Tuberculosis was widespread. Abuse by guards reportedly was common in many prisons. The detainees' clans generally paid the costs of detention. In many areas, prisoners were able to receive food from family members or from relief agencies. Ethnic minorities made up a disproportionately large percentage of the prison population.

Men and women generally were held separately; however, juveniles frequently were held with adults in prisons. A major problem continued to be the incarceration of juveniles at the request of families who wanted their children disciplined. Pretrial detainees and political prisoners were held separately from convicted prisoners.

The Puntland Administration permitted prison visits by independent monitors. Somaliland authorities permitted prison visits by independent monitors, and such visits occurred during the year. The DIJHRC visited prisons in Mogadishu during the year.

d. Arbitrary Arrest or Detention

In the absence of constitutional or other legal protections, various factions continued to engage in arbitrary detention.

Corruption within the various police forces was endemic. Police forces throughout the country engaged in politics. The former TNG had a 3,500-officer police force and a militia of approximately 5,000 persons. In Somaliland, more than 60 percent of the budget was allocated to maintain a militia and police force composed of former troops. Abuses by police and militia members were rarely investigated, and impunity was a problem.

On August 15, Somaliland police arbitrarily arrested, detained, and allegedly tortured a 16-year-old girl (see Section 1.c.).

Authorities in Puntland and Somaliland arrested journalists during the year (see Section 2.a.).

On September 18, gunmen from the Puntland town of Eyl boarded a Yemeni ship in the Indian Ocean, detained the crew, and demanded money; there were unconfirmed reports that the ship was carrying arms. After Puntland authorities sent a group of elders to meet with the community of Eyl and to negotiate with the gunmen, the crew was released; no action was taken against the gunmen.

e. Denial of Fair Public Trial

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

There were three functioning Shari'a-based entities—one in the Daynile area and two in the Beledweyne area; however, both largely acted as administrative units, not courts.

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 Penal Code. 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 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.

The unimplemented Transitional Federal Charter provides for the right to be represented by an attorney. The right to representation by an attorney and the right to appeal did not exist in those areas that apply traditional and customary judicial practices or Shari'a. These rights more often were generally respected in regions that continued to apply the former government's Penal Code, such as Somaliland and Puntland;

however, during the year, Somaliland police tried a 16-year-old girl as an adult, denied her legal representation, and sentenced her to 5 years' imprisonment (see Section 1.d.).

There were no reports of political prisoners.

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

The unimplemented Transitional Federal Charter provides for the sanctity of private property and privacy; however, looting and forced entry into private property continued in Mogadishu, 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 Transitional Federal Charter and the Somaliland Constitution provide for freedom of speech and the press; however, there were incidents of harassment, arrest, and detention of journalists in all areas of the country, including Puntland and Somaliland. The Puntland Charter provides for freedom of the press "as long as they respect the law"; however, this right was not respected in practice.

A law requires all media to register with the Minister of Information and imposes penalties for false reporting; however, the law had not been enforced by year's end. 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.

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 British Broadcasting Corporation, which transmitted a daily Somali-language program. The major faction leaders in Mogadishu, as well as the authorities of Somaliland, operated small radio stations. An FM station begun in 2002 by the TNG continued to operate. A radio station funded by local businesses operated in the south, as did several other smaller FM stations in various towns in central and southern parts of the country.

Journalists were harassed during the year. For example, on January 21, Puntland authorities in Garowe briefly detained Ali Bashi Mohammed Haji, a reporter from Radio Banadir, and Mohammed Sadak Abdu Guunbe, a reporter from Radio Shabelle, for allegedly sending sensitive political reports to their radio stations in Mogadishu; Puntland authorities later apologized.

On April 21, Puntland authorities arrested Abdishakur Yusuf Ali, editor of the independent weekly War-Ogaal, after he published an article accusing Puntland Finance Minister Abdirahman Mohamud Farole of corruption in connection with food relief; on June 1, Ali was released.

On August 31, the Republican Police in Somaliland arrested Hassan Said Yusuf, editor-in-chief of the independent Somali-language daily Jamhuuriya and its weekly English-language edition, for publishing false information; Yusef had published an article the previous day that criticized Somaliland's position on the SNRC talks in Kenya. On September 5, Yusuf was released on bail, and on October 4, he was acquitted of all charges.

There were no further developments in the 2002 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.

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

The unimplemented Transitional Federal Charter and the Somaliland Charter provide for freedom of assembly; however, the lack of security effectively limited this right in many parts of the country. The ban on demonstrations continued; however, demonstrations occurred throughout the country during the year. The Government of Somaliland banned political demonstrations following the closely contested April 2003 multiparty elections (see Section 3).

The unimplemented Transitional Federal Charter 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 after the April 2003 elections.

Professional groups and local NGOs operated as security conditions permitted.

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 Transitional Federal Charter establishes Islam as the national religion. Some local administrations, including Somaliland and Puntland, have made Islam the official religion in their regions.

Only Shafi'iyyah, a moderate Islamic doctrine followed by most citizens, is allowed in Puntland. Puntland security forces monitored religious activities very closely.

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. 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.

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.

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

For a more detailed discussion, see the 2004 International Religious Freedom Report.

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

The unimplemented Transitional Federal Charter and the Puntland Charter provide for freedom of movement; however, this right continued to be restricted in some parts of the country. Checkpoints manned by militiamen loyal to one clan or faction inhibited passage by other groups. In the absence of a recognized national government, most citizens did not have the documents needed for international travel.

In October, militiamen from the Juba Valley Alliance installed checkpoints in and around the town of Kismayu, prevented passage, and demanded tolls from travelers. In November, the checkpoints were removed after negotiations with local leaders.

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

In December, the U.N. estimated that there were 400,000 IDPs in the country, most of them women and children. Of this number, approximately 150,000 lived in Mogadishu, with another 15,000 in the southern port city of Kismayo, and the remainder scattered around the country. The majority of IDPs reportedly lived in old schools and former government buildings. The U.N. estimated that approximately 205,000 Somalis were living as refugees in neighboring countries.

As security conditions continued to improve in many parts of the country, refugees and IDPs returned to their homes. According to UNHCR figures, 18,030 Somali refugees were repatriated during the year: 8,422 were from Djibouti; 9,513 from Ethiopia, 78 from Kenya; 3 from Libya; 4 from South Africa; and 10 from Yemen. Despite sporadic harassment, including the theft of humanitarian provisions from convoys by militiamen, repatriation generally took place without incident. In September 2003, the U.N. Independent Expert on Human Rights visited several IDP camps in Somaliland and found them among the worst he had visited. He reported that the camps were overcrowded, had poor sanitation, and there was little or no access to employment and education. No local, regional, or U.N. authorities have taken responsibility for the camps.

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

On July 15, an unidentified group of gunmen forced 172 Tanzanian refugees to vacate the camp in which they had lived since late 2001. By year's end, some of the Tanzanian refugees had voluntarily returned to their home country while approximately 100 others were scattered in Mogadishu.

There were reports of rapes of Somali women and girls in refugee camps in Kenya (see Section 1.c.).

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 groups derived their authority from the traditional deference given clan elders, most faced opposition from clan groups and political factions.

In 2000, the Djibouti Conference, made up of local and regional leaders, established the TNG and selected the 245-member TNA, which elected Abdiqassim Salad Hassan as Transitional President. Administrations in the northwest (Somaliland) and northeast (Puntland) of the country did not recognize the results of the Djibouti Conference, nor did several Mogadishu-based factional leaders.

In 2002, in Eldoret, Kenya, the IGAD-sponsored 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, the SNRC adopted the Transitional Federal Charter for a 5-year TFG, which replaced the TNG, and selected a 275-member TFA, which replaced the TNA. On October 10, 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. On December 6, the President and Prime Minister swore in a new cabinet, which, on December 11, received a vote of no confidence in the TFA; there was no functioning cabinet at year's end.

Representatives of the self-declared Republic of Somaliland did not recognize the results of the SNRC as having any validity in its territory.

Presidential elections in Somaliland were held in April 2003, with the participation of three political parties: The Democratic United Peoples' Movement, the Solidarity Party (Kulmiye), and the Party for Justice and Democracy. The incumbent UDUB President, Dahir Riyale Kahin, won by 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 have been repeatedly postponed, were scheduled for March 2005.

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 sub-clans chose Abdullahi Yusuf as President. Puntland has a single chamber quasi-legislative branch known as the Council of Elders, which played a largely consultative role. Political parties were banned in Puntland. Regional elections in Puntland were held during 2001; however, President Yusuf refused to step down. In November 2001, elders elected Jama Ali Jama as the new President of Puntland, and he assumed power in Garowe. Yusuf refused to accept the decision and militarily seized Garowe, which forced Jama to flee to Bosasso. In 2002, Yusuf occupied Bosasso and declared himself President of Puntland in 2002. During 2003, General Adde Musse, a former army general, organized Jama Ali Jama's militiamen, drawn primarily from the Majerten Osman Mohamoud sub-clan, and established a base in Somaliland. General Musse's forces attacked Puntland twice from their base in Somaliland without success. Puntland traditional elders then intervened and brokered a peace agreement between Musse and Yusuf, which was signed in May 2003. In May 2003, the two joined their forces and began sharing power. Mohammed Abdi Hashi, Yusuf's vice president, assumed the presidency of Puntland after Yusuf's election in October 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.

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

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

Minorities held 31 seats in the TFA.

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.

Numerous international organizations operated in the country during the year, including the Red Cross, CARE, Save the Children, and various de-mining agencies such as the Halo Trust. The TNG and Somaliland authorities permitted visits by U.N. human rights representatives during the year.

Security problems complicated the work of local and international organizations, especially in the south. There were reported incidents of harassment against NGOs, resulting in at least two deaths.

On March 19, unknown gunmen shot and killed an employee of the German Agency for Technical Assistance and a security escort after ambushing their vehicle outside of Berbera, Somaliland; another passenger was injured. Five suspects were arrested and awaiting trial at year's end; the motive for the killings remained unclear at year's end.

Attacks on NGOs also disrupted flights and food distribution during the year. In April, clan militia ambushed a Gedo Health Consortium rented vehicle near Bula Hawa in apparent retaliation for the theft of electronic items and a generator by a rival clan; the driver was seriously injured. On August 15, after a plane carrying an IGAD delegation landed at Baidoa airstrip, a man entered the plane and threatened the delegates with a hand grenade; the man was disarmed and allowed to depart the aircraft with no charges filed against him.

Despite threats in Jowhar and Kismayu, authorities did not close any NGOs during the year.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The unimplemented Transitional Federal Charter prohibits discrimination on the basis of sex 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 sex and national origin; however, these rights were not respected in practice.

Women

Domestic violence against women occurred. Women suffered disproportionately in the civil war and in the strife that followed. There was no information available on the prevalence of domestic violence in the country. There are no laws that specifically address domestic violence; however, both Shari'a and customary law address the resolution of family disputes (see Section 1.e.). Police and militia members raped women, and rape was commonly practiced in inter-clan conflicts (see Section 1.c.). 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. There were reports of rapes of Somali women and girls in refugee camps in Kenya during the year (see Section 1.c.).

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

Prostitution is illegal; however, it was practiced. Because it is culturally proscribed, it was not reported.

Women 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 than for a male victim.

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

Children

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). Even in areas with relative security, the lack of resources limited the opportunity for children to attend school. Approximately 10 to 20 percent of the school-age population attended school; more boys than girls were enrolled in school. 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. Parents generally paid fees for their children's education. 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.

Medical care was rudimentary, and only a small percentage of children had access to adequate medical facilities.

There was no information available on the prevalence of child abuse in the country; however, it occurred. There were reports of rapes of Somali girls in refugee camps in Kenya during the year (see Section 1.c.).

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

Child prostitution was practiced; however, because it is culturally proscribed, it was not reported.

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

In 2003, the U.N. Independent Expert on Human Rights visited Kismayo, Lower Juba, Bosasso, Puntland, and Hargeisa, Somaliland. He reported that children were recruited as soldiers in Puntland and that many juveniles were incarcerated with adults by their parents for disciplinary problems (see Section 1.c.).

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

Trafficking in Persons

The pre-1991 Penal Code prohibits trafficking; however, there were reports of trafficking during the year. The unimplemented Transitional Federal Charter does not specifically prohibit trafficking. The number of women being trafficked from the country appeared to be small.

Trafficking in children for forced labor was a serious problem. There were reports of a significant increase in the smuggling 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.

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.

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. Inter-marriage between these groups and mainstream clans was restricted. Some of these groups had limited access to whatever social services were available, including health and education. Members of minority groups continued to be subjected to killings, harassment, intimidation, and abuse by armed gunmen of all affiliations.

Section 6 Worker Rights

a. The Right of Association

The 1990 Constitution and the unimplemented Transitional Federal Charter provide workers with the right to form unions; however, the civil war and factional fighting have resulted in the absence of any legal protection for workers' rights and the disintegration of the country's single labor confederation, the then government-controlled General Federation of Somali Trade Unions. In view of the extent of the country's political and economic breakdown and the lack of legal enforcement mechanisms, trade unions did not function freely.

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

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.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The pre-1991 Penal Code and the unimplemented Transitional Federal Charter prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred (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 Transitional Federal Charter 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. In 2002, it was reported that 32.5 percent of children between the ages of 5 and 14 worked; however, the percentage of children engaged in labor was believed to be even higher during the year. 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.

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

