

# Somalia 45.

## U.S. Department of State

### Somalia Country Report on Human Rights Practices for 1998

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#### SOMALIA

Somalia has been without a central government since its last president, dictator Mohamed Siad Barre, fled the country in 1991. Subsequent fighting among rival faction leaders resulted in the killing, displacement, and starvation of thousands of Somalis and led the United Nations (U.N.) to intervene militarily in 1992. In a conference in Cairo, Egypt, in December 1997, all parties except two signed the so-called "Cairo Declaration." The Declaration provided for a 13-person council of Presidents, a Prime Minister, and a National Assembly. A national reconciliation conference was held early in the year in Baidoa to negotiate further details, including appointments, but produced no significant results. After months of detailed negotiations, Hussein Aideed, leader of the city's southern zone, and Ali Mahdi Mohammed, the dominant leader in the north, agreed on July 30 to form a joint provincial administration. However, this agreement did not lead to a more permanent settlement. Nominal supporters of both Aideed and Ali Mahdi objected to the agreement, generally on grounds of personal self-interest or the interests of their clan. In one brief instance, an opponent of the agreement launched a violent attack to undermine one of the agreement's key elements, the reopening of Mogadishu harbor. There is no national judicial system.

Serious interclan fighting occurred only in part of the country, notably in the central Somali regions of Bay and Bakool, in the southern regions of Gedo and Lower Juba, and around Kismayo. International efforts to forge a peace accord achieved little during the year. Leaders in the northeast proclaimed the formation of the "Puntland" state in July. Although the Puntland's leader publicly announced that he did not plan to break away from the remainder of the country, suspicions lingered. Puntland's leadership banned all political parties for 3 years, starting in August. The northwest continued to proclaim its independence within the borders of former British Somaliland, which had obtained independence from Britain in 1960 before joining the former Italian-ruled Somalia. The "Republic of Somaliland" has sought international recognition since 1991. Somaliland's government includes a parliament and functioning civil court system.

After the withdrawal of the last U.N. peacekeepers in 1995, clan and factional militias, in some cases supplemented by local police forces established with U.N. help in the early 1990's, continued to function with varying degrees of effectiveness. Repeated intervention by Ethiopian troops helped to maintain order in Gedo region, a base of support for a local radical Islamic group called Al'Ittihad. Police and militia committed numerous human rights abuses.

Insecurity, bad weather, and crop-destroying pests helped worsen the country's already dire economic situation. The continuation of a ban against the export of livestock to the Gulf states and to Saudi Arabia worsened matters. During some times of the year, livestock exports accounted for far more than half the trade from some Somali ports. The country's economic problems caused a serious lack

of employment opportunities and led to pockets of malnutrition in Mogadishu and some other communities.

Human rights abuses continued throughout the year. Many civilians citizens were killed in factional fighting, especially in the Bay and Bakool regions between supporters of Hussein Aideed, most of whom came from the Habr Gedr subclan, and members of the Digil and Mirifle community. There were numerous reports of human rights abuses by the Aideed forces. Key human rights problems remained the lack of political rights in the absence of a central authority; the reliance of some communities particularly in north and south Mogadishu, the Middle Shabelle, and parts of the Gedo and Hiran regions; on harsh Shari'a punishments, including public whippings, amputations, and stoning; harsh prison conditions; the judicial system's reliance in most regions on some combination of traditional and customary justice, Islamic (Shari'a) law, and the pre-1991 penal code; infringement on citizens' privacy rights; some limits on religious freedom; restrictions on freedom of movement; and the abuse of women and children, including the nearly universal practice of female genital mutilation (FGM). Abuse and discrimination against ethnic minorities in the various clan regions continued. There is no effective system for the protection of worker's rights, and there were isolated areas where minority group members were forced to labor for local gunmen. Forced labor also reportedly was discussed by local partners of multinational fruit export firms.

## **RESPECT FOR HUMAN RIGHTS**

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

#### **a. Political and Other Extrajudicial Killing**

Political violence and banditry have been endemic since the revolt against Siad Barre, who fled the capital in January 1991. Since that time, tens of thousands of Somalis, mostly noncombatants, have died in interfactional and interclan fighting (see Section 1.g.). It is believed that a number of persons were killed during the year, but there were no reliable statistics.

Although many civilians died as a result of fighting during the year, politically motivated extrajudicial murder was uncommon. The numerous extrajudicial killings during the year generally centered on conflicts over land or over job disputes. For example fighting in December between two clans competing for jobs with a Swedish relief agency in the southwest left at least 60 persons dead and over 150 injured.

In September militia fighters attacked a World Food Program convoy in Mogadishu and killed two guards.

The investigation into the 1997 killing of a Portuguese doctor was still pending at year's end.

In 1997 a War Crimes Commission in Hargeisa began investigating the murder in 1988 of at least 2,000 local residents, including women and children, by Siad Barre's troops. Heavy rains in 1997 revealed numerous mass graves in the Hargeisa area. During the year, the War Crimes Commission continued to record eyewitness accounts and other evidence.

b. Disappearance

There were no known reports of unresolved politically motivated disappearances, although cases easily might have been concealed among the thousands of refugees, displaced persons, and war dead. Kidnaping remained a problem, particularly for relief workers (see Section 1.d.) and for critics of faction leaders. For example in April a clan splinter group kidnaped 10 foreign aid workers at gunpoint in Mogadishu and held them for 2 weeks before releasing them unharmed (see Section 1.d.). In September an armed group kidnaped six basketball players in southern Mogadishu; they were subsequently released. Kidnaping also was a major concern in the northeast, where gunmen hijacked a number of vessels on the high seas and, in some cases, kidnaped the crews (see Section 1.d.).

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

There were no reports of the use of torture by warring militiamen against each other or against civilians. Many incidents of torture probably are unreported.

On May 27, three policemen in Hargeisa shot and injured Keise Yusuf Ali, a Somali national who also holds a foreign passport, and Abdi Abdillahi Said, a local resident, after they and clan elders tried to attend a hearing related to the detention of the editor of Jamhuriya newspaper (see Section 2.a.). Keise received three gunshot wounds, including two in the head, and was paralyzed for several months. The policemen responsible never were charged; instead, reportedly they received a bonus for their actions and were commended publicly by the "President" of Somaliland. The Somaliland judicial authorities charged Keise with disorderly conduct and refused to pay for his medical treatment or permit him to leave the country for medical treatment.

Islamic (Shari'a) courts continued to operate in several regions of the country, filling the vacuum created by the absence of normal government authority. Shari'a courts traditionally ruled in cases of civil and family law, but extended their jurisdiction to criminal proceedings in some regions beginning in 1994. In north Mogadishu, parts of south Mogadishu, the Middle Shabelle, and parts of the Gedo and Hiran regions, these courts regularly sentenced convicted thieves to public lashings and, far less frequently, to the amputation of their hands (see Section 1.e.).

Prison conditions varied by region. Although conditions at the south Mogadishu prison controlled by the Aideed forces improved markedly in 1997 after the start of visits by international organizations, conditions at the north Mogadishu prison of the Shari'a court system remained harsh and life-threatening. Conditions elsewhere reportedly were less severe, according to international relief agencies. In many areas, prisoners are able to receive food from family members or from relief agencies.

A visiting Amnesty International delegation toured Hargeisa's main prison during its October visit.

d. Arbitrary Arrest, Detention, or Exile

In the absence of constitutional or other legal protections, Somali factions and armed bandits continued to engage in arbitrary detention, including the kidnaping of relief workers. Among the most notable incidents was the abduction of 10 relief agency staff members and aircrew from the north Mogadishu airport on April 15. The kidnaping had the clear support of powerful local leaders. It was resol-

ved 2 weeks later with the release of the aid workers, allegedly after the payment of a substantial ransom (which the agencies involved denied paying). This kidnaping prompted the Red Cross to pull its remaining aid workers out of the country. A second incident occurred on June 24 when gunmen in the Bari region hijacked a Taiwanese fishing boat. Clan elders charged the fishermen with violating Somalia's territorial waters. They "fined" the boat's owners \$320,000 and released the crew unharmed 3 months later. Gunmen also kidnaped two French sailors on June 2 in the Bari region. They were held until the end of July, when they were released into the custody of the U.N. Development Program.

In the northwest, a special security committee that includes the mayor of Hargeisa and local prison officials can order an arrest without a warrant and sentence persons without a trial. According to human rights groups, this procedure was used on approximately 100 individuals during the year, including businessman Ahmed Farah Jire, who was detained in the middle of the night on October 13. Jire later was sentenced to 1 year in prison for "national security reasons." Human rights groups stated that Jire came under suspicion when he brought his clansmen together for a road construction project, but that the project did not pose a threat to the authorities.

Five times during the year authorities in Somaliland detained the editor of Jamhuriya newspaper (see Section 2.a.).

None of the factions used forced exile.

#### e. Denial of Fair Public Trial

There is no national judicial system.

Some regions have established local courts that depend on the predominant local clan and associated faction for their authority.

The judiciary in most regions relies on some combination of traditional and customary law, Islamic Shari'a law, the penal code of the pre-1991 Siad Barre government, or some combination of the three. For example in Bosasso and Afmedow criminals are turned over to the families of their victims, that then exact blood compensation in keeping with Somali tradition.

In the northwest, the self-proclaimed Republic of Somaliland adopted a new constitution based on democratic principles, but continues to use the pre-1991 Somali Penal Code. There is a shortage of qualified judges in Somaliland. In Bardera courts apply a combination of Islamic Shari'a law and the former penal code. In north Mogadishu, a segment of south Mogadishu, the Middle Shabelle, and parts of the Gedo and Hiran regions, court decisions are based solely on Shari'a law. In those areas and parts of the Gedo and Hiran regions, where Shari'a culture is particularly entrenched, harsh punishments--including public whippings, amputations and stoning--are meted out for certain offenses.

The right to representation by an attorney and the right to appeal do not exist in those areas that apply traditional and customary judicial practices or Shari'a law. These rights more often are respected in regions that continue to apply the former Government's penal code, such as Somaliland. However, Somali human rights organizations note that proceedings in the north Mogadishu Shari'a court often contravene the norms of Shari'a law. In one serious incident in 1997, the court denied basic rights,

including the right to counsel and to face witnesses, to a group suspected of plundering a local marketplace. Public protest led to the postponement of the planned mass trial. The trial was still pending at year's end.

In November an appeal court in Hargeisa overturned a 1997 lower court decision that sentenced to 1 year in prison Faysal Ali Sheikh, general manager of the National Printing Publishing Company (NPP), and Abdulkarim Omer Odowa, NPP production manager. NPP is the publisher of Jamhuriya newspaper (see Section 2.a.). Sheikh and Odowa, who were charged by Hargeisa municipality with printing false vouchers, already had completed their 1-year in prison when their case was overturned. The appeal court ruling stated that insufficient evidence had been presented, and that a conviction was not justified.

There was an unverified press report that the various factions held and killed political prisoners.

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

Looting and forced entry into private property continued, with the Bay and Bakool regions being especially hard hit. In addition clan militias in Lower Juba reportedly dismantled a major sugar factory during the summer months. They sold the parts to their rivals in the neighboring Lower Shabelle region.

Most properties that were occupied forcibly during militia campaigns in 1992-93, notably in Mogadishu and the Lower Shabelle, remained in the hands of persons other than their prewar owners.

Approximately 40 percent of the population has been internally displaced as a result of interfactional and interclan fighting.

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

#### a. Freedom of Speech and Press

The print media consist largely of short, photocopied dailies, published in the larger cities and often linked to one of the factions. Several of these papers are nominally independent and are critical of the faction leaders.

Somaliland has two independent daily newspapers, one government daily, and an English language weekly. In March, May, and September, Hassan Said Yusuf, the editor of Jamhuriya newspaper, was detained five times, twice for 15 days, after he published articles that criticized the corruption and incompetence of the authorities in Hargeisa. Yusuf had been arrested twice in 1997 for similar reasons. He also was questioned by the police at least 14 times regarding information published in Jamhuriya between March and November.

Most citizens obtain news from foreign news broadcasts, chiefly the British Broadcasting Corporation, which transmits a daily Somali-language program. The major faction leaders in Mogadishu, as well as the authorities of the self-declared Republic of Somaliland, operate small radio stations.

There is no organized higher education system in the country.

b. Freedom of Peaceful Assembly and Association

Many clans and factions held meetings during the year without incident, although usually under tight security. Although citizens are free to assemble in public, the lack of security effectively limits this right in many parts of the country. Few public rallies took place during the year without the sponsorship of an armed group.

Some professional groups and local NGO's operate as security conditions permit.

The 1997 Somaliland Constitution established the right of freedom of association and this is respected by the Hargeisa authorities in practice.

c. Freedom of Religion

There are some limits on religious freedom. Somalis are overwhelmingly Sunni Muslim. Local tradition and past law make it a crime to proselytize for any religion except Islam. Some local administrations have made Islam the official religion in their regions, in addition to establishing a judicial system based on Shari'a law (see Section 1.e.). Non-Sunni Muslims often are viewed with suspicion by members of the Sunni majority. There is strong social pressure to respect Islamic traditions, especially in fundamentalist enclaves such as Luuq in the Gedo region. There is a small, low-profile Christian community. Christian-based international relief organizations generally operate without interference, so long as they refrain from proselytizing.

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

Freedom of movement continued to be restricted in most parts of the country. Checkpoints manned by militiamen loyal to one clan or faction inhibit passage by other groups. In the absence of a recognized national government, most Somalis do not have the documents needed for international travel.

As security conditions improved in many parts of the country, refugees and internally displaced persons continued to return to their homes. Approximately 50,000 Somali refugees were returned from Ethiopia under the auspices of the U.N. High Commissioner for Refugees (UNHCR) during the year. Despite sporadic harassment including the theft of UNHCR food packages by militiamen and attacks on World Food Program convoys (see Section 1.a.), repatriation generally took place without incident. However, despite the relative stability in many parts of the country, many Somalis still flee to neighboring countries, often for economic reasons. During the year, most migrants left from the northeast and traveled via boat to Yemen. Hundreds of such migrants drowned during the year in accidents at sea.

The number of Somali refugees in Kenya remained at approximately 125,000 at year's end, down from more than 400,000 at the height of the humanitarian crisis in 1992. In Ethiopia the number of Somali refugees fell to 200,000 by October from over 250,000 a year earlier. Djibouti hosted approximately 20,000 Somali refugees in camps at year's end and about 2,000 in its capital city.

As there is no functioning central government, there is no policy of first asylum nor any laws with provisions for the granting refugee or asylee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. However, 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 assistance organizations in assisting refugees. There were no reports of the forced expulsion of those having a valid claim to refugee status.

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

In the absence of a widely supported effective national government, recognized either domestically or internationally, citizens cannot exercise this right. In most regions, local clan leaders function as de facto rulers. Although many such groups derive their authority from the traditional deference given clan elders, most face opposition of varying strength from political factions and radical Islamic groups. In the Republic of Somaliland, the existence of which was endorsed by clan elders in 1991 and 1993, a clan conference led to a peace accord early in 1997. This accord demobilized militia groups, established a Constitution and bicameral Parliament with proportional clan representation, and elected a President and Vice President from a slate of candidates. The Hargeisa authorities have established functioning administrative institutions in virtually all the territory they claim, which equals the boundaries of the Somaliland state that achieved international recognition in 1960. In Kismayo the dominant faction leader seized the town militarily in 1993 but is dependent on elders from several subclans in order to govern the community.

Although several women were important behind-the-scenes figures in the various factions, women as a group remained outside the political process. No women held prominent public positions and few participated in regional reconciliation efforts.

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

Several local human rights groups were active during the year. They investigated the causes of conflict in the Mogadishu area, protested the treatment of prisoners before the Shari'a courts, and organized periodic peace demonstrations.

In April the Red Cross evacuated its remaining staff from the country following the kidnaping of 10 aid workers (see Sections 1.b. and 1.d.).

In October the authorities in Hargeisa permitted a visit by an Amnesty International delegation. Amnesty International conducted a seminar for local human rights nongovernmental organizations (NGO's). The local NGO's appeared to operate freely and without harassment during the year.

### **Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status**

Societal discrimination against women and widespread abuse of children continued to be serious problems. The 1997 Somaliland Constitution contains provisions that prohibit discrimination on the basis of sex and national origin.

## **Women**

Violence against women exists, although there are no reliable statistics on its prevalence. Women suffered disproportionately in the Somali civil war and in the strife that followed. However, during the past year there were no reports of systematic attacks on women in connection with the continuing civil violence. Women are systematically subordinated in the country's overwhelmingly patriarchal culture. Polygyny is permitted, but polyandry is not. Under laws issued by the former government, female children could inherit property, but only half the amount to which their brothers were entitled. Similarly, according to the tradition of blood compensation, those found guilty in the death of a woman must pay only half as much to the aggrieved family as they would if the victim were a man.

Several women's groups in Hargeisa actively promote equal rights for women and advocate the inclusion of women in responsible government positions.

## **Children**

Children remain 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 are members of the marauding gangs known as "morian," or "parasites or maggots." Even in areas with relative security, the lack of resources has limited the opportunity for children to attend school. There are only three secondary schools in Somaliland, and only 10 percent of those few children who enter primary school graduate from secondary school. Schools at all levels lack textbooks, laboratory equipment, and running water. Teachers are poorly trained and poorly paid. The literacy rate is less than 25 percent.

Female genital mutilation, which is widely condemned by international experts as damaging to both physical and psychological health, is a near-universal practice. Estimates place the percentage of women who have been subjected to FGM at 98 percent. Infibulation, the most harmful form of FGM, is practiced. The practice was illegal in 1991, when the Siad Barre government collapsed; and in Somaliland it remains illegal under the Penal Code (see Section 1.e.); however, the law is not enforced. While U.N. agencies and NGO's have made intensive efforts to educate persons about the danger of FGM, no reliable statistics are available on their success.

## **People With Disabilities**

In the absence of a functioning state, no one is in a position to systematically address the needs of those with disabilities. There are several local NGOs in Somaliland that provide services to the disabled.

## **National/Racial/Ethnic Minorities**

More than 80 percent of citizens share a common ethnic heritage, religion, and nomadic-influenced culture. The largest minority group consists of "Bantu" Somalis, who are descended from slaves brought to Somalia about 300 years ago. In most areas, members of groups other than the predominant clan are excluded from effective participation in governing institutions and are subject to discrimination in employment, judicial proceedings, and access to public services.

Members of minority groups are subjected to harassment, intimidation, and abuse by armed gunmen of all affiliations.

## **Section 6 Worker Rights**

### **a. The Right of Association**

The 1990 Constitution provided workers with the right to form unions, but the civil war and factional fighting negated this provision and shattered the 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 could not function freely in the country.

The new Constitution of Somaliland established the right of freedom of association, but no unions or employer organizations yet exist.

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

Wages and work requirements in traditional Somali culture are established largely by ad hoc bartering, based on supply, demand, and the influence of the clan from which the worker originates. As during past years, labor disputes sometimes led to the use of force or kidnaping (see Section 1.d.).

There are no export processing zones.

### **c. Prohibition of Forced or Compulsory Labor**

Unlike past years, there were no reports that local partners of multinational fruit export firms used forced labor in some areas of the Lower Shabelle and Lower Juba, including forced labor by children in some areas of Lower Shabelle. Local clan militias generally forced members of minority groups to work without compensation.

### **d. Status of Child Labor Practices and Minimum Age for Employment**

Formal employment of children was rare, but youths commonly are employed in herding, agriculture, and household labor from an early age. The lack of educational opportunities and severely depressed economic conditions contribute 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.

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