



Home Office

Country Information and Guidance

**Somalia: Women fearing gender-based
harm / violence**

February 2015

Preface

This document provides guidance to Home Office decision makers on handling claims made by nationals/residents of – as well as country of origin information (COI) about – Somalia. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained with this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Within this instruction, links to specific guidance are those on the Home Office’s internal system. Public versions of these documents are available at <https://www.gov.uk/immigration-operational-guidance/asylum-policy>.

Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the European Asylum Support Office’s research guidelines, [Country of Origin Information report methodology](#), dated July 2012.

Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please [e-mail us](#).

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

It is not the function of the IAGCI to endorse any Home Office material, procedures or policy.

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Contents

| | |
|--------------------------------------------------------|-----------|
| Section 1: Guidance | 4 |
| Basis of Claim | 4 |
| 1.1 Summary of Issues | 4 |
| 1.2 Consideration of Issues | 4 |
| 1.3 Policy summary | 8 |
| Section 2: Information | 10 |
| 2.1 South and Central Somalia | 10 |
| Overview | 10 |
| Sexual and gender based violence | 11 |
| State response to sexual and gender based violence | 12 |
| Situation for displaced women | 15 |
| Abuses against women in areas under al-Shabaab control | 16 |
| Female genital mutilation | 17 |
| Trafficking | 17 |
| Fledgling assistance and support for women | 18 |
| 2.2 Somaliland | 20 |
| Overview | 20 |
| Sexual violence | 21 |
| Female genital mutilation | 22 |
| Trafficking | 22 |
| 2.3 Puntland | 23 |
| Sexual violence | 23 |
| Female genital mutilation | 23 |
| Trafficking | 24 |
| Annex A: Caselaw | 25 |

Section 1: Guidance

Updated: 3 February 2015

Basis of Claim

1.1.1 Fear of being subjected to gender-based harm by state and/or non-state actors.

1.1 Summary of Issues

- ▶ Is the woman's account a credible one?
- ▶ Do women in Somalia constitute a particular social group (PSG)?
- ▶ Are women in Somalia at risk of gender-based persecution?
- ▶ Is there effective protection for women?
- ▶ Is a woman able to internally relocate within Somalia to escape that risk?

Decision makers should see:

- ▶ [Country Information](#)

[Back to Contents](#)

1.2 Consideration of Issues

Is the person's account a credible one?

1.2.1 Decision makers must consider whether the material facts relating to the person's account of their experiences is gender-specific or predominantly gender-specific, and/or the reason for persecution is gender-based, i.e. the applicant fears persecution on account of her being a woman, are reasonably detailed, internally consistent (e.g. oral testimony, written statements) as well as being externally credible (i.e. consistent with generally known facts and the country information). Decision makers should take into account the possible underlying factors as to why a person may be inconsistent or unable to provide details of material facts.

For more information see Asylum Instruction:

- ▶ [Assessing Credibility and Refugee Status](#)

1.2.2 Where the person claims to be a victim of trafficking, decision makers must note that only trained specialists in the UK's designated competent authorities can decide whether or not there are reasonable grounds to accept the person as a victim of trafficking. Therefore, if it has not already been done, decision makers dealing with the asylum claim must make an appropriate referral to the National Referral Mechanism (NRM). The case will then be routed to a 'competent authority'.

For more information see Asylum Instruction:

- ▶ [Victims of human trafficking: competent authority guidance](#)

[Back to Contents](#)

Do women in Somalia constitute a particular social group (PSG)?

- 1.2.3 Women in Somalia form a particular social group (PSG) within the meaning of the 1951 UN Refugee Convention. This is because they share an immutable (or innate) characteristic – their gender - that cannot be changed; and they form a distinct group in society as evidenced by widespread discrimination in their fundamental rights.
- 1.2.4 Although women in Somalia form a PSG, this does not mean that establishing such membership will be sufficient to make out a case to be recognised as a refugee. The question to be addressed in each case will be whether the particular person will face a real risk of persecution on account of their membership of such a group.

[Back to Contents](#)

Are women in Somalia at risk of gender-based harm/persecution?

South and central Somalia (including Mogadishu)

- 1.2.5 There is generalised and widespread discrimination towards women in Somalia. Sexual and gender-based violence - including domestic violence, rape, sexual abuse, exploitation and trafficking - is widespread and committed with impunity by a range of actors including government security forces, members of armed opposition groups, militias, family and community actors and AMISOM peacekeepers. Internally Displaced Persons (IDP) women, especially those from minority clans, are particularly exposed to sexual and gender-based violence.
- 1.2.6 In Al-Shabaab controlled areas (albeit diminishing) a strict and harsh interpretation of Sharia law is imposed, which prohibits the exercise of several forms of human rights, such as freedom of speech, expression, movement, assembly, and religion. Many rules affect women in particular, such as those ordering them to wear heavy veils, forbidding them to work and travel together with non-related men, speaking and shaking hands with men without a male relative being present. Torture and other ill-treatment such as stoning, public whipping and amputation are used as 'punishment' if their interpretation of Shar'ia law is not adhered to. Women and girls in Al-Shabaab areas also face serious risks of being abducted and raped by Al-Shabaab and forced into marriages with Al-Shabaab fighters. They can also be forced to work for Al-Shabaab as cleaners, cooks and porters. In some cases, girls have been used as suicide bombers as well.
- 1.2.7 Female returnees in particular face threats against the person in IDP camps, where the Somali National Police Force are unable to provide protection, especially those belonging to minority clans. Furthermore "women travelling without male friends or relatives are in general likely to face a real risk of sexual violence" (see paragraph 605 of [AMM and others \(conflict; humanitarian crisis; returnees; FGM\) Somalia CG \[2011\] UKUT 00445 \(IAC\) \(28 November 2011 \(hereafter AMM and Others\)\)](#)).
- 1.2.8 Being female does not on its own establish a need for international protection. The general level of discrimination against women in Somalia does not in itself amount to persecution. However women who are without family/friend/clan connections or are without resources are in general likely to be at risk of sexual and gender based violence on return. Each case must be determined on its own facts. Factors to be taken into account include: access to family networks or clan protection and support, age, health, economic status, family responsibilities, connections with the diaspora (which can be material both in terms of income and ability to find work with reference to the diaspora driven economic upsurge) and other individual circumstances of the person.

Somaliland and Puntland

- 1.2.9 Sexual and gender-based violence are also serious problems in Somaliland and Puntland, including risk of trafficking. Cases of such abuses are often unreported and

resolved between families with perpetrators typically paying compensation or marrying the victim. Women, and especially single women, with no support network are likely to be vulnerable and may be subjected to destitution.

Female genital mutilation

- 1.2.10 Female Genital Mutilation (FGM) is almost universally practiced throughout Somalia and a very strong cultural belief persists in its practice.
- 1.2.11 In the country guidance case of [AMM and others](#) which was heard in 2011, the Upper Tribunal found that the incidence of FGM in Somalia was universally agreed to be over 90% (para 241). In South and Central Somalia no significant changes in FGM prevalence have been observed since the 1990s ([AMM and others](#), para 547). However, in April 2013 it was reported that FGM among children in northern Somalia is on the decline. The survey released by UNICEF and the governments of Somaliland and Puntland found that 25 percent of girls from the ages of 1 to 14 years old have undergone the practice, compared with 99 percent of women aged 15 and above in those regions. Somalia's new Constitution which was adopted in August 2012 prohibits the practice. Al-Shabaab, the militant group that controls parts of south-central Somalia, also bans it, although Al-Shabaab controlled areas are becoming smaller. However the law is not enforced in government controlled areas and the practice remains widespread throughout Somalia.
- 1.2.12 [AMM and others](#) found that the societal requirement for any girl or woman to undergo FGM is strong. In general, an uncircumcised, unmarried Somali woman, up to the age of 39, will be at real risk of suffering FGM. The risk will be greatest in cases where both parents are in favour of FGM (see paragraphs 609 & 610 of the determination).
- 1.2.13 [AMM and others](#) also found that should both parents oppose FGM, 'the question of whether the risk will reach the requisite level will need to be determined by reference to the extent to which the parents are likely to be able to withstand the strong societal pressures. Unless the parents are from a socio-economic background that is likely to distance them from mainstream social attitudes, or there is some other particular feature of their case, the fact of parental opposition may well as a general matter be incapable of eliminating the real risk to the daughter that others (particularly relatives) will at some point inflict FGM on her' (see paragraph 610 of the determination).

See Country information

- ▶ [Female Genital Mutilation](#)
- ▶ [Somaliland](#)
- ▶ [Puntland](#)

See also Country Information and Guidance on:

- ▶ [Somalia: Security and humanitarian situation in south and central Somalia](#)

[Back to Contents](#)

Is there effective protection for women?

- 1.2.14 Throughout south and central Somalia (including Mogadishu) there are structural weakness of the security services, including serious capacity and infrastructure gaps, logistical challenges, indiscipline, weak command and impunity for human rights abuses. This is alongside a largely non-functioning legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the widespread existence of corruption in state institutions. Moreover impunity for gender-based violence is widespread. Traditional laws, often used instead of weak state judiciary, discriminate against women and girls, and girls are often forced to marry the

perpetrator. Prosecutions and convictions for rape and other forms of sexual violence are rare in Somalia, where survivors not only experience fear and shame in reporting such crimes, but at times face greater abuse and stigmatisation if they do report the attack. Somali police, rather than proactively investigate criminal complaints, often demand that victims of any crime do the legwork in the investigation, from locating witnesses to establishing who the suspects are. The inability and unwillingness of the Somali authorities to impartially investigate cases of sexual violence and bring perpetrators to justice leaves survivors further isolated. This means that, in general, a woman fearing sexual or gender based violence is unlikely to be able to access effective protection from the state.

- 1.2.15 The situation may be otherwise in Somaliland and Puntland where the authorities do take action against those accused of rape, trafficking in persons etc and where female genital mutilation has been made illegal and is showing signs of declining. Decision makers must consider each case on its individual facts. The assessment of whether effective protection is available should be considered in relation to the particular circumstances and profile of the person.

See country information:

- ▶ [State response to sexual and gender based violence;](#)
- ▶ [Somaliland; and](#)
- ▶ [Puntland](#)

See also Country Information and Guidance on:

- ▶ [Somalia: Security and humanitarian situation in south and central Somalia](#)
- ▶ [Country information and guidance report: Somalia, April 2014, 5. Actors of protection](#)

[Back to Contents](#)

Is a woman able to internally relocate within Somalia to escape that risk?

- 1.2.16 The relevance and reasonableness of internal relocation must be assessed on a case-by-case basis taking full account of the individual circumstances of the particular person.
- 1.2.17 For single women and female single heads of households with no male protection, especially those originating from minority groups, internal relocation will not be available in the absence of meaningful support networks or a real prospect of securing access to a livelihood.
- 1.2.18 If in individual cases the person cannot remain in Mogadishu, the decision maker must establish whether that person could safely and reasonably relocate elsewhere in Somalia.
- 1.2.19 For areas of south and central Somalia which are not under the control of Al Shabaab, [AMM and others](#) found that family and/or clan connections may have an important part to play in determining the reasonableness of a proposed place of relocation. Travel by land across southern and central Somalia to a home area or proposed place of relocation may well, in general, pose real risks of serious harm, not only from Al Shabaab checkpoints but also as a result of the present famine conditions. Women travelling without male friends or relatives are in general likely to face a real risk of sexual violence (see paragraphs 604-605). Somaliland and Puntland in general only accept back persons who were former residents of those regions and were members of locally based clans or sub-clans (paragraph 607).

1.2.20 Decision makers must give careful consideration to the relevance and reasonableness of internal relocation on a case-by-case basis taking full account of the individual circumstances of the particular person.

See Asylum Instruction on internal relocation at paragraph 8.2 within:

- ▶ [Assessing Credibility and Refugee Status](#)

See also Country Information and Guidance on internal relocation in:

- ▶ [Somalia: Security and humanitarian situation in south and central Somalia](#)

[Back to Contents](#)

1.3 Policy summary

- **Discrimination and sexual and gender-based violence, including domestic violence, rape, sexual abuse, exploitation and trafficking, is widespread. Women without family or clan support and IDP women are in general likely to be at real risk on return, depending on their particular circumstances.**
- **In south and central Somalia (including Mogadishu), effective state protection is, in general, unlikely to be available for women fearing sexual or gender based violence. However, each case needs to be carefully considered on its facts. The situation may be otherwise in Somaliland and Puntland where an assessment of whether effective protection is available needs to be considered in relation to the particular circumstances and profile of the person. Internal relocation to Mogadishu to avoid risk from gender based violence may be viable in some cases. However those who have no clan or family support, who are not in receipt of remittances from abroad and who have no real prospect of securing access to a livelihood in Mogadishu would be at real risk of having no alternative but to live in makeshift accommodation within an IDP camp where there is a real possibility of having to live in conditions that will fall below acceptable humanitarian standards and where there is real risk of gender based violence.**
- **Those returning to, or travelling through, areas in south and central Somalia outside of Mogadishu may face a real risk of harm because of their individual circumstances, particularly those with no recent experience of living in Somalia who will be at real risk of being subjected to treatment contrary to Article 3 ECHR, if they are returning to live in, or travel through, an Al Shabaab controlled area. They may be at risk of persecution because of actual or imputed religious or political opinion and may qualify as a refugee. Women travelling within Somalia without male friends or relatives are in general likely to face a real risk of sexual violence.**
- **Somaliland and Puntland in general only accept back persons who were former residents of those regions and are members of locally based clans or sub-clans.**
- **There are very high levels of FGM throughout Somalia and strong cultural belief in its practice. Unmarried women under the age of 39 years who have not undergone the procedure and who can demonstrate that they are at risk of such mistreatment and could not escape the risk by internal relocation should be granted asylum on the basis of their membership of a particular social group. However the practice is declining in Somaliland and Puntland and a woman may be less likely to be at risk of being forced to undergo such a procedure there.**

- **A woman who demonstrates a real risk or reasonable likelihood of ill-treatment on return to Somalia on account of her gender and who is also able to show that she is unable to secure effective protection or relocate elsewhere in Somalia to escape that risk, will qualify for asylum.**
- **Where a claim falls to be refused, it is unlikely to be certifiable as ‘clearly unfounded’ under section 94 of the Nationality, Immigration and Asylum Act 2002.**

See also the Asylum Instructions on:

- ▶ [Non-Suspensive Appeals: Certification Under Section 94 of the NIA Act 2002](#)
- ▶ [Humanitarian Protection](#)
- ▶ [Discretionary Leave](#)

[Back to Contents](#)

Section 2: Information

Updated: 3 February 2015

2.1 South and Central Somalia

For relevant country of information about the position and treatment of women in Somalia see also:

European Asylum Support Office (EASO) [Country of Origin Information report. South and Central Somalia Country overview](#), August 2014.¹

In particular:

- ▶ Part 4.4.1 Women
- ▶ Part 3.5.7 Forced recruitment of girls and women

Overview

2.1.1 The Independent Expert on the situation of human rights in Somalia reported in August 2013 that women face widespread discrimination and inequality, accentuated by the years of conflict. He further noted that:

‘Violence against women has occurred on a daily basis, in the family or as a result of the conflict, for example during cordon and search operations, and in camps for internally displaced persons (IDPs). Women and young girls face double victimization because, after being violated, they often have no effective justice and support system to turn to. Female genital mutilation remains a perennial problem. There is a need for measures to deal with gender parity issues, including in the field of education and in the labour market.’²

2.1.2 The March 2014 report of the Secretary-General to the UN Security Council noted that:

‘During the reporting period [January to December 2013], sexual violence, including rape, remained one of the most serious and recurrent human rights violations in Somalia. Data for 2013 concerning Banadir, Shabelle Dhexe and Juba Dhexe indicate that survivors reported armed men in uniform as the primary perpetrators, including members of the Somali National Army, Al-Shabaab, militias, private actors and organized crime. The most commonly reported form of sexual violence was rape. Internally displaced persons were particularly vulnerable, often owing to the fact that they have no clan mechanisms to protect and support them. Women from minority clans too were vulnerable. In camps for internally displaced persons, conditions are often unsafe for women and girls because of the proliferation of arms, scarce lighting and limited policing. Continued displacement, including as a result of the forced eviction that took place during 2013 in the Mogadishu area, has increased their vulnerability...’³

[Back to Contents](#)

¹ European Union: European Asylum Support Office (EASO), EASO Country of Origin Information report. South and Central Somalia Country overview, August 2014, ISBN 978-92-9243-262-1. <http://easo.europa.eu/wp-content/uploads/COI-Report-Somalia.pdf> date accessed 3 December 2014

² UN Human Rights Council, Report of the Independent Expert on the situation of human rights in Somalia, 16 August 2013, Para 21. A/HRC/24/40, available at: <http://www.refworld.org/docid/522db1204.html> date accessed 11 December 2014

³ United Nations Security Council, Conflict-related sexual violence Report of the Secretary-General, 13 March 2014. Para 41. http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2014_181.pdf date accessed 11 December 2014

Sexual and gender based violence

2.1.3 UNOCHA (UN Office for the Coordination of Humanitarian Affairs) reported in September 2014 that:

'Women and girls in Somalia continue to be at high risk of gender-based violence. In the first six months of 2014, over 1,000 cases were reported in Mogadishu alone according to the Somalia Gender-Based Violence Working Group. The actual number of violations is believed to be higher as most survivors do not report these crimes due to fear of social stigma and reprisals from perpetrators. Decades of conflict, erosion of social protection mechanisms, and food insecurity have increased vulnerability and women and girls are exposed to rape, intimate partner violence, sexual abuse and exploitation particularly during conflict and displacement. At the same time, prevention programmes and medical, psychosocial and legal response services are limited and under resourced.'⁴

2.1.4 In a September 2014 report Human Rights Watch noted that:

'The United Nations, Human Rights Watch, and other organizations have documented high levels of sexual and gender-based violence against Somali women and girls, particularly the displaced...some AMISOM soldiers, deployed to Somalia since 2007 to help restore stability in the war-torn capital, Mogadishu, have abused their positions of power to prey on the city's most vulnerable women and girls. Soldiers have committed acts of rape and other forms of sexual abuse, as well as sexual exploitation—the abuse of a position of vulnerability, differential power, or trust, for sexual purposes.'⁵

2.1.5 The US State Department report covering 2013 noted:

'The law criminalizes rape, providing for penalties of five to 15 years in prison. Sentences from military courts for rape included death. The government did not effectively enforce the law. There were no laws against spousal rape. The UNHCR and UNICEF documented patterns of rape perpetrated with impunity, particularly of displaced women and members of minority clans.

'Government forces, militia members, and men wearing uniforms raped women.[In the first 6 months of 2013], victims reported more than 800 rape cases in Mogadishu, many committed by men wearing uniforms, according to service and care providers. While the army arrested some security force members accused of raping women and girls, impunity was the norm. In August AMISOM and federal government troops reportedly forcefully detained and raped a 20-year-old Somali woman in Maslah Military Camp in Mogadishu for two days. AMISOM and the army launched an investigation into the incident.

'Traditional approaches to dealing with rape tended to ignore the victim's situation and instead sought resolution or compensation for rape through a negotiation between members of the perpetrator's and victim's clans. Some victims were forced to marry perpetrators.

'Domestic violence against women remained a serious problem despite the provisional federal constitution provision prohibiting any form of violence against women. Both sharia and customary law address the resolution of family disputes, but they were

⁴ UNOCHA, Humanitarian Bulletin Somalia September 2014, 17 October 2014
<http://reliefweb.int/report/somalia/humanitarian-bulletin-somalia-september-2014-issued-17-october-2014>
date accessed 17 December 2014

⁵ Human Rights Watch, "The Power These Men Have Over Us": Sexual Exploitation and Abuse by African Union Forces in Somalia, 8 September 2014, summary
<http://www.hrw.org/reports/2014/09/08/power-these-men-have-over-us> date accessed 17 December 2014

applied by men. Sexual violence in the home was reportedly a serious problem linked to general gender discrimination.’⁶

2.1.6 Human Rights Watch stated that:

‘Sexual violence is pervasive in much of Somalia. Two decades of civil conflict and state collapse have created a large population of displaced persons and other people vulnerable to sexual violence. At the same time it has destroyed the state institutions that are supposed to protect those most at risk. Armed assailants, including members of state security forces, operating with complete impunity, sexually assault, rape, beat, shoot, and stab women and girls inside camps for the displaced and as they walk to market, tend to their fields, or forage for firewood. Members of Somalia’s long marginalized minority communities are particularly at risk. ...After two decades of state collapse and armed conflict, Somali medical services and the justice system, including police and the courts, are profoundly ill-equipped to support and assist victims of sexual violence. As a result, women and young girls face what the UN’s independent expert on human rights in Somalia refers to as “double victimization”— first the rape or sexual assault itself, then failure of the authorities to provide effective justice or medical and social support.’⁷

[Back to Contents](#)

State response to sexual and gender based violence

2.1.7 In his September 2014 report to the UN Security Council, the Secretary General reported:

‘I remain concerned about the human rights and protection situation in areas affected by conflict, including as a result of inter-clan violence. I am particularly concerned about reports of grave violations against women and children...

‘The Ministry of Women and Human Rights Development used the report of the Team of Experts on the Rule of Law and Sexual Violence in Conflict as the evidential base for tackling sexual violence in Somalia. The Ministry, with the support of the United Nations and the Government of the United Kingdom, held consultations from 12 to 17 May [2014] on four themes: civil society, service delivery, uniformed services and access to justice. They were aimed at reaching agreement on aims and objectives with all government line ministries and hearing the views of those delivering front-line services.

‘Following the consultations, the Federal Government developed a national action plan on sexual violence in conflict that is fully aligned with the New Deal Compact and agreed upon by multiple government line ministries, including those of defence and justice, the army and the police. Civil society organizations were extensively consulted. The Federal Government presented the draft plan, which will be finalized following regional consultations, to the international community during the Global Summit to End Sexual Violence in Conflict, held in London from 10 to 13 June [2014]. The progress made was welcomed by the key actors, the United Nations and the donor community, with pledges made to support the implementation phase.’⁸

2.1.8 The Foreign and Commonwealth Office reported in June 2014:

⁶ US Department of State, Country Reports on Human Rights Practices for 2013, Somalia, 27 February 2014, Section 6. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220158> date accessed 11 December 2014

⁷ Human Rights Watch, “Here, Rape is Normal” A Five-Point Plan to Curtail Sexual Violence in Somalia, 13 February 2014. Summary. http://www.hrw.org/sites/default/files/reports/somalia0214_ForUpload.pdf date accessed 11 December 2014

⁸ UN Security Council, Report of the Secretary-General on Somalia, 25 September 2014, S/2014/595 Para 60 -61 and 101 Available at: <http://www.refworld.org/docid/543662844.html> date accessed 11 December 2014

‘Following the appointment of new Prime Minister, Abdiweli Sheikh Ahmed Mohamed in December last year [2013], the Federal Government of Somalia conducted a reshuffle, expanding the number of cabinet portfolios from 10 to 23 and creating new ministries. This included the Ministry for Women and Human Rights Development under Minister Khadija Mohamed Diriye, which is now responsible for driving forward human rights reforms in Somalia. In April, the Federal Government of Somalia announced their work plan for each Ministry over 2014, prioritising promotion of gender equality and human rights as key actions this year.

‘In April [2014], the UN Team of Experts on Sexual Violence in Conflict released their draft report and recommendations drawn from their visit in December. With support from the UN, UK and World Bank, the Ministry for Women and Human Rights Development, held extensive consultations with civil society, service providers, justice sectors and armed services to discuss the report and create a national action plan to tackle sexual violence in Somalia. This plan was launched on 27 May [2014] in Mogadishu.’

‘On 10-13 June [2014], the Foreign Secretary, William Hague, and UN Special Envoy, Angelina Jolie, hosted a Global Summit to End Sexual Violence in Conflict . The Federal Government of Somalia brought a delegation which included representatives from the Interim Juba Authority and Galmudug state (an autonomous region in central Somalia). At the summit, in a meeting co-chaired by the UK and the United Arab Emirates, Somalia presented their national action plan to the international community and received pledges of support from donors.’⁹

2.1.9 In December 2014, The Guardian carried a report stating that legislation addressing rape and other sexual violence – often committed by armed forces – will be presented to cabinet by year end. The first bill to define and address sexual offences in Somalia is expected to be presented to the cabinet before the end of this year, updating legislation that has been in place since 1930.¹⁰

2.1.10 The report continued:

‘The bill will define rape as a crime against a person, rather than a crime against morality, as it characterised at present. It will criminalise gang rape and introduce legislation against child marriage, human trafficking, sexual harassment and offences committed against vulnerable groups such as internally displaced people.’

‘The new law will also outline the role public officials and police should play in investigating and prosecuting cases, in addition to criminalising the obstruction of justice, protecting the identity of injured parties and witnesses, and – in a major shift for Somalia’s clan-based society – prohibiting the out-of-court settlement of sexual offences cases.’

‘However, due to religious sensibilities, the bill does not address marital rape or domestic violence. The latter is widespread in Somalia.

“If you want to affect real change this is not the solution, but it is one part, a very important process,” said Antonia Mulvey, the executive director of Legal Action worldwide (Law), a Nairobi-based NGO working with the Somali government to draft the bill.’¹¹

⁹ FCO - UK Foreign and Commonwealth Office: Somalia - Country of Concern: latest update, 30 June 2014, 30 June 2014. <https://www.gov.uk/government/publications/somalia-country-of-concern/somalia-country-of-concern-latest-update-30-june-2014> date accessed 11 December 2014

¹⁰ The Guardian. Somalia sexual offences bill hailed as vital step towards lasting change 11 December 2014. . [Http://www.theguardian.com/global-development/2014/dec/11/somalia-sexual-offences-bill-hailed-as-key-step-towards-lasting-change](http://www.theguardian.com/global-development/2014/dec/11/somalia-sexual-offences-bill-hailed-as-key-step-towards-lasting-change) date accessed 11 December 2014

¹¹ The Guardian. Somalia sexual offences bill hailed as vital step towards lasting change 11 December 2014. . [Http://www.theguardian.com/global-development/2014/dec/11/somalia-sexual-offences-bill-hailed-as-key-step-towards-lasting-change](http://www.theguardian.com/global-development/2014/dec/11/somalia-sexual-offences-bill-hailed-as-key-step-towards-lasting-change) [accessed 11 December 2014]

- 2.1.11 A March 2014 report of the Secretary-General noted, 'The handling by the federal authorities of several emblematic rape cases reported during 2013 raised serious concerns with respect to due process, freedom of expression, adherence to safe and ethical standards for interviewing survivors of sexual violence crimes and the protection of survivors and journalists who report such crimes.'¹²
- 2.1.12 UNOCHA reported in September 2014 that:
'Impunity is widespread. Traditional laws, often used instead of weak state judiciary, discriminate against women and girls, and for girls may often result in being married off to the perpetrator. The perpetrators of gender-based violence include people from within the displaced community, from host community, as well as from the armed forces. Efforts are needed to hold perpetrators accountable and prioritize the zero-tolerance policy on sexual exploitation and abuse. Furthermore, it is crucial that safe and accessible services are available for survivors including medical assistance and psychosocial support.'¹³
- 2.1.13 In an August 2013 report Amnesty International noted that:
'Women and children remain at risk of sexual violence and in this context of lawlessness the avenues for them to get justice are extremely limited. Most of the survivors of rape who spoke to Amnesty International had not reported their attacks to the police, often because they feared stigmatisation, had little confidence in the ability or will of the authorities to either investigate or protect them from retaliation, or had no family support. Women who had gone to the police said that their complaints had not been investigated... Prosecutions and convictions for rape and other forms of sexual violence are rare in Somalia, where survivors not only experience fear and shame in reporting such crimes, but at times face greater abuse and stigmatisation if they do report the attack. The inability and unwillingness of the Somali authorities to impartially investigate cases of sexual violence and bring perpetrators to justice leaves survivors further isolated. It is a major factor contributing to a pervasive climate of impunity in which perpetrators know that they can commit such crimes and get away with it.'¹⁴
- 2.1.14 Human Rights Watch reports in February 2014 that 'Accountability for sexual violence in Somalia is almost non-existent. Impunity is the norm. The reasons for this include: the inevitable weakness of the justice system after years of armed conflict; cultural taboos which make women reluctant to file complaints; the legitimate fear of reprisals especially in cases where the alleged perpetrator are members of the security forces; and the perceived lack of will and capacity on the part of the police to record and investigate allegations.'¹⁵
- 2.1.15 With regards to access to the justice system Human Rights Watch reports that, 'Even in cases where the alleged perpetrator is known, and police have medical evidence and a witness, cases of sexual violence rarely make it to court. From our interviews with more than 27 victims, Human Rights Watch was able to document just a single case in which

¹² United Nations Security Council, Conflict-related sexual violence Report of the Secretary-General, 13 March 2014. Para 42 http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2014_181.pdf date accessed 16 December 2014

¹³ UNOCHA, Humanitarian Bulletin Somalia September 2014, 17 October 2014 <http://reliefweb.int/report/somalia/humanitarian-bulletin-somalia-september-2014-issued-17-october-2014> date accessed 17 December 2014

¹⁴ Amnesty International, Rape and Sexual Violence in Somalia- an Ongoing Epidemic, 30 August 2013 <http://www.amnesty.org/en/library/asset/AFR52/009/2013/en/03eed775-84d9-4e3b-bd29-60dd56fafa0d/afr520092013en.pdf> date accessed 16 December 2014

¹⁵ Amnesty International, Rape and Sexual Violence in Somalia- an Ongoing Epidemic, 30 August 2013 <http://www.amnesty.org/en/library/asset/AFR52/009/2013/en/03eed775-84d9-4e3b-bd29-60dd56fafa0d/afr520092013en.pdf> date accessed 16 December 2014

an alleged perpetrator was arrested. He was later released without charge despite incriminating medical evidence and victim testimony.’¹⁶

[Back to Contents](#)

Situation for displaced women

2.1.16 The US State Department’s 2014 Trafficking in Persons report noted that:

‘Somalia has more than 1.1 million internally displaced persons (IDP) within its territory. “Gatekeepers” in control of some IDP camps reportedly force girls and women to provide sex acts in exchange for food and services available within the camps. At times, they charge rent or fees for otherwise-free basic services and sell the area they control within a camp to other “gatekeepers,” establishing a cycle of debt for IDPs that makes them vulnerable to inherited bondage.’¹⁷

2.1.17 IRIN reports in September 2014 that, ‘Forced evictions of IDPs from both private and government owned land and buildings is estimated to have uprooted almost 33,000 people. ... Many people are living in sites lacking basic services in shelters made of sticks, grass and empty cardboard boxes and incidents of gender based violence (GBV) and rape of young girls and women by militias operating outside the settlements have been reported.’¹⁸

2.1.18 The September 2014 report of the Independent Expert on the situation of human rights in Somalia notes that, ‘Continued reports of IDPs facing generalized insecurity, lack of access to humanitarian assistance and human rights abuses, including evictions from settlements, rape and sexual violence, remain a concern. The Independent Expert was informed that the Somali National Police Force was unable to provide protection in IDP camps, hence the phenomenon of “gatekeepers” who are self-appointed camp guards from clans within the territory where an IDP camp or settlement is situated.’¹⁹

2.1.19 In September 2014, Human Rights Watch reported:

‘Violence and dire humanitarian conditions mark daily life for Mogadishu’s IDP population. In a March 2013 report, Human Rights Watch documented serious abuses committed by members of state security forces and armed groups, as well as private individuals controlling the town’s hundreds of camps, against the displaced between 2011 and early 2013. The displaced have been subjected to rape, beatings, ethnic discrimination, and restrictions on access to food, shelter, and freedom of movement. More recently, the UN and international humanitarian organizations have warned of a deteriorating food crisis in Somalia, with particularly alarming rates of malnutrition in Mogadishu’s displaced communities. Women and girls constitute a significant proportion of Mogadishu’s displaced population and often suffer sexual abuse by armed men—including both regular soldiers and irregular militia—who rarely face justice...In displaced persons camps, disruptions to community support structures, unsafe physical

¹⁶ Human Rights Watch, “Here, Rape is Normal” A Five-Point Plan to Curtail Sexual Violence in Somalia, 13 February 2014, 3. Ensuring Access to Justice

http://www.hrw.org/sites/default/files/reports/somalia0214_ForUpload.pdf date accessed 16 December 2014

¹⁷ United States Department of State, 2014 Trafficking in Persons Report - Somalia, 20 June 2014, <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226815.htm> date accessed 11 December 2014

¹⁸ UNHCR - UN High Commissioner for Refugees: Over 130,000 people displaced in Somalia so far this year as IDPs bear brunt of food insecurity crisis, 16 September 2014

<http://www.unhcr.org/541810559.html> date accessed 17 December 2014

¹⁹ UN Human Rights Council, Report of the Independent Expert on the situation of human rights in Somalia, 4 September 2014, A/HRC/27/71, paragraph 28 available at: <http://www.refworld.org/docid/5436a8b84.html> Date accessed 17 December 2014

surroundings, separation from families, and patriarchal governing structures often heighten such vulnerability to gender-based violence.’²⁰

[Back to Contents](#)

Abuses against women in areas under al-Shabaab control

The area in Somalia controlled by al-Shabaab is diminishing. See Country Information and Guidance Somalia: [Security and humanitarian situation in South and Central Somalia](#), 22 December 2014. However as al-Shabaab still has a presence, albeit a diminished one, the following information has been included.

2.1.20 EASO reported in August 2014 that:

‘Al-Shabaab imposes a strict and harsh interpretation of Sharia law in areas under its control, which prohibits the exercise of several forms of human rights, such as freedom of speech, expression, movement, assembly, and religion...Many rules affect women in particular, such as those ordering them to wear heavy veils, prohibiting them from wearing bras (bras show bodily forms), forbidding them to work and travel together with non-related men, speaking and shaking hands with men without a male relative being present...In Al-Shabaab regions, women and girls face serious risks of being abducted by Al-Shabaab and forced into marriages with Shabaab fighters. They can also be forced to work for Al-Shabaab as cleaners, cooks and porters. In some cases, girls have been used as suicide bombers as well.’²¹

2.1.21 Amnesty International noted in October 2014:

‘It is widely documented that people who live in al-Shabaab territories face widespread and grave human rights abuses...Al-Shabaab regularly capture and imprison people suspected of activities against their interpretation of Shar’ia law...Torture and other ill-treatment such as stoning, public whipping and amputation are used as ‘punishment’ if these rules are not adhered to...On 27 September 2014, a woman was allegedly stoned to death in Barawe, a town in Lower Shabelle region, on suspicion of marrying more than one husband. It is reported she was buried up to her neck then stoned to death by hooded men in front of a crowd. Al-Shabaab members also carry out rape and other forms of gender-based violence such as forced marriage and continue to recruit and use children in the conflict.’²²

2.1.22 Human Rights Watch reported in February 2014 that:

‘Outside of areas under the control of the Federal Government of Somalia, Somali women and girls face threats of sexual and gender-based violence from al-Shabaab. In al-Shabaab controlled areas, militants have been responsible for numerous acts of violence against girls and women, including rape, forced marriage, corporal punishment, and killing. ... Al-Shabaab has further inflicted violence against Somali women and girls by way of hudood, or physical punishment of those they deem to have violated Sharia, or Islamic law. For example, on August 21, 2012, al-Shabaab militants dragged a female tea seller from a bus near the town of Baidoa and beheaded her because she had refused to stop selling tea to members of the Transitional Federal Government. The group has strictly regulated and policed every aspect of the lives of the population under

²⁰ Human Rights Watch, "The Power These Men Have Over Us": Sexual Exploitation and Abuse by African Union Forces in Somalia, 8 September 2014, I. Background <http://www.hrw.org/reports/2014/09/08/power-these-men-have-over-us> date accessed 17 December 2014

²¹ Human Rights Watch, "Here, Rape is Normal" A Five-Point Plan to Curtail Sexual Violence in Somalia, 13 February 2014, 3. Threats and Violence from Al-Shabaab http://www.hrw.org/sites/default/files/reports/somalia0214_ForUpload.pdf date accessed 16 December 2014

²² Amnesty International, Forced returns to South and Central Somalia, including to Al-Shabaab areas: a blatant violation of international law, 23 October 2014 <http://www.amnesty.org/en/library/asset/AFR52/005/2014/en/dabb38b2-34b0-4fe1-bb9c-612c8a872dbc/afr520052014en.pdf> date accessed 17 December 2014

its control, and women in particular. They have conducted public beatings and whippings of women who were deemed to wear clothing that was not “modest,” or who worked outside their homes and were as a result seen as “mingling” with men.’²³

- 2.1.23 Amnesty International reported in October 2014 that, ‘People on transport routes report being interrogated and treated with suspicion by al-Shabaab. Movements need to be justified, particularly if the movement is between al-Shabaab areas and areas controlled by the SFG and allied forces. An unknown person or a person looking slightly westernized may be at increased risk if al-Shabaab stops the vehicle.’²⁴

Female genital mutilation

- 2.1.24 The US Department of State report covering 2013 noted that though prohibited in the provisional federal constitution ‘... female genital mutilation/cutting (FGM/C) was widespread throughout the country. As many as 98 percent of women and girls had undergone FGM/C, and the majority were subjected to infibulation, the most severe form of FGM/C. International and local NGOs ran education awareness programs on the dangers of FGM/C, but there were no reliable statistics to measure the success of these programs.’²⁵
- 2.1.25 A UNICEF study looking at the worldwide practices of FGM finds that the practice of FGM is ‘almost universal in Somalia ... [and] no significant changes in FGM/C prevalence can be observed.’²⁶ In another UNICEF study it was highlighted that, ‘In Somali society, the practice of FGM is an honoured tradition. Those who oppose it do so against the tide of public opinion.’²⁷

[Back to Contents](#)

Trafficking

- 2.1.26 According to the US State Department’s 2014 Trafficking in Persons Report, authorities across Somalia made minimal efforts to prevent trafficking during the year. The report stated that:

‘Information regarding trafficking in Somalia remains extremely difficult to obtain or verify. Victims are reportedly primarily trafficked within the country from Somalia’s southern and central regions to the regions of Puntland and Somaliland in the north... In Somali society, Somali Bantus and Midgaan remain marginalized and sometimes kept in servitude by more powerful Somali clan members as domestic workers, farm laborers, and herders. Due to poverty and an inability to provide care for all family members, some Somalis willingly surrender custody of their children to people with whom they share familial ties and clan linkages; some of these children may become victims of forced labor or sex trafficking...displaced persons in camps or congregated along coastal areas and seeking to be smuggled to nearby African countries, Europe, or

²³ Human Rights Watch, “Here, Rape is Normal” A Five-Point Plan to Curtail Sexual Violence in Somalia, 13 February 2014, 3. Threats and Violence from Al-Shabaab
http://www.hrw.org/sites/default/files/reports/somalia0214_ForUpload.pdf date accessed 16 December 2014

²⁴ Amnesty International, Forced returns to South and Central Somalia, including to Al-Shabaab areas: a blatant violation of international law, 23 October 2014
<http://www.amnesty.org/en/library/asset/AFR52/005/2014/en/dabb38b2-34b0-4fe1-bb9c-612c8a872dbc/af520052014en.pdf> date accessed 17 December 2014

²⁵ US Department of State, Country Reports on Human Rights Practices for 2013, Somalia, 27 February 2014, Section 6. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220158> date accessed 11 December 2014

²⁶ UNICEF, Female Genital Mutilation/Cutting: A statistical overview and exploration of the dynamics of change, 4. How widespread is the practice? And 9. Moving forward, July 2013
http://www.ecoi.net/file_upload/1930_1375433025_fgcm-lo-res.pdf date accessed 11 December 2014

²⁷ UNICEF, Eradication of female genital mutilation in Somalia, Undated
http://www.unicef.org/somalia/SOM_FGM_Advocacy_Paper.pdf date accessed 11 December 2014

the Middle East remain particularly vulnerable to trafficking. Traffickers reportedly prey on young women and children, mostly IDPs from southern and central Somalia, at marketplaces and in the streets, falsely promising them lucrative jobs outside Somalia. IDPs within these camps claimed that clan, regional, and government armed forces, as well as al-Shabaab, recruited from these camps. Al-Shabaab also forcibly recruited young girls and forced them to “marry” al-Shabaab militia leaders; the girls were subsequently exploited in sexual servitude and used for logistical support and intelligence gathering.’²⁸

[Back to Contents](#)

Fledgling assistance and support for women

2.1.27 The UNSOM (United Nations Assistance Mission in Somalia) web-page on gender issues stated:

‘UNSOM is mandated to help build the capacity of the Federal Government of Somalia (FGS) to promote respect for human rights and women’s empowerment, including through the provision of Gender Advisers and Human Rights Advisers.

‘UNSOM has initiated a dialogue with Somali women’s civil society organizations and the FGS to identify how to support heightened participation of women in Somali local, regional and national political processes.

‘The UN is engaged in developing a road map with the FGS to ensure a comprehensive consultative process for the finalization of the National Gender Policy. Emphasis is placed in addressing the specific challenges and needs of different regions, capacity building within government, engagement of civil society and women groups throughout the country. This will be an important instrument to ensure adequate gender programming, funding and achieve tangible results for gender equality. It will also be an important framework to seek donor support in the pursuit of gender equality and women’s empowerment in Somalia.

‘On 4 December 2013, the UN organized an Open Day for Women, Peace and Security. The occasion of the Open Day has been especially important to deepen discussions and identify entry points for concrete support, especially in regards to the upcoming processes of the Constitution Review and 2016 elections. Some of the priorities women voiced during the event included:

‘Women’s participation and empowerment: Somalia has emerged recently from conflict and the highest objective is sustainable peace and stability. Inclusive participation for women in the peace and political processes including the upcoming constitutional review process and 2016 elections is an integral part of building sustainable peace in Somalia.

‘Justice and security for women: Somalia is building now its justice and security institutions that were severely affected by the pro-longed conflict. The big majority of the Somalis still refer to traditional mechanisms of dispute resolution that are male-dominated. Somali women have been deprived for too long from equal access and benefits from the legal and justice system. Justice and security institutions should consider mechanisms to address issues of gender-based violence to enable the creation of a society free of violence and impunity.

‘Women’s human rights: Promotion and protection of women’s human rights remain extremely limited in Somalia. Institutional responses remain weak and general awareness about women’s human rights is limited. Somalia is in the process of rebuilding its human rights institutions. The respect for women’s human rights is a

²⁸ United States Department of State, 2014 Trafficking in Persons Report - Somalia, 20 June 2014, <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226815.htm> date accessed 11 December 2014

fundamental principle in order to create an enabling environment for practicing Islamic principles and democracy.’²⁹

2.1.28 A UN news release of 29 May 2014 explained that the Security Council had extended the mandate of the United Nations Assistance Mission in Somalia (UNSOM) for one year and expanded it to include support to the Federal Government and African Union Mission in Somalia (AMISOM) by providing strategic policy advice on peace building and State-building, including in the lead-up to elections in 2016. The Mission was asked to support the Government in strengthening of the justice institutions with the aim of ensuring accountability, particularly with respect to crimes against women and children.

For women this would mean:

- Promoting and protecting human rights and women’s empowerment, including through the provision of Gender Advisers and Human Rights Advisers;
- Preventing conflict-related sexual and gender-based violence, including through the provision of Women’s Protection Advisers;
- Strengthening Somalia’s justice institutions and to help ensure accountability in particular with respect to crimes against women and children;
- To monitor, help investigate and report to the Council on, and help prevent any violations or abuses committed against women, including all forms of sexual and gender-based violence in armed conflict.³⁰

2.1.29 Legal Action Worldwide, in an October 2014 report, ‘Legal Aid Providers Supporting Gender Based Violence Survivors in Somalia: Report and Recommendations’, gave details of the Government national action plans on sexual violence in conflict:

‘In June 2014, the Ministries of Justice; Women, Human Rights and Development; Security and Somali Police Force; Health; Defence and Somali National Army; Education and Religious Endowments each adopted comprehensive National Action Plans on Sexual Violence in Conflict (NAPs). These Action Plans contain numerous commitments to government oversight bodies to coordinate efforts related to prevention and response to sexual violence, including:

- An Inter-Ministerial Coordination Mechanism comprised of representatives from the seven Ministries who released NAPs, to monitor their implementation and to coordinate sexual violence efforts.
- A Sexual Violence Oversight Committee (SVOC) to monitor investigations of present and future cases of sexual violence.

‘The composition, mode of operation and terms of reference for the SVOC are yet to be established. The NAPs also commit to the establishment of certain bodies and policies relating to sexual violence and accountability for each Ministry, the most relevant for this report being the Ministries for Justice, National Security, Health and Women and Human Rights Development...

‘These Action Plans are comprehensive and their full implementation could have a significant effect on improving access to justice for GBV [gender based violence] survivors and accountability for perpetrators.

‘However, there are some significant challenges. Firstly, most of the bodies and policies promised by the action plans are yet to be implemented. Secondly, their implementation

²⁹ UNSOM, Gender issues <http://unsom.unmissions.org/Default.aspx?tabid=6272&language=en-US> date accessed 23 December 2014

³⁰ UN Security Council, Adopting Resolution 2158 (2014), Extends Assistance Mission in Somalia for One Year under Broader Mandate, 29 May 2014. <http://www.un.org/press/en/2014/sc11421.doc.htm> date accessed 23 December 2014

alone will not comprehensively address sexual violence in Somalia. To do this, the involvement and increased capacity of legal aid providers is essential. For example, it is unclear whether the Ministry of Women and Human Rights Action Plan envisages that the safe-houses, hotlines and relocation schemes it references will be facilitated by the Ministry itself. It is important that these services and facilities are provided by non-government organisations in order to be independent and secure.’³¹

2.1.30 The same report gave details of assistance already available to women:

- ‘Three legal providers have established “one stop” centres for GBV response, which provide medical services, legal aid, psycho-social support and livelihood support for survivors of GBV;
- Legal aid providers in Mogadishu have advanced systems of case management and referral through which case managers refer survivors’ cases either between internal staff or with other service providers in a manner that comprehensively addresses the needs of the survivor while exposing them to the least possible psychological distress;
- Legal aid providers offer legal aid and assistance to many survivors of GBV who would otherwise not have access to such services despite enormous risk to their own safety;
- Practical training provided to over 40 law students since 2011; many are now employed in law firms and in government;
- Community forums bringing together religious leaders, elders and leaders of women’s rights groups;
- Safehouses established providing secure and safe space for GBV survivors.’³²

2.1.31 The report also noted:

‘There are six legal aid providers in South-Central Somalia. There is a high demand for legal advice and representation as police custody and prisons are overpopulated and the government does not have sufficient capacity to ensure all detainees receive legal assistance... Four of the six legal aid providers offer free defence to indigent clients. All providers offer assistance and support to survivors of GBV. From available reports, demand for organisations providing legal, medical and psychosocial support for GBV survivors is high. Three out of the six legal aid providers - Somali Women Development Centre, Save Somali Women and Children and the Elman Centre - offer medical and psychosocial services as well as legal support.’³³

[Back to Contents](#)

2.2 Somaliland

Overview

2.2.1 Freedom House’s, Freedom in the World 2014 report published in September 2014 stated:

³¹ Legal Action Worldwide, Legal Aid Providers Supporting Gender Based Violence Survivors in Somalia: Report and Recommendations, October 2014. <http://legalactionworldwide.org/wp-content/uploads/2014/10/GBV-Legal-Aid-Report-final-29.10.pdf> date accessed 23 December 2014

³² Legal Action Worldwide, Legal Aid Providers Supporting Gender Based Violence Survivors in Somalia: Report and Recommendations, October 2014. <http://legalactionworldwide.org/wp-content/uploads/2014/10/GBV-Legal-Aid-Report-final-29.10.pdf> date accessed 23 December 2014

³³ Legal Action Worldwide, Legal Aid Providers Supporting Gender Based Violence Survivors in Somalia: Report and Recommendations, October 2014. <http://legalactionworldwide.org/wp-content/uploads/2014/10/GBV-Legal-Aid-Report-final-29.10.pdf> date accessed 23 December 2014

'While society in Somaliland is patriarchal, women have made modest advances in public life. The idea of a quota for political representation of women has been frequently discussed, but never adopted, and Kulmiye in 2010 expressed support for a 25 percent quota across all political institutions. In 2013, Silanyo appointed two new female ministers, bringing the total number of women in his cabinet to four. However, the only female member of the Guurti, Fadumo Jama Eleye, resigned in March, citing the challenge of creating sufficient change as the only woman in the upper house. Baar Saeed, a member of the House of Representatives, is now the region's sole female legislator.'

'The government showed a renewed commitment to combatting rape after an increase in cases in 2013, with a heavy-handed approach to arrests and prosecutions. In August, the government handed 5- and 10-year prison sentences to 21 individuals for the gang rape of two women in Hargeisa. According to a human rights worker, in the two weeks prior to the sentencing, six additional gang-rape cases were seen in the city. Female genital mutilation, while illegal, is practiced on the vast majority of women.'

³⁴

[Back to Contents](#)

Sexual violence

2.2.2 The US Department of State report covering events in 2013 stated:

'In Somaliland gang rape continued to be a problem in urban areas, primarily perpetrated by youth gangs and male students. Many of these cases occurred in poorer neighborhoods and among immigrants, returned refugees, and displaced rural populations living in urban areas. According to a local Hargeisa-based NGO, gang rapes constituted 30 percent of reported rape cases and 55 percent of reported cases involved a minor as the victim. Many cases went unreported.'

³⁵

2.2.3 In May 2013 IRIN reported that 'stiffer penalties and reduced reliance on traditional justice systems could help end the rising incidence of rape' in Somaliland, with an estimated 5,000 rape cases to have taken place in 2012. The same news article noted that, 'The extent of rape in Somaliland remains difficult to measure, with most cases going unreported or being resolved between families. While rape is punishable with a jail term of five to 15 years in Somaliland, cases are often settled outside the courts by traditional leaders, with perpetrators typically paying compensation or marrying the victim.'

³⁶

2.2.4 The UN Secretary-General's report on Somalia of December 2013 reported that the Somaliland authorities reported an '... alarming incidence of about 239 rape cases for the months of September and October [2013]' with victims coming from IDP settlements and host communities, including children of affluent families.'

³⁷

2.2.5 The IOM reported in February 2014 that:

'In particular, rape, sexual violence against the displaced, especially against members of rival clans and minorities, are presumed to be severely underreported due to

³⁴ Freedom House, Freedom in the World 2014 - Somaliland, 15 September 2014, https://freedomhouse.org/report/freedom-world/2014/somaliland-0#.VImFJ4H6_IU date accessed 11 December 2014

³⁵ US Department of State, Country Reports on Human Rights Practices for 2013, Somalia, 27 February 2014, Section 6. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220158> date accessed 11 December 2014

³⁶ IRIN, Stiffer penalties, formal justice to curb rape in Somaliland, 28 May 2013 <http://www.irinnews.org/report/98116/stiffer-penalties-formal-justice-to-curb-rape-in-somaliland> date accessed 11 December 2014

³⁷ UN, Report of the Secretary-General on Somalia, C. Human rights and protection, Sexual and gender-based violence, paragraph 56, 2 December 2013 http://www.ecoi.net/file_upload/1226_1386769262_n1357925-709.pdf date accessed 11 December 2014

associated stigma and inaction. Women in the IDP camps of Bosasso, Puntland, have stated that they suffer sexual abuse and have no faith in the police and justice system to protect them. Likewise in the Buraha camp, east of Bosasso, displaced women and their leaders claim the cases do not go to court even if the police investigate the case. The chairman of the displaced people in Bosasso noted that “rape leads to such shame and social stigma” that it had forced several victims to migrate to Yemen and others to move to different towns to find anonymity.’³⁸

[Back to Contents](#)

Female genital mutilation

2.2.6 Female genital mutilation, while illegal, is practiced on the vast majority of women.³⁹

2.2.7 The UN Children's Fund (UNICEF) has been working with community and religious leaders in northern Somalia to try to change attitudes toward female genital mutilation. According to a report released on 16 April 2013 by UNICEF, incidents of female genital mutilation (FGM) appear to be declining in the Somaliland and Puntland regions of Somalia. Seventy five per cent of girls aged 10 to 14 in the Puntland and Somaliland regions have not been circumcised, whereas more than 98% of women aged 15 and above have. UNICEF Chief of Child Protection in Somalia, Sheema Sen Gupta, called the findings a promising indicator for long term reductions in the practice. “FGM is practiced just around puberty,” Gupta said. “It usually spikes in the [aged] 10 to 14 group and to see that it was at 25% that was fantastic”.⁴⁰

[Back to Contents](#)

Trafficking

2.2.8 The US State Department’s 2014 Trafficking in Persons Report stated:

‘Laws in Somaliland prohibit forced labor, involuntary servitude, and slavery. The Ministry of Labor and Social Affairs in Somaliland operated a specialized unit to respond to suspected trafficking cases, and police and immigration officers played an active role in anti-trafficking efforts. Somaliland officials made efforts to convict human smugglers – including those potentially intending to exploit migrants in forced labor or sex trafficking upon their final destination. In November 2013, Somaliland officials arrested four Somaliland military personnel for the alleged smuggling of 11 Somalis from south-central Somalia into Ethiopia. Officials did not provide additional details on this case, including whether these adults appeared destined for forced labor at their final destinations. In addition, in April 2013, a Somaliland court in Gabiley sentenced nine men, convicted of human trafficking, to between three to six months’ imprisonment; although officials reported that these men participated in a network moving Somalis to Libya and other destinations, it remained unclear if the workers who were being smuggled were intended for exploitation upon arrival.’

‘...in June 2013, the Somaliland Ministries of the Interior and Resettlement, Rehabilitation, and Reintegration cooperated with Ethiopian immigration officials to assist in the IOM-funded voluntary return of 42 migrants stranded at the Migration Response Center in Hargeisa. Nonetheless, Somaliland officials appeared overwhelmed with humanitarian cases and illegal immigration from Ethiopia, which often

³⁸ IOM, Dimensions of Crisis on Migration in Somalia, Working Paper, February 2014 <http://reliefweb.int/sites/reliefweb.int/files/resources/Dimensions-of-Crisis-on-Migration-in-Somalia.pdf> date accessed 17 September 2014

³⁹ Freedom House, Freedom in the World 2014 - Somaliland, 15 September 2014, https://freedomhouse.org/report/freedom-world/2014/somaliland-0#.VImFJ4H6_IU date accessed 11 December 2014

⁴⁰ Sabahi (via All Africa), Somalia: Northern Somalia Sees Drop in Female Genital Mutilation. 17 April 2013 <http://allafrica.com/stories/201304180181.html> date accessed 11 December 2014

hindered identification and protection of potential trafficking victims. Government officials provided no data clarifying whether children who involuntarily engaged in prostitution or the commission of crimes across Somali territory gained protection from charges of crime under Somali law. There were no legal alternatives to the removal of foreign trafficking victims from Somalia to countries where they may face hardship or retribution; however, government officials identified no foreign victims during the year.’⁴¹

[Back to Contents](#)

2.3 Puntland

Sexual violence

2.3.1 A Radio Ergo report of 29 July 2013 stated:

‘There has been a significant reduction in the number of rape cases recorded in Puntland this year, according to the ministry of women affairs announced.’

‘Khadra Ahmed Mohamed, an official in the ministry of women’s affairs, said the number of rape cases had dropped by more than half in the first half of this year [2013].’

‘Twenty rape cases were officially recorded between January and July this year; as compared to 45 cases between August-December last year [2012].’

‘Ms Mohamed attributed the improvement to extensive community education programmes and awareness campaigns carried out to sensitize people on women’s rights and dignity.’

‘However, the ministry reported an increase in the number of cases of violence against women in the IDP camps. Such incidents included wife beating, threats and intimidation.’

‘The chairwoman of Puntland women’s associations’ umbrella body, Halima Mohamed Farah, said they were yet to find a solution to the prevailing rape problem.’

‘Women activists are not happy with the way the judiciary handles rape cases. It is often impossible to find witnesses to give evidence in court and protection for victims is inadequate.’⁴²

[Back to Contents](#)

Female genital mutilation

2.3.2 A media report on 11 March 2014 stated:

‘Puntland authorities have banned female genital mutilation (FGM) after years of controversial debate over the issue. Puntland’s newly elected President Abdiweli Mohamed Gas enacted the new law outlawing FGM ... “Female circumcision was banned from today, the 8th March 2014, and the law should be implemented accordingly,” Gas told local reporters in Garowe. The president’s signature on the FGM ban came as thousands of Somali women across the country were celebrating international Women’s Day by raising awareness of the horrors of the practice.

‘Puntland’s cabinet had earlier proposed the ban, but it was never taken to the parliament. Somalia’s federal constitution outlaws FGM, but it is believed that over 70 percent of women still undergo the painful genital mutilation.

⁴¹United States Department of State, 2014 Trafficking in Persons Report - Somalia, 20 June 2014, <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226815.htm> date accessed 11 December 2014

⁴²Radio Ergo. Number of reported rape incidents falls in Puntland. 29 July 2013.

http://www.radioergo.org/en/read.php?article_id=1087 date accessed 11 December 2014

‘Lul Jama Awnor, the director of Women Development Department at Puntland’s Ministry for Women and Family Affairs, said the ban meant the practice was on its way to being eradicated. “It’s a good step took towards empowering Somali women,” Awnor told Radio Ergo’s local reporter in Garowe.

‘Islamic scholars in Puntland have issued a religious fatwa banning FGM as it has no basic in Islamic studies. However, Radio Ergo’s Abdirahman Mohamed in Garowe said though the move is a very significant achievement in the fight for women’s empowerment, it will be hard for the local administration to translate the ban into action, as many families will continue the circumcision of girls that they consider as protection of girls’ chastity.’⁴³

See also paragraph 2.2.6 above.

[Back to Contents](#)

Trafficking

2.3.3 The US State Department’s 2014 Trafficking in Persons Report stated:

‘...In Puntland, the Ministry of Women Development and Family Affairs oversaw anti-trafficking efforts, and the police force in Garowe operated an anti-trafficking unit, though it lacked proper training. Provisions under Islamic law in Puntland criminalize the murder of smuggled or trafficked persons, prescribing penalties of between one and five years’ imprisonment. In March 2013, Puntland police intercepted seven girls kidnapped from south-central Somalia destined for Hargeisa, Somaliland, for unknown purposes; the police arrested the two men transporting the girls...’

‘No governmental entity utilized formal procedures for the proactive identification of victims; however, in 2013, officials from Puntland and Somaliland continued to develop a referral process to guide officials in transferring trafficking victims detained, arrested, or placed in protective custody to NGOs that provided care. No governmental entity provided protective services to victims of trafficking, although IOM and local organizations provided reintegration services to rescued trafficking victims in Puntland and Somaliland. Neither the federal government nor the regional governments of Somaliland and Puntland provided financial or in-kind assistance to organizations assisting victims. In Puntland, IOM staff trained officials on victim identification and assistance procedures. These organizations also placed child victims with families for care.’

‘The Puntland Ministry of Women and Children received the seven girls intercepted in March 2013 and conducted family tracing.’⁴⁴

[Back to Contents](#)

⁴³ Horseed Media. Somalia: Puntland bans Female Genital Mutilation (FGM). 11 March 2014. <http://horseedmedia.net/2014/03/11/puntland-bans-fgm/> date accessed 11 December 2014

⁴⁴ United States Department of State, 2014 Trafficking in Persons Report - Somalia, 20 June 2014, <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226815.htm> date accessed 11 December 2014

Annex A: Caselaw

MOJ & Ors (Return to Mogadishu) (Rev 1) (CG) [2014] UKUT 442 (IAC) (3 October 2014)

- (i) The country guidance issues addressed in this determination are not identical to those engaged with by the Tribunal in AMM and others (conflict; humanitarian crisis; returnees; FGM) Somalia CG [2011] UKUT 445 (IAC). Therefore, where country guidance has been given by the Tribunal in AMM in respect of issues not addressed in this determination then the guidance provided by AMM shall continue to have effect.
- (ii) Generally, a person who is “an ordinary civilian” (i.e. not associated with the security forces; any aspect of government or official administration or any NGO or international organisation) on returning to Mogadishu after a period of absence will face no real risk of persecution or risk of harm such as to require protection under Article 3 of the ECHR or Article 15(c) of the Qualification Directive. In particular, he will not be at real risk simply on account of having lived in a European location for a period of time of being viewed with suspicion either by the authorities as a possible supporter of Al Shabaab or by Al Shabaab as an apostate or someone whose Islamic integrity has been compromised by living in a Western country.
- (iii) There has been durable change in the sense that the Al Shabaab withdrawal from Mogadishu is complete and there is no real prospect of a re-established presence within the city. That was not the case at the time of the country guidance given by the Tribunal in AMM.
- (iv) The level of civilian casualties, excluding non-military casualties that clearly fall within Al Shabaab target groups such as politicians, police officers, government officials and those associated with NGOs and international organisations, cannot be precisely established by the statistical evidence which is incomplete and unreliable. However, it is established by the evidence considered as a whole that there has been a reduction in the level of civilian casualties since 2011, largely due to the cessation of confrontational warfare within the city and Al Shabaab’s resort to asymmetrical warfare on carefully selected targets. The present level of casualties does not amount to a sufficient risk to ordinary civilians such as to represent an Article 15(c) risk.
- (v) It is open to an ordinary citizen of Mogadishu to reduce further still his personal exposure to the risk of “collateral damage” in being caught up in an Al Shabaab attack that was not targeted at him by avoiding areas and establishments that are clearly identifiable as likely Al Shabaab targets, and it is not unreasonable for him to do so.
- (vi) There is no real risk of forced recruitment to Al Shabaab for civilian citizens of Mogadishu, including for recent returnees from the West.
- (vii) A person returning to Mogadishu after a period of absence will look to his nuclear family, if he has one living in the city, for assistance in re-establishing himself and securing a livelihood. Although a returnee may also seek assistance from his clan members who are not close relatives, such help is only likely to be forthcoming for majority clan members, as minority clans may have little to offer.
- (viii) The significance of clan membership in Mogadishu has changed. Clans now provide, potentially, social support mechanisms and assist with access to livelihoods, performing less of a protection function than previously. There are no clan militias in Mogadishu, no

clan violence, and no clan based discriminatory treatment, even for minority clan members.

- (ix) If it is accepted that a person facing a return to Mogadishu after a period of absence has no nuclear family or close relatives in the city to assist him in re-establishing himself on return, there will need to be a careful assessment of all of the circumstances. These considerations will include, but are not limited to:
- circumstances in Mogadishu before departure;
 - length of absence from Mogadishu;
 - family or clan associations to call upon in Mogadishu;
 - access to financial resources;
 - prospects of securing a livelihood, whether that be employment or self employment;
 - availability of remittances from abroad;
 - means of support during the time spent in the United Kingdom;
 - why his ability to fund the journey to the West no longer enables an appellant to secure financial support on return.
- (x) Put another way, it will be for the person facing return to explain why he would not be able to access the economic opportunities that have been produced by the economic boom, especially as there is evidence to the effect that returnees are taking jobs at the expense of those who have never been away.
- (xi) It will, therefore, only be those with no clan or family support who will not be in receipt of remittances from abroad and who have no real prospect of securing access to a livelihood on return who will face the prospect of living in circumstances falling below that which is acceptable in humanitarian protection terms.
- (xii) The evidence indicates clearly that it is not simply those who originate from Mogadishu that may now generally return to live in the city without being subjected to an Article 15(c) risk or facing a real risk of destitution. On the other hand, relocation in Mogadishu for a person of a minority clan with no former links to the city, no access to funds and no other form of clan, family or social support is unlikely to be realistic as, in the absence of means to establish a home and some form of ongoing financial support there will be a real risk of having no alternative but to live in makeshift accommodation within an IDP camp where there is a real possibility of having to live in conditions that will fall below acceptable humanitarian standards.

AMM and others (conflict; humanitarian crisis; returnees; FGM) Somalia CG [2011] UKUT 00445 (IAC) (28 November 2011). In its determination of 25 November 2011, the Upper Tribunal took full account of the European Court of Human Rights judgment in the case *Sufi & Elmi v UK* (see below) and gave the following country guidance:

‘Mogadishu

1. Despite the withdrawal in early August 2011 of Al-Shabab conventional forces from at least most of Mogadishu, there remains in general a real risk of Article 15(c) harm for the majority of those returning to that city after a significant period of time abroad. Such a risk does not arise in the case of a person connected with powerful actors or belonging to a category of middle class or professional persons, who can live to a reasonable standard in circumstances where the Article 15(c) risk, which exists for the great majority of the population, does not apply.

2. The armed conflict in Mogadishu does not, however, pose a real risk of severe Article 3-level harm in respect of any person in that city, regardless of circumstances. The humanitarian crisis in southern and central Somalia has led to a declaration of famine in IDP camps in Mogadishu; but a returnee from the United Kingdom who is fit for work or has family connections may be able to avoid having to live in such a camp. A returnee may, nevertheless, face a real risk of Article 3 harm, by reason of his or her individual vulnerability.
3. Except as regards the issue of female genital mutilation (FGM), it is unlikely that a proposed return to Mogadishu at the present time will raise Refugee Convention issues.

Southern and central Somalia, outside Mogadishu

4. Outside Mogadishu, the fighting in southern and central Somalia is both sporadic and localised and is not such as to place every civilian in that part of the country at real risk of Article 15(c) harm. In individual cases, it will be necessary to establish where a person comes from and what the background information says is the present position in that place. If fighting is going on, that will have to be taken into account in deciding whether Article 15(c) is applicable. There is, likewise, no generalised current risk of Article 3 harm as a result of armed conflict.
5. In general, a returnee with no recent experience of living in Somalia will be at real risk of being subjected to treatment proscribed by Article 3 in an Al Shabab controlled area. 'No recent experience' means that the person concerned left Somalia before the rise of Al-Shabab in 2008. Even if a person has such experience, however, he or she will still be returning from the United Kingdom, with all that is likely to entail, so far as Al-Shabab perceptions are concerned, but he or she will be less likely to be readily identifiable as a returnee. Even if he or she were to be so identified, the evidence may point to the person having struck up some form of accommodation with Al-Shabab, whilst living under their rule. On the other hand, although having family in the Al-Shabab area of return may alleviate the risk, the rotating nature of Al-Shabab leadership and the fact that punishments are meted out in apparent disregard of local sensibilities mean that, in general, it cannot be said that the presence of family is likely to mean the risk ceases to be a real one.
6. Al-Shabab's reasons for imposing its requirements and restrictions, such as regarding manner of dress and spending of leisure time are religious and those who transgress are regarded as demonstrating that they remain in a state of kufr (apostasy). The same is true of those returnees who are identified as returning from the West. Accordingly, those at real risk of such Article 3 ill-treatment from Al-Shabab will in general be refugees, since the persecutory harm is likely to be inflicted on the basis of imputed religious opinion.
7. Although those with recent experience of living under Al-Shabab may be able to "play the game", in the sense of conforming with Al-Shabab's requirements and avoiding suspicion of apostasy, the extreme nature of the consequences facing anyone who might wish to refuse to conform (despite an ability to do so) is such as to attract the principle in RT (Zimbabwe). The result is that such people will also in general be at real risk of persecution by Al-Shabab for a Refugee Convention reason.
8. The same considerations apply to those who are reasonably likely to have to pass through Al-Shabab areas.

9. For someone at real risk in a home area in southern or central Somalia, an internal relocation alternative to Mogadishu is in general unlikely to be available, given the risk of indiscriminate violence in the city, together with the present humanitarian situation. Relocation to an IDP camp in the Afgoye Corridor will, as a general matter, likewise be unreasonable, unless there is evidence that the person concerned would be able to achieve the lifestyle of those better-off inhabitants of the Afgoye Corridor settlements.
10. Internal relocation to an area controlled by Al-Shabab is not feasible for a person who has had no history of living under Al-Shabab in that area (and is in general unlikely to be a reasonable proposition for someone who has had such a history). Internal relocation to an area not controlled by Al-Shabab is in general unlikely to be an option, if the place of proposed relocation is stricken by famine or near famine⁴⁵.
11. Within the context of these findings, family and/or clan connections may have an important part to play in determining the reasonableness of a proposed place of relocation. The importance of these connections is likely to grow if the nature of the present humanitarian crisis diminishes and if Al-Shabab continues to lose territory.
12. Travel by land across southern and central Somalia to a home area or proposed place of relocation is an issue that falls to be addressed in the course of determining claims to international protection. Such travel may well, in general, pose real risks of serious harm, not only from Al-Shabab checkpoints but also as a result of the present famine conditions. Women travelling without male friends or relatives are in general likely to face a real risk of sexual violence.
13. An issue that may have implications for future Somali appeals is the availability of air travel within Somalia (including to Somaliland). Flying into Mogadishu International Airport is sufficiently safe. There is no evidence to indicate a real risk to commercial aircraft flying to other airports in Somalia.

Somaliland and Puntland

14. The present appeals were not designed to be vehicles for giving country guidance on the position within Somaliland or Puntland. There is no evidential basis for departing from the conclusion in NM and others, that Somaliland and Puntland in general only accept back persons who were former residents of those regions and were members of locally based clans or sub-clans. In the context of Somali immigration to the United Kingdom, there is a close connection with Somaliland.
15. A person from Somaliland will not, in general, be able without real risk of serious harm to travel overland from Mogadishu International Airport to a place where he or she might be able to obtain an unofficial travel document for the purposes of gaining entry to Somaliland, and then by land to Somaliland. This is particularly the case if the person is female. A proposed return by air to Hargeisa, Somaliland (whether or not via Mogadishu International Airport) will in general involve no such risks.

Female genital mutilation

16. The incidence of FGM in Somalia is universally agreed to be over 90%. The predominant type of FGM is the “pharaonic”, categorised by the World Health Organisation as Type III. The societal requirement for any girl or woman to undergo FGM is strong. In general, an

⁴⁵ The UN famine declaration, which applied to only some parts of the country, was made in July 2011 and subsequently lifted from all areas in February 2012 (<http://www.fao.org/news/story/en/item/122091/icode/>).

uncircumcised, unmarried Somali woman, up to the age of 39, will be at real risk of suffering FGM.

17. The risk will be greatest in cases where both parents are in favour of FGM. Where both are opposed, the question of whether the risk will reach the requisite level will need to be determined by reference to the extent to which the parents are likely to be able to withstand the strong societal pressures. Unless the parents are from a socio-economic background that is likely to distance them from mainstream social attitudes, or there is some other particular feature of their case, the fact of parental opposition may well as a general matter be incapable of eliminating the real risk to the daughter that others (particularly relatives) will at some point inflict FGM on her.'

It should also be noted that the Tribunal also made the following points:

- '225. We do not consider that the case law relied upon by the appellants comes close to establishing that the respondent bears the legal burden of proving that there is a part of the country of nationality of an appellant, who has established a well-founded fear in one area thereof, to which the appellant could reasonably be expected to go and live. The person who claims international protection bears the legal burden of proving that he or she is entitled to it. What that burden entails will, however, very much depend upon the circumstances of the particular case. In practice, the issue of an internal relocation alternative needs to be raised by the Secretary of State, either in the letter of refusal or (subject to issues of procedural fairness) during the appellate proceedings. In many cases, the respondent will point to evidence regarding the general conditions in the proposed place of relocation. It will then be for the appellant to make good an assertion that, notwithstanding those conditions, it would not be reasonable to relocate there. Those reasons may often be ones about which only the appellant could know; for example, whether there are people living in the area of proposed relocation who might identify the appellant to those in his home area whom he fears. The Secretary of State clearly cannot be expected to lead evidence on such an issue.'
- '363. Before leaving the issue of Article 15(c) in Mogadishu, it is necessary to say something with an eye to the use that will be made of our country guidance findings in the next few weeks and months. In assessing cases before them, judicial fact-finders will have to decide whether the evidence is the same or similar to that before us (Practice Direction 12). To the extent it is not, they are not required to regard our findings as authoritative. As we have emphasised, it is simply not possible on the evidence before us to state that the changes resulting from Al-Shabaab's withdrawal from Mogadishu are sufficiently durable. Far too much is presently contingent. As time passes, however, it may well be that judicial fact-finders are able to conclude that the necessary element of durability has been satisfied. How, if at all, that impacts on the assessment of risk on return will, of course, depend on all the other evidence.'

[Back to Contents](#)

Change Record

| Version | Date | Change References |
|---------|------------|---------------------------------------------------------------|
| 1.0 | 04/04/2014 | First version of country information and guidance. |
| 2.0 | 03/02/2015 | COI sections updated to reflect latest available information. |

[Back to Contents](#)