

Review of *Operational Guidance Note: Somalia*

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Prepared for the Independent Advisory Group on Country Information (IAGCI) by
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I Introduction

This review assesses the *Operational Guidance Note: Somalia* (OGN Somalia) on the basis of instructions from the Independent Advisory Group on Country Information (IAGCI) and the UK Border Agency.

The focus of the assessment is the extent to which the OGN refers to the most up-to-date information produced by the UKBA's COI Service; and the extent to which it gives an indication of the range of relevant material that should be considered.

In undertaking this review, I have been conscious that the country of origin information contained in OGNs is not intended to be comprehensive; and that the OGNs explicitly advise UKBA case-owners to 'take into account all available evidence'. Still there remains the risk that many case-owners use the contents of the OGN selectively to bolster their assertions.

This Review of the Somalia OGN should be read in conjunction with my review of the Country of Origin Information (COI) Report on Somalia.

II About the author

Markus Virgil Hoehne is post-doctoral researcher at the Max Planck Institute for Social Anthropology in Halle/Saale, Germany. His current project is on *Transitional justice in protracted conflict* and regionally focuses on Somalia and Ethiopia's Somali Region. This project is funded by the German Foundation for Peaceresearch. Hoehne completed his PhD at the Martin Luther University Halle-Wittenberg with a thesis on *Political Orientations and Repertoires of Identification: State and Identity Formation in Northern Somalia*. He conducted more than two years of field research in northern Somalia (Somaliland and Puntland) and Nairobi (Kenya) between July 2002 and March 2012. For more details see the author's note in my review of the Somalia COI report.

III Comments and corrections

2. Country assessment

Actors of protection

p. 3

2.3.3

...the UK Foreign Office Minister for Africa said that the fact that 96% of those present in the NCA voted in favour of the new Constitution reflected the decisive national will to move forward with the political process. This landmark decision bodes well for Somalia's future and is as a particular achievement, for which credit is due to the AMISON and TFG forces, that the NCA was able to complete its deliberations in Mogadishu despite the ongoing security challenges...

Comment: Of course this is a statement by a politician. Nonetheless, one would have to add a note of caution. The whole process that led to the establishment of the NCA, the endorsement of the constitution and later the election of a new Somali parliament lacked transparency and was rife with corruption. The major problems of the country (insecurity, lack of accountability of the elite etc.) remain in place. Against this background, the optimism about a landmark decision that bodes well for Somalia's future is not justified.

Source: Africa confidential 2012: Not yet spring in Mogadishu. Africa Confidential Vol. 53, No. 22, Nov. 2012.

p. 4

2.3.6

The TFG controls several thousand trained army soldiers. Other various TFG-allied groups throughout Somalia are estimated to control militias ranging in strength from hundreds to thousands...

2.3.7

The TFG has been building up the strength of the Somali Police Force (SPF) based in Mogadishu with international assistance. It is proposed that the force will have strength of 10,000...It was reported in the latter part of 2011 that more than 3,000 police officers had been trained under a programme supported and assisted by the UN, EU, AMISOM and others. The structure of the force includes a Criminal Investigation Department...

Comment: one needs to be careful not to present a misleading picture on the security situation in Mogadishu. There persists the problem that many soldiers and police men are rather members of clan militias than under TFG command. Many lack discipline and loyalty to the government. It is suggested to add a recent report by Safer World on Mogadishu, published in August 2012, that stresses that according to survey results,

‘Two thirds of those surveyed classed Mogadishu as a middle risk city as of July 2012, meaning they cannot walk around at night, with only six percent labelling it high risk, meaning they cannot walk around during the day...This confirms information obtained in focus groups and during

interviews with officials that suggest security is generally perceived as improving.’

Source: Safer World 2012: Mogadishu rising? Conflict and governance dynamics in the Somali capital, p. 9. Online:

http://www.humansecuritygateway.com/documents/SW_MogadishuRising_ConflictandGovernance.pdf

The same report stresses that criminal violence is still a burning issue for most civilians in the capital (ibid., p. 10). Also the mayor of Mogadishu, Mohamed Nur, stressed in an interview that

‘a strong, coherent and well-paid police force is the ultimate answer to the city’s security problems. This is unlikely in the short term as up to 50 per cent of police officers and soldiers are currently working as private security guards for hotels, restaurants, aid agencies, business leaders and politicians in order to supplement their wages’ (ibid., p. 13)

p. 9

2.3.25

General insecurity resulting from armed violence continues to be the main protection concern in the North-West regions of Somaliland...

Correction: this does not concern the north-west regions but the **eastern** regions of Somaliland, where the regions Sool and Sanaag and the town of Buuhoodle (which is the centre of Cayn region) are located.

p. 9

2.3.26

The President of the Transitional Federal Government initially announced the recognition of Khaatumo State, but this was subsequently withdrawn.

Correction: Not the president, but the vice-prime minister of the TFG initially announced the recognition of Khaatumo state. Later, he and the prime-minister were in conflict over this issue and the initial recognition was withdrawn.

p. 11

2.4.6

Somaliland and Puntland, are in general relatively safe. There are however major protection concerns around IDP settlements both in Puntland and Somaliland, which include overcrowding, severe levels of malnourishment, economic exploitation of children and a lack of physical security, rapes, gang rapes and other instances of sexual and gender-based violence.

Comment: The reference used for this section is dated 21/01/2010. This is outdated. Consider the following excerpt from a more recent report:

‘There were significant reports of sexual violence in “Somaliland” and “Puntland” during the reporting period, which both recognize as a criminal act. Some 140 incidents were reported from January to early March [2011],

of which 99 were rape cases. Such cases were mostly dealt with through the customary law system. Settlements reached out of court may result in either marriage with the offender or the survivor's removal from the community. During his February visit to "Somaliland" and "Puntland", the Independent Expert on the situation of human rights in Somalia met with women's organizations and survivors of such violence. They noted that while the customary system contributes to ensuring peace between clans, it would not ensure proper redress for victims.'

Source: UN General Secretary: Report on the situation in Somalia, dated 28 April 2011, paragraph 32. Online:

http://www.un.org/ga/search/view_doc.asp?symbol=S/2011/277

Internal relocation

p. 12

2.4.8

The authorities in Somaliland will only admit failed asylum seekers returning from European countries who originate from their territory or those who have close affiliations to the territory through clan membership. In the case of majority clan affiliates, this means those associated with the Isaaq in Somaliland.

Correction: majority clan members hailing from Somaliland are not only Isaaq, but also Darood and Dir (the Dhulbahante and Warsangeli in eastern Somaliland belong to the Darood group; the Gadabuursi and Ise in western Somaliland are Dir).

Case law

p. 12 and 13

Comment: the long quotations from the Tribunal's decision in the case of AMM and others about the situation in Mogadishu and parts of southern and central Somalia are partly outdated.

p. 16 to 18

While the cases AMM and others and Sufi and Elmi v UK are in parts still instructive and relevant, the findings in the cases HH and others and AM and AM (2010 and 2008, respectively) are largely outdated and not helpful anymore. One wonders why these older cases are quoted so extensively providing outdated knowledge.

3. Main category of claims

General country situation in southern and central Somalia

p. 23

3.6.6

A Danish Immigration Service fact finding mission in February 2012 were told that that civilian casualties and weapon related injuries in Mogadishu have decreased since August 2011 and that Mogadishu is now a much safer environment in terms of civilian casualties.

Comment: this seems a fairly optimistic statement. The period between August and October 2012, and also the weeks since the presidential election, were characterised by on-going insecurity and fighting. Scores of civilians have been killed by gunmen, through indiscriminate use of force by security personnel or insurgents, or in bomb attacks. The dramatic situation of civilians in Mogadishu has been reported by Midnimo.com, a Somali website, which reported on 23 September 2012 that ‘Mogadishu’s security situation has deteriorated and more than 30 people were killed in the capital in the last three days only.’ Consider additionally the following sources to get a balanced picture:

Midnimo.com website in Somali 23 Sep 12: Somali government says it has new plans for Mogadishu security. Online: <http://www.accessmylibrary.com/article-1G1-303333871/somali-government-says-has.html>

Source: Safer World 2012: Mogadishu rising? Conflict and governance dynamics in the Somali capital. Online: http://www.humansecuritygateway.com/documents/SW_MogadishuRising_ConflictandGovernance.pdf

p. 27

3.6.19

According to Mogadishu local authorities, at least 80 percent of the properties occupied by squatters during the war have been restored to their rightful owners...

Comment: This statement has to be read with a grain of salt. While I also heard that there has been property restitution going on (it actually started most effectively under the Union of Islamic Courts in 2006), I would doubt that ‘80 percent of the properties occupied by squatters during the war have been restored to their rightful owners’. The first question has to be: who is a rightful owner? What is with the property abandoned by members of so called minority groups oppressed, evicted or killed during the 1990s? What about those forced to ‘sell’ their property? What about those who migrated and still do not dare to return? The problem of property rights in Mogadishu and southern Somalia has multiple dimension, and much depends on how and when (in time) the ‘line’ is drawn defining for what constitutes legitimate property.

For some insights into the complexity of the matter (in this case concerning cases not only inside Mogadishu, but mainly in the rural areas of south-central Somalia) see: Displacement Solutions 2008: Housing, Land and Property Rights in the South Central Somalia: Preliminary Assessment and Proposed Strategies for Expanded Approaches

Online: [http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/9430F86E51FB5A08C12574BE002DB8A4/\\$file/HLP+Somalia+DS+Report+FINAL+Aug08.pdf](http://www.internal-displacement.org/8025708F004CE90B/%28httpDocuments%29/9430F86E51FB5A08C12574BE002DB8A4/$file/HLP+Somalia+DS+Report+FINAL+Aug08.pdf)

p. 30-32

The sections beginning with ‘Outside Mogadishu’ (p. 30) to the paragraph starting with ‘A person from Somaliland will not...’ (p. 32) are a direct repetition of the presentation of the case law in the case of AMM and others from p. 13 and 14 above in the ONG report. One wonders why this extensive repetition is necessary here.

p. 35

3.7.11

In other parts of Somalia it is unlikely than any Somali belonging to one of the major clan-families...

Correct: it must read 'that' instead of 'than' in this sentence.

p.37

3.8.8

On the role of clan politics in and recruitment by Al Shabaab, see the following additional sources:

Taarnby, Michael/Hallunbaek, Lars: Al Shabaab: The internationalization of militant Islamism in Somalia and the implications for radicalisation processes in Europe (2010), pp 33-34 Online:

http://www.justitsministeriet.dk/fileadmin/downloads/Forskning_og_dokumentation/Forskningpulje/Taarnby-rapport.pdf

Le Sage, Andre: Somalia's endless transition: Breaking the deadlock. In: Strategic Forum Nr. 257/2010, pp 1-7

Online: <http://www.ndu.edu/inss/docuploaded/SF%20257.pdf>

p. 40

3.9.7

Information provided by the 2009 Landinfo report on the situation of clans under Al Shabaab is largely outdated now. Al Shabaab lost its grip on power in most parts of southern and central Somalia. New clan-dynamics are unfolding as we speak.

p. 43

3.10.4

With the exception of the Bantu, Rerhamar, Bravanese, Bajuni and Eyle who have distinct "non-Somali" physical appearance...

Comment: this is a quasi racist statement. In fact, it is not possible to conclude from the physical features on clan-belonging with any reasonable degree of certainty. The mentioned conviction about the 'non-Somali physical appearance' is a vernacular form of racism that was identified in an article by Lewis some years back. See: Lewis, Ioan M. 2004. 'Visible and Invisible Differences: The Somali Paradox'. *Africa* vol. 74, no. 4: 489-515.

p. 48

3.12.2

FGM was widespread throughout the country. As many as 98 percent of women and girls had undergone FGM;... International and local NGOs ran education awareness programs on the dangers of FGM, but there were no reliable statistics to measure the success of these programs.

Comment: One wonders where the 98 per cent come from, more so against the backdrop of the absence of reliable statistics as rightly stated a few lines later. In my view, a kind of ‘myth’ is perpetuated about FGM. In my review of the COI report I have dealt with this issue at length. There are considerable factors inside Somalia that in my view have contributed to the decrease of the most severe form of FGM over the past two decades. How the situation really is needs to be established in a general survey, which so far has not been done.

p. 50

3.12.11

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

Comment: I never heard that a mature women was forcibly circumcised. Usually circumcision takes place between 7 and 12. In rare cases 18 years old girls from the diaspora volunteer to be circumcised in Somalia. One needs to carefully investigate this matter and not perpetuate a myth here.

IV Range of relevant materials/sources

The sources used in this OGN are all reputable and respected. In many regards, the most recent information on relevant issues has been used. However, in some case, particular in the section on ‘case law’ outdated sources have been quoted at length. It remains unclear to me what the added value is of long verbal quotations from cases dating several years back. Particularly with regard to questions of security and clan dynamics, things have changed considerably over the past few years.

V Conclusion

I consider that the Operational Guidance Note: Somalia dated 23 October 2012 is generally accurate, unbiased and up-to-date; and it relies on reputable and accessible sources. It is therefore an effective publication. In my opinion, it could be improved if the matters I raised above, particularly in the sections III and IV of my report, were addressed.