

# SOMALIA 2012 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

The Transitional Federal Government (TFG) completed the September 2011 Roadmap for Ending the Transition during the year, partnering with representatives of Puntland, Galmuduug, Ahlu Sunnah Wal Jama'a (ASWJ), and the international community. Completion of the roadmap included drafting a provisional federal constitution, forming an 825-member National Constituent Assembly (NCA) that ratified the provisional constitution, selecting a 275-member federal parliament, and holding speakership and presidential elections. On May 5, clan elders convened in Mogadishu to nominate NCA delegates and members of the federal parliament. On August 1, the NCA ratified the provisional federal constitution. The federal parliament was inaugurated on August 20. On August 28, parliament elected Professor Mohamed Sheikh Osman (Jawari) as speaker. On September 10, parliament elected Hassan Sheikh Mohamud as president of the Federal Republic of Somalia. Former TFG president and 2012 presidential candidate Sheikh Sharif deemed the presidential vote to be fair and conceded defeat. Neither the TFG nor the newly established government had effective control over some parts of the country, and essential governance functions were provided by regional administrations, if at all, including by the self-declared Republic of Somaliland in the northwest and Puntland State in the northeast. There were instances in which elements of the Somali security forces acted independently of civilian control.

Civilians continued to suffer from conflict-related abuses, including killings, displacement, and the diversion or confiscation of humanitarian assistance by armed groups, principally al-Shabaab--a terrorist organization. According to the UN, there were more than 1.36 million internally displaced persons (IDPs) in the country, and more than one million persons had taken refuge in other countries by the middle of the year.

Severe human rights abuses included killings; restrictions on freedom of the press, including violence against and targeted assassinations of journalists; and discrimination and violence against women and girls, including rape and female genital mutilation/cutting (FGM/C).

Other major human rights abuses included harsh and life-threatening prison conditions; arbitrary and politically motivated arrest and detention; denial of a fair trial; corruption; trafficking in persons; abuse of and discrimination against minority clans; restrictions on workers' rights; forced labor; and child labor.

In general impunity remained the norm, particularly in the south and central regions. Governmental authorities took some steps to prosecute and punish officials who committed abuses, particularly military and police officials accused of committing rape, murder, and extortion of civilians.

Al-Shabaab retained control of some rural areas of the south and central regions, but lost control over all major population centers it previously controlled. Al-Shabaab continued to commit grave abuses. It attacked towns where its forces had withdrawn or been defeated by Somali National, African Mission in Somalia (AMISOM), Ethiopian, and TFG-allied forces. Al-Shabaab committed abuses including extrajudicial killings; disappearances; cruel and unusual punishment; rape; restrictions on civil liberties and freedom of movement; restrictions on nongovernmental organizations (NGOs) and humanitarian assistance; and conscription and use of child soldiers.

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

### **a. Arbitrary or Unlawful Deprivation of Life**

The TFG and its allied militias, persons in uniform, Puntland and Somaliland forces, al-Shabaab, pirates, and unknown assailants committed arbitrary killings. Civilians were killed in armed clashes, and humanitarian workers were also targeted and killed. During the year 18 journalists were killed. Impunity remained the norm.

There were reports the TFG, as well as authorities in Puntland and Somaliland, committed arbitrary or unlawful killings.

Defendants in many TFG military trials, which sometimes included civilian defendants, were often not afforded legal representation or the opportunity to appeal (see also section 1.e.). Those sentenced to death were sometimes executed within hours of the court's verdict. For example, on July 19, four members of the Somali National Army (SNA) were sentenced to death by the chairman of the Somali military courts after being found guilty of killing civilians and were immediately executed. The TFG in 2011 stated severe sentences and immediate execution upon conviction were necessary to send a strong message in a culture of impunity.

On December 30, in Zeila, Awdal Region, Somaliland forces opened fire on persons protesting local election results, killing one person and injuring 12.

In November Puntland presidential guards shot and killed a girl and wounded at least two other demonstrators who were protesting against the visit of Puntland's president to Qardho, Karkaar Region, and his one-year extension in office. The guards indiscriminately opened fired on a crowd of mostly women and children.

Al-Shabaab continued to commit frequent killings during the year. This included politically motivated killings that targeted those affiliated with the TFG; attacks on humanitarians, NGO employees, and foreign peacekeepers; killings of prominent peace activists, community leaders, clan elders, and their family members for their roles in peace building; and beheadings of persons it accused of spying for and collaborating with Somali national forces and affiliated militia.

For example, on January 31, an al-Shabaab suicide bomber targeted the Galkacyo, Mudug Region, residence of General Abdi Hassan Awale (Qeybdid), a former commander of the Somali Police Force. The suicide bomber was killed during the attack, as were two of the general's militiamen.

In June al-Shabaab decapitated at least 13 men and women it accused of collaborating with ASWJ in Galgaduud and Hiraaan regions.

Al-Shabaab claimed responsibility for the September killing of federal parliamentarian Mustaf Haji Mohamed in Mogadishu. He was also former TFG president Sheikh Sharif's father-in-law.

Suicide bombers suspected to be linked to al-Shabaab but with no clear affiliation carried out suicide attacks. For example, on September 20, two suicide bombers detonated themselves inside a diaspora-owned cafe in Mogadishu frequented by journalists and aid workers, killing more than 14 people. The attack killed three journalists, including the director of Somalia National Television, and a nominated parliamentarian. Al-Shabaab publicly stated it did not order the attack.

Pirates held hostages in inhumane conditions and occasionally tortured and killed them during the year.

On February 28, two hostages held on a pirate vessel were killed as a Danish warship opened fire on it. The 17 pirates surrendered and the Danes took over the vessel, freeing the other 16 hostages on board.

Unknown assailants killed numerous government and regional officials, as well as clan elders who participated in political processes.

For example, on February 8, a bomb attack at a restaurant frequented by government officials in Mogadishu wounded 37 persons and killed nine, including two parliamentarians.

On May 1, a suicide bomber attacked a TFG delegation visiting Dhusamareb, Galgaduud Region, killing three persons and injuring several others, including the former TFG minister of interior.

Fighting between clans, particularly over water and land resources, resulted in killings and displacement. There were also reports of revenge killings. Authorities investigated very few cases, and there were no reports any investigations resulted in formal action by local justice authorities.

For example, in February in Galkacyo, gunmen shot dead five civilians, most of them women, after opening fire on a crowd. The attack was believed to be a clan revenge killing.

In December clan fighting over water wells in Balaldhere, Galgaduud, left 30 people dead and 60 injured.

Land mines throughout the country caused civilian deaths (see section 1.g.).

### **b. Disappearance**

There were no confirmed reports authorities committed politically motivated or other disappearances during the year.

Militia kidnapped persons during the year.

On August 14, a Dhulbahante clan militia in Buhodle, Togdheer Region, kidnapped four men from the Habar Je'elo clan, demanding the Somaliland administration release Jama Abdi (Kuutiye), who had been imprisoned since 2004

on terrorist charges. Habar Je'elo clansmen organized themselves to rescue Kuutiye, but the four men were released without conditions due to traditional elders' intervention. The kidnapers were upset a prisoner exchange between the Dhulbahante's Sool, Sanaag, and Cayn (SSC) militia movement and the Somaliland administration did not include Kuutiye.

Al-Shabaab abducted persons during the year.

For example, on January 12, al-Shabaab in Bar Deere, Gedo Region, paraded a vehicle with two Kenyan government officials it had abducted from the Wajir District of Kenya. The officials remained in captivity at year's end.

The abduction of humanitarian and NGO workers was a problem (see sections 1.g. and 5).

Doctors Without Borders workers Blanca Thiebaut and Montserrat Serra, who were kidnapped from the Dadaab Refugee camp in Kenya and taken into Somalia in October 2011, were not heard from during the year.

Pirates continued to kidnap persons. The TFG assisted in some piracy recovery operations.

On July 11, near Galkacyo, suspected pirates kidnapped three Kenyan aid workers for International AID Services.

Piracy-related kidnappings in the Gulf of Aden and the Indian Ocean declined from previous years as a result of international antipiracy efforts. The International Maritime Bureau noted there were 49 incidents of piracy in Somalia in 2012, compared to 160 in 2011. According to the European Union Naval Force, pirates held approximately four vessels and 108 persons at year's end.

Two Danish Refugee Council aid workers kidnapped in October 2011 were rescued on January 25.

A July 18 Chinese-led operation freed 26 fishermen, mainly Chinese and Vietnamese, whom pirates seized in 2010.

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

The Transitional Federal Charter (TFC), provided for the right to physical security. The provisional federal constitution that replaced the TFC in August prohibits torture and inhumane treatment. However, torture and other cruel, inhuman, or degrading treatment or punishment occurred.

Reports of sexual and gender-based violence in IDP camps committed by TFG forces, allied militia, and men in uniform increased compared to the previous year.

Puntland and Somaliland authorities beat journalists (see section 2.a.).

For example, on April 3, staff of Puntland's security ministry attacked five reporters and correspondents in Bosaaso's Bader Qazim airport as they were reporting the arrival of former security minister General Abdullahi Said Samatar. Prior to his arrival General Samatar expressed his intention to run for the Puntland presidency.

There were several cases throughout the year of al-Shabaab abusing and imposing harsh punishment on persons in areas under its control.

For example, on January 10, al-Shabaab arrested and tortured more than 20 businessmen on the outskirts of Mogadishu. The businessmen were reportedly arrested and tortured after they refused to comply with extortion demands.

There were widespread press reports throughout the year of al-Shabaab combatants engaging in forced marriages. In February al-Shabaab ordered parents in areas it controlled to compel their unmarried daughters to marry members of mujahidin forces.

There were also reports of al-Shabaab stoning to death couples accused of adultery and sex outside of marriage. In October al-Shabaab stoned to death a woman in Jamame, Lower Juba, after an al-Shabaab court found her guilty of having sex outside of marriage.

Female genital mutilation/cutting (FGM/C) was widespread (see section 6).

## **Prison and Detention Center Conditions**

Prison and detention center conditions remained harsh and life threatening throughout the country.

Physical Conditions: The approximate total number of prisoners and detainees throughout the country, including juvenile and female prisoners, was not known. A UN assessment found that at the end of July the Mogadishu Central Prison population was 950 individuals, of whom 14 were women and 39 were juveniles. Harsh conditions in prisons and detention centers throughout the country included overcrowding, poor sanitation, and lack of health care. Inadequate food, water, ventilation, and lighting continued to be persistent problems. Tuberculosis and pneumonia were reportedly widespread. Prisoners relied on their families and clans, who were expected to pay the costs associated with detention. In many areas prisoners depended on family members and relief agencies for food.

Information on the death rates in prisons and pretrial detention centers continued to be unavailable.

In prisons and detention centers, juveniles were frequently held with adults. Female prisoners were separated from males. Pretrial detainees often were not separated from convicted prisoners, particularly in the south and central regions. The incarceration of juveniles at the request of families who wanted their children disciplined remained an issue. At times juveniles held in prison so they would not be recruited forcibly by al-Shabaab were held in cells with al-Shabaab prisoners.

Administration: Prisons did not have ombudsmen and did not take steps to improve recordkeeping. Prison recordkeeping remained inadequate. There were limited alternatives to incarceration, although nonviolent offenders were sometimes released due to limited government resources to keep prisoners. Prisoners and detainees generally had access to visitors and were allowed to practice their religion.

Monitoring: Puntland and Somaliland authorities permitted prison monitoring by independent nongovernmental observers. In Somaliland a prison conditions management committee organized by the UN Development Program and composed of medical doctors, government officials, and civil society representatives continued to visit prisons. Somaliland also allowed the UN Political Office for Somalia (UNPOS) Human Rights Unit to visit prisons; Puntland, however, denied access.

In April the UN Independent Expert for Somalia visited several detention centers in Puntland and Somaliland. He found a significant number of unlawful or arbitrary detentions. Women and girls were detained for disobeying their parents or husbands. He described detention conditions as “close to inhumane, and water and sanitation were frequently lacking. Ventilation was poor, with only small slits for windows. Prisons were overcrowded and stifling[ly] hot. Inmates slept on bare floors.”

A team composed of representatives of different UN agencies conducted an assessment of the Mogadishu Central Prison and held meetings with officials from various institutions within the criminal justice sector. The assessment team also consulted with representatives of civil society and interviewed prisoners detained at the Mogadishu Central Prison. The UN team confirmed the separation of women and men, but noted separation between adults and juveniles was not consistent. The UN team also concluded prisoners’ living conditions in Mogadishu Central Prison fell short of meeting minimum international and national standards. For example, 120 inmates were being held in cells designed for a maximum of 50 persons.

Improvements: During the year the UN Office on Drugs and Crime (UNODC) rehabilitated prisons in Somaliland and Puntland. UNODC also conducted training for prison security and management personnel.

Al-Shabaab operated dilapidated detention centers in areas under its control in the south and central regions. No statistics were available, but observers estimated thousands were incarcerated in inhumane conditions for relatively minor “offenses” such as smoking, listening to music, watching or playing soccer, or not wearing a hijab.

#### **d. Arbitrary Arrest or Detention**

The TFC prohibited arbitrary detention. The provisional federal constitution also prohibits illegal detention. The TFG security forces and allied militias, Somaliland and Puntland authorities, and al-Shabaab arbitrarily arrested and detained persons.

#### **Role of the Police and Security Apparatus**

Police forces fell under a mix of regional administrations and the TFG/government. The national police force was under the jurisdiction of the



Ministry of Interior. The overall police commandant was appointed by the president. The TFG slowly expanded its presence outside of Mogadishu as al-Shabaab was forced out or left the towns of Afgoye, Balad, and Merka in Lower Shabelle Region.

Two separate police forces operated in Mogadishu, one under the control of the TFG government and the other under the Benadir regional administration. At year's end, the federal police force was present in seven of the 16 districts of Mogadishu. Police officers in Mogadishu often owed their positions largely to clan and familial links rather than to government authorities.

Police were generally ineffective in the south and central regions. With the expulsion of al-Shabaab from many of the larger towns, local police duties fell to SNA troops and allied militia. Command and control of federal police was limited, and the police forces lacked the basic infrastructure and logistical support needed to become more effective. As in previous years, there were media reports troops fired on civilians and engaged in arbitrary arrests and detention, extortion, looting, and harassment.

Somaliland and Puntland both maintained police forces in their areas of control. Their respective police forces fell under their interior ministries.

In the south and central regions, Puntland, and Somaliland, abuse by police and militia members was rarely investigated, and the culture of impunity remained a problem. Police generally failed to prevent or respond to societal violence, as local residents preferred to use community-based reconciliation mechanisms to resolve conflicts.

### **Arrest Procedures and Treatment While in Detention**

The TFC provided and the provisional federal constitution provides for arrested persons to be brought before judicial authorities within 48 hours. Pre-1991 codified law required warrants based on sufficient evidence issued by authorized officials for the apprehension of suspects; prompt notification to arrestees of charges and judicial determinations; prompt access to lawyers and family members; and other legal protections. However, adherence to these procedural safeguards was rare. There was no functioning bail system or equivalent. Authorities did not provide indigents a lawyer. They did not hold suspects under

house arrest. Security force members and corrupt judicial officers, politicians, and clan elders were able to use their influence to have detainees released.

Arbitrary Arrest: TFG, Somaliland, and Puntland authorities arbitrarily arrested and detained numerous persons, including persons accused of terrorism and of supporting al-Shabaab. Authorities frequently used allegations of al-Shabaab affiliation to justify arbitrary arrests.

On August 16, national security agency officials arrested a federal parliamentarian for providing information to the UN Monitoring Group on Somalia and Eritrea that implicated the former parliamentary speaker/finance minister and the chief of immigration in a passport corruption scheme. On September 1, a military court stated he was being tried for treason. Authorities dropped all charges in late September.

Puntland authorities conducted sweeps without warrants to arrest youths they perceived as suspicious, as did governmental forces in Mogadishu. On July 31, Puntland security forces arrested 53 persons suspected to have links with al-Shabaab and piracy gangs as part of an extensive security campaign.

On May 7, Somaliland forces opened fire on peaceful demonstrators in Las Anod, Sool Region, and arrested 64 participating minors. The demonstration supported the newly formed Khatumo State, which was created out of certain regions claimed by both Somaliland and Puntland. At least one student was killed and nine people wounded, including a secondary school teacher. On May 12, the students' parents called upon the Somaliland administration to release the detained minors, who were being held in the Mandera Detention Center, and expressed concern over their health conditions. In June Somaliland's president reached a peace deal with the SSC militia representing the regions, which included release of the 64 minors.

On October 7, ASWJ forces briefly detained three traditional clan elders from Guriel, Dhusamareb, and Matabaan towns for not arresting individuals who had recently killed civilians in the region.

#### **e. Denial of Fair Public Trial**

The TFC provided for an independent judiciary. The provisional federal constitution states, "the judiciary is independent of the legislative and executive branches of government."

The civilian judicial system remained largely nonfunctioning in the south and central regions. The provisional federal constitution calls for a High Commission of Justice, a Supreme Court, a Court of Appeal, and courts of first instance. Some regions established local courts that depended on the dominant local clan and associated factions for their authority. The judiciary in most areas relied on some combination of traditional and customary law, Sharia, and the penal code of the pre-1991 Siad Barre government.

Civilian judges were often afraid to try cases for safety reasons, leaving the majority of civilian cases to be tried in military court. As of September mobile courts, under a pilot project funded by the UN, were hearing approximately 200 cases a month. These courts were introduced in districts where judges were not physically safe.

In Somaliland functional courts existed, although there was a serious shortage of trained judges and legal documentation upon which to build judicial precedent. There was reportedly widespread interference in the judicial process by officials. International NGOs reported local officials often interfered in legal matters and the public order law was often invoked to detain and incarcerate persons without trial.

On June 11, the most senior Hargeisa court magistrate was shot while returning home. The shooting was believed to be connected to a corruption case in which the judge issued prison sentences to three former Somaliland officials arrested in March for allegedly misappropriating food aid. Somaliland officials were suspected of interfering in the case in favor of the ruling. One of the convicted officials' brothers confessed to organizing the assassination and claimed the assassins had fled to Mogadishu. A Somaliland court of appeals reversed the sentence for two of the convicted former officials on October 10; the two were released from prison the same day.

In Puntland there were reports the administration intervened in and influenced cases, particularly those involving journalists. Despite these courts having some functionality, they lacked the capacity to provide equal protection under the law.

Traditional clan elders mediated conflicts throughout the country. Clans frequently used traditional justice, which was swift. Traditional judgments sometimes held entire clans or subclans responsible for alleged violations by individuals.

## **Trial Procedures**

The TFC provided for every person to enjoy the presumption of innocence, be informed as soon as reasonably practicable, in a language that he or she understands and in detail, of the charges; have the right to communicate with a lawyer of choice whenever required, and have adequate time and facilities to prepare a defense. It also provided for free legal services for individuals who could not afford them. It did not address the right to a fair and public trial without undue delay, to a trial by jury, to confront witnesses and present witnesses and evidence, not to be compelled to testify or confess guilt, or the right of appeal.

The provisional federal constitution states, “every person has the right to a fair public hearing by an independent and impartial court or tribunal, to be held within a reasonable time.” According to the provisional federal constitution, persons enjoy the right to a presumption of innocence; to be informed promptly of the reason for arrest or detention in a language which he or she understands; to be brought before a competent court within 48 hours of the arrest; to choose, and to consult with, a legal practitioner and for the state to provide a legal practitioner if he or she cannot afford one; and not to be compelled to self-incriminate. The provisional constitution does not address trial by jury, access to government-held evidence, confronting witnesses, or whether someone can appeal against a court’s ruling. Most rights relating to trial procedures were not respected in practice.

Although the public welcomed the establishment of a TFG military court in 2009 for its ability to address indiscipline and violations against civilians, concerns arose in 2011 over lack of due process and sentences hastily handed down to both security personnel and civilians. Defendants in military courts rarely had legal representation or the right to appeal. Those sentenced to execution were sometimes executed within hours of the court’s verdict. An August 2011 state of emergency decree gave military courts jurisdiction over crimes, including those committed by civilians, in parts of Mogadishu from which al-Shabaab had retreated. This decree remained in effect during the year.

In Somaliland defendants generally enjoyed a presumption of innocence, the right to a public trial, and the right to be present and consult with an attorney in all stages of criminal proceedings. Defendants could question witnesses, present witnesses and evidence, and have the right to appeal. Somaliland provided free legal representation for defendants who faced serious criminal charges and were unable to hire a private attorney, and had a functioning legal aid clinic. However,

there were alleged instances of political and executive interference in the determination of high-profile political and security cases. A July 2011 Somaliland Ministry of Justice and UNODC study found 70 percent of prison inmates in the region were sentenced by a first instance court without the opportunity to appeal their convictions.

In May Somaliland forces arrested 28 civilians accused of attacking a military base in Hargeisa over a land dispute. The morning after their arrest, a military court sentenced 17 to death, released three, postponed the trial of another three due to injuries incurred during the incident, and sentenced five to life in prison. On May 19, Special Representative of the UN Secretary General Augustine Mahiga urged the immediate transfer of the cases to a civil criminal court and encouraged Somali authorities to ensure fair trial rights were respected in a new trial. The Somaliland Human Rights Commission and the University of Hargeisa's law department petitioned the Somaliland Supreme Court to have the cases retried in civilian court; the Supreme Court had not responded by year's end. The detainees remained in prison at year's end.

In Puntland clan elders resolved the majority of cases using customary law known as "Xeer." Those with no clan representation in Puntland were subject to the administration's more formalized judicial system.

On May 13, authorities in Puntland sentenced to death Farah Mohamud Yusuf, the self-declared president of "Ras Asyer" state located in Puntland territory. Puntland also sentenced 10 others to life in prison. None of the accused was present at the closed-door trial or allowed to present evidence and witnesses in their defense. Puntland's president later pardoned the convicted.

There was no functioning formal judicial system in al-Shabaab-controlled areas. In Sharia courts defendants generally were not given the right to defend themselves, produce witnesses, or be represented by an attorney.

### **Political Prisoners and Detainees**

TFG, Somaliland, and Puntland authorities arrested journalists as well as other persons critical of authorities during the year (see section 2.a.).

For example, on April 17, Puntland authorities arrested Bile Mohamud Qabowsade after he wrote articles accusing the administration of negligence in development

initiatives in the Bari Region. He was held in police custody for several days before being transferred to the Bosaaso Central Prison without a trial. On September 22, he was released after having served five months in prison with no trial.

On July 8, a Hargeisa court sentenced clan elder Boqor Osman Aw-Mahmoud (Buur Madow) to a one-year prison term for defamation of Somaliland's political leaders. He had previously accused Somaliland authorities of corruption and security-related abuses. He was released on July 18.

On August 16, Somali National Security Agency officials arrested a federal parliamentarian. On September 1, he was told he was being tried for treason. TFG officials reported his arrest was politically motivated retaliation for his cooperation with the UN Monitoring Group on Somalia and Eritrea, which had implicated the former parliamentary speaker/finance minister and the chief of immigration in a passport corruption scheme. All charges were dropped in late September.

### **Civil Judicial Procedures and Remedies**

The inability of the judiciary to handle civil cases involving such matters as defaulted loans or other contract disputes encouraged clans to handle these cases internally. There were no lawsuits seeking damages for, or cessation of, human rights violations in any region during the year. The provisional federal constitution provides for “adequate procedures for redress of violations of human rights.”

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

The TFC provided for the sanctity of private property and privacy. The provisional federal constitution states that “every person has the right to own, use, enjoy, sell, and transfer property” and that the home is inviolable. In practice authorities searched property without warrants.

Al-Shabaab withdrew from most of Mogadishu in August 2011, relinquishing homes and land it had previously confiscated from Mogadishu residents or which had been abandoned during clashes between Ethiopian forces and extremists in 2007. With Mogadishu’s improved security, people increasingly returned to their homes throughout the year, causing some disputes over land ownership. There was no mechanism to address such disputes.

### **g. Use of Excessive Force and Other Abuses in Internal Conflicts**

Killings: Fighting during the year involving the TFG/government, its allied forces, and African Union (AU) forces against al-Shabaab resulted in the death and injury of civilians and caused the displacement of many others.

On August 8, the TFG signed an action plan with the UN to end the killing and maiming of children.

Fighting between Somali forces killed civilians. On June 19, a clash involving Somali forces near Mogadishu's milk factory in the Hodan District killed two civilians in a makeshift IDP camp. Camp residents alleged the fighting stemmed from a disagreement over ownership of a house.

Al-Shabaab's use of mortar attacks in Mogadishu and improvised explosive devices (IED) injured or killed civilians during the year. Al-Shabaab also attacked public markets, killed humanitarian workers and other civilians, and carried out attacks on government officials.

For example, al-Shabaab claimed responsibility for the April 4 bombing of the national theater where the TFG prime minister and several other government officials were attending a ceremony. The attack killed eight people, including Somali Olympic Committee Chair Aden Yabarow Wiish and Somali Football Federation Chief Said Mohamed Nur (Mugambe).

On April 10, an explosive device packed in an ice box in a Baidoa food market detonated, killing 13 and wounding 40. The victims were almost entirely female traders, street vendors, and customers.

On August 27, al-Shabaab in Merka killed Food and Agriculture Organization staff member Yassin Mohamed Hassan. Al-Shabaab killed 10 other persons that day before evacuating Merka in the face of an AMISOM/TFG offensive.

International forces and fighting between international forces and al-Shabaab killed civilians.

On January 9, artillery fire exchanged between AMISOM and al-Shabaab resulted in the death of a Muslim cleric and wounded scores of civilians after Mogadishu's

Alhidaya mosque was hit in the crossfire. It was unclear which side had fired the errant rounds.

On January 15, Kenyan fighter jets conducting air strikes on the town of Jilib, Lower Juba, against al-Shabaab reportedly resulted in the death of seven children when a missile landed in a house. Results of an investigation were not made public.

Human Rights Watch called on the government of Kenya to investigate civilian casualties that occurred during an August 11 shelling by Kenyan naval ships of al-Shabaab anti-aircraft artillery installations in Kismayo. Naval shells reportedly hit the houses of and killed two boys and a pregnant woman.

According to Human Rights Watch, TFG-allied militias committed summary executions and torture in the towns of Beletweyne and Baidoa early in the year after capturing the towns from al-Shabaab. For example, Shabelle Valley Alliance (the Hiraaan governor's militia) members forcibly entered a building that housed members of the Takfir Islamic sect and abducted five men on February 8. The militia took the men to a nearby bridge where they shot and killed four of them. The report also cited sources that stated Ethiopian troops and militia members arbitrarily detained persons in the towns.

Abductions: Humanitarian workers were abducted during the year; at year's end several of them remained captive.

For example, on June 29, unknown gunmen attacked a Norwegian Refugee Council convoy in Kenya's Dadaab refugee complex, killing a driver on the spot and kidnapping four international staff. Kenyan and Somali forces rescued the four aid workers on July 2 in Alibule.

Physical Abuse, Punishment, and Torture: The number of reports of TFG forces and allied militias committing sexual violence, including rape, against women in and around Mogadishu IDP camps increased compared to the previous year.

There were many cases throughout the year of abuses, including harsh punishment, by al-Shabaab in areas under its control. In February in Baidoa, Bay Region, Ethiopian and Somali forces found human remains in the cellar of the city's central police station, suggesting al-Shabaab used the facility for torture and killings.



More cases involving land mines and other unexploded ordnance were reported than in previous years.

On February 27, a land mine blast at a soccer stadium in Mogadishu killed five to 10 fans watching a match between two neighborhood teams.

On July 18, in Baidoa, a mine left behind by al-Shabaab exploded and killed six children who were playing with it.

Child Soldiers: Reports of child soldiers in the national security forces and allied militias continued. Given the absence of established birth registration systems, it was often difficult to determine the exact age of national security force recruits. There continued to be reports the TFG detained children it believed to be associated with al-Shabaab.

The SNA continued to employ screening methods to prevent the recruitment and use of child soldiers. New SNA recruits who received training by international partners outside of Somalia before being inducted officially into the SNA were interviewed and medically screened before being sent to Bihanga, Uganda. These SNA recruits were also subjected to multiple levels of vetting, including interviews and medical screening in Bihanga. The screenings in Bihanga identified 15 individuals out of 581 new recruits in 2012 as too immature for training.

The SNA lacked a sufficient number of military barracks to house all its soldiers. SNA soldiers often lived in their own homes with their families. The Mogadishu military “camps” that did exist were not clearly defined or demarcated and did not prevent family members from entering the camps. Reports that families, including soldiers’ children, were sometimes present in the “camps” continued.

On July 3, the TFG signed an action plan with the UN to end the recruitment and use of children by the SNA. The child soldier focal point positions, vacant after the government replaced the TFG, were filled by year’s end.

There continued to be reports children were included in the country’s numerous clan and other militias. ASWJ/Central cooperated with UNICEF and had ongoing programming in Dhusmareeb that handed over suspected child soldiers to child soldier rehabilitation programs. ASWJ/Gedo forces integrated with the SNA and had its troops vetted by an international team comprised of senior SNA generals, international military advisors, and a technical monitor.

The use of child soldiers by al-Shabaab continued. According to HRW, children in al-Shabaab training camps underwent grueling physical training, inadequate diet, weapons training, physical punishment, and religious training, and had to witness the punishment and execution of other children. Al-Shabaab used children in combat, including by placing them in front of other fighters to serve as human shields, and also used them as suicide bombers. In addition, al-Shabaab used children in support roles such as carrying ammunition, water, and food; removing wounded and killed militants; gathering intelligence; and serving as guards. According to the UN, al-Shabaab recruited children as young as eight from schools and madrassas. These children were sometimes used to plant roadside bombs and other explosive devices. Somali press frequently carried accounts of al-Shabaab indoctrinating children at “dugsi” or schools and forcibly recruiting students into their ranks.

Before al-Shabaab’s expulsion from Kismayo, Baidoa, and Merka during the year, al-Shabaab forced boys 15 and older to fight or be executed.

On January 22, al-Shabaab abducted and inducted at least 200 boys in Afgoye during a public gathering.

Al-Shabaab forced high school students from Kismayo into fighting the AMISOM offensive in southern Somalia between May and June.

Other Conflict-related Abuses: Armed groups, particularly al-Shabaab but also national forces and militia, deliberately restricted the passage of relief supplies and other items indispensable to the survival of the civilian population or impartial humanitarian organizations, particularly in the south and central regions. A July 2011 report of the UN Monitoring Group on Somalia and Eritrea described the security context and humanitarian operational environment facing aid agencies as being “among the most prohibitive in the world.” Nine humanitarian personnel were killed, one was wounded, and four were kidnapped during the year. Humanitarian access was generally good in the Somaliland and Puntland regions, including the contested territories of Sool and Sanaag, although NGOs experienced various levels of harassment from local authorities in both Somaliland and Puntland.

Small-scale diversion of WFP wet food commodities, with suspected TFG involvement, occurred. TFG, allied militia, and KDF forces reportedly looted and

collaborated in the diversion of humanitarian aid. A KDF commander allegedly received medical aid equipment from a local NGO and sold the equipment in Kenya, splitting his profits with the local NGO.

TFG-allied militia and police fought among themselves over the sharing of looted aid. There was a reported increase of looting by national forces in Afgoye after the transfer of federal power in September.

During the weekend of April 7 and 8, Yusuf Mohamed Siad's (Indha Adde) militia fired upon Turkish development workers who were trying to enter the Digfer Hospital to begin a site survey for its rehabilitation. The TFG did not arrest Siad.

In prior years most international aid organizations evacuated their staff or halted food distribution and other aid-related activities in al-Shabaab-controlled areas due to killings, extortion, threats, harassment, and expulsions. International aid agencies increasingly relied on Somali staff and local organizations to deliver relief assistance there.

In January the ICRC announced it was temporarily suspending delivery of food assistance intended for more than a million people from Mogadishu to areas under al-Shabaab control. This suspension resulted from al-Shabaab blocking ICRC commodities in parts of central and southern Somalia, and in January al-Shabaab revoked the permission of ICRC to operate in its areas of control for distributing what it claimed was contaminated food unfit for human consumption. On January 30, al-Shabaab subsequently burned 2,000 metric tons of ICRC rations in Merka. On March 13, al-Shabaab issued the same ban against Save the Children for distributing expired porridge.

On October 8, al-Shabaab banned the Islamic Relief aid agency from working in areas under its control for "repeatedly failing, despite persistent warnings, to comply with operational guidelines" and for covertly extending the operations of banned organizations, particularly WFP." Islamic Relief warned a ban would jeopardize its work providing food, water, sanitation, health care, and support for income generation to 1.3 million people and denied any connection to WFP.

As a result of al-Shabaab's humanitarian access restrictions, taxation on livestock, and failed water redistribution schemes, many residents in al-Shabaab-controlled areas fled their homes for refugee camps in Kenya and Ethiopia and IDP camps in

Puntland, Somaliland, and TFG/government-controlled areas. Al-Shabaab attempted to restrict these movements.

On June 4, in Ceel Adde, Gedo Region, al-Shabaab destroyed the town's only water pump. Residents speculated the action was an attempt to force residents to urge the KDF and TFG troops to leave the area. In August al-Shabaab also destroyed water pumps in the Afgoye area in response to an AMISOM offensive on Merka.

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

The TFC provided and provisional federal constitution provides for freedom of speech and of the press.

Journalists were subjected to violence, harassment, arrest, and detention in all regions. The National Union of Somali Journalists (NUSOJ) reported 18 journalists were killed across the country in 2012, and 14 were wounded in Mogadishu. According to the Somaliland Journalists Association (SOLJA), more than 79 journalists were arrested in Somaliland during the year, a significant increase compared to previous years. Reporters Without Borders noted this was the "deadliest year" on record for the country's journalists.

Freedom of Speech: Individuals in TFG/government-controlled areas were generally not restricted from criticizing the government. In Somaliland and Puntland, individuals generally enjoyed the ability to criticize their governments publicly and privately without reprisal, although there were exceptions including if they included criticism of officials' alleged corruption or if the criticism was considered to concern security interests.

On March 12, in the outskirts of Mogadishu, al-Shabaab barred clerics from delivering sermons and lectures in mosques without authorization from its administrators. Al-Shabaab closed mosques in these areas after the clerics refused to comply with its directive to encourage the public to participate in fighting against TFG and African Union forces.

In Somaliland the Sool governor's security forces arrested at least one person who was scheduled to meet with international human rights researchers; the arrested man was released after 24 hours (see section 5).

Freedom of Press: Print media consisted largely of short, photocopied independent and government-owned dailies published in the larger cities. Several of these publications included criticism of political leaders and other prominent persons.

Most citizens obtained news from foreign radio broadcasts, primarily the BBC's Somali Service and the Voice of America's Somali Service. There were several FM radio stations throughout the south and central regions, and one shortwave station operating in Mogadishu. As in previous years Somaliland authorities continued to prohibit the establishment of independent FM stations. The only FM station in Somaliland was government-owned. There were at least six independent radio stations in Puntland. Al-Shabaab continued to operate its FM station Radio Andalus from Kismayo until September 27, when AMISOM and Somali troops advanced on the city. It closed the Baidoa Radio Andalus affiliate in February when pro-TFG forces captured the town.

Somaliland and Puntland authorities as well as al-Shabaab closed media outlets during the year.

On October 6, Puntland police under the order of the Ministry of Information closed the offices of Horseed Media in Bosaaso for "spreading false news meant to destabilize peace and stability of Puntland." The station remained closed at year's end.

The Puntland president's October 2011 suspension of Somali Channel Television and Universal Television for being obstacles to security was lifted. Both stations operated during the year.

On January 14, more than 100 Somaliland policemen shut down private television station Horn Cable Television. Somaliland's president earlier that day had described Horn Cable Television as a "nation destroyer" and accused it of broadcasting antigovernment propaganda. On January 15, Somaliland forces and presidential guards beat and arrested eight journalists who were staging a peaceful protest in front of the Somaliland presidential palace against the shutdown of Horn Cable Television. After the protest disbanded, Somaliland forces tracked down and arrested 13 additional journalists who had participated. The journalists were released on January 16 after a meeting with the Somaliland minister of interior. The station was allowed to resume its operations a few days after the closure.

Al-Shabaab forcibly closed broadcasting stations during the year. For example, on April 30, al-Shabaab took over Radio Markableey in Baardheere, Gedo Region, after the station refused to change its name to Andalus Islamic Radio. The station had been one of the few remaining semi-independent radio stations in al-Shabaab-controlled regions. Al-Shabaab immediately changed the station's name upon confiscating the station.

Violence and Harassment: Eighteen journalists were killed during the year (see also section 1.g.). TFG/government-aligned militia, authorities in Somaliland and Puntland, and al-Shabaab abused and harassed journalists.

TFG/government-aligned militia abused journalists.

On June 12, ASWJ arrested two radio journalists in Dhusamareb, Galgaduud Region, after receiving complaints regarding their reports on Ethiopian troops withdrawing from certain districts. ASWJ claimed the reports would encourage al-Shabaab to return to Dhusamareb, but released the journalists the same day.

Somaliland police arrested journalists.

For example, on January 8, Somaliland police arrested Royal Television reporter Yusuf Abdi Ali (Indho Quruh) after police received a complaint against the journalist for reporting on corruption involving humanitarian NGOs. He was released after 10 days.

In February Somaliland police arrested two journalists for reporting Ogaden National Liberation Front members from Eritrea had landed in Somaliland before crossing into Ethiopia. The two journalists were released six days after their arrest after entering a plea bargain in a Hargeisa court.

Puntland authorities continued to harass journalists, and gunmen killed journalists. The Puntland administration repeatedly dismissed accusations it did not respect media freedom. The administration continued to attribute its arrests of journalists to the journalists being irresponsible in their coverage of topics that threatened national security.

On March 3, Puntland police looted equipment from the Voice of Peace station in Bosaaso, confiscated the station's keys, arrested station director Awke Abdullahi Ali at his home, and closed the station. NUSOJ suggested Puntland's actions were

sparked by the station's broadcast of an interview with the spokesperson of an al-Shabaab-affiliated militia fighting Puntland forces in the Galgala Mountains. Awke Abdullahi was released from jail on April 29.

On July 12, security guards of the Bari regional governor severely beat Ahmed Muse Ali (Ahmed Jokar) from Royal Television network at the International Village Hotel in Bosaaso, where he was covering the campaign of a presidential candidate.

On August 2, Radio Daljir editor in chief and Galkacyo station manager Abdifatah Gedi survived an assassination attempt after armed gunmen shot him several times in front of the station's Garowe headquarters.

Al-Shabaab and other extremists killed journalists and continued to harass them. Journalists reported al-Shabaab threatened to kill them if they did not report positively on antigovernment attacks.

On January 17, al-Shabaab in Afgoye, Lower Shabelle, looted the Radio Afgoye headquarters, took over the station, and transferred journalist Ayub Yusuf Dalmar to Merka. He was released after three days. Al-Shabaab had previously ordered the station not to broadcast music.

On September 21, al-Shabaab claimed responsibility for the assassination of radio reporter Hassan Yusuf Absuge in Mogadishu. It accused him of working as a spy.

Censorship or Content Restrictions: Journalists engaged in rigorous self-censorship to avoid reprisals.

On June 3, Somaliland authorities arrested Ahmed Ibrahim Awale in Hargeisa for writing a book about clan lineages and systems in Somaliland. He was released on June 4 after the sultan of his subclan intervened with authorities, on condition that he remove passages with controversial material.

Puntland authorities, particularly the governor of Bari Region, banned press from covering the campaigns of Puntland presidential candidates before the official opening of the campaign season. The ban came one day after an opposition candidate announced his bid and criticized the Puntland president. The governor threatened those who disobeyed the order with closure of their offices.

Al-Shabaab banned journalists from reporting news that undermined Islamic law as interpreted by al-Shabaab and also told persons in areas it controlled they were forbidden to listen to international media outlets.

Libel Laws/National Security: Both the Somaliland and Puntland administrations cited national security concerns to justify their suppression of criticism. In July 2011 Puntland's president threatened journalists with arrest if they broadcast reports the administration considered harmful to Puntland's security. This practice continued during the year.

On January 9, Somaliland police arrested Abdiqani Hasan Farah (Gadari) of Universal Television in Las Anod after he aired a news report about a clan meeting in Taleh, Sool, regarding self-determination and possible secession from Somaliland. Police, reportedly acting under the direct order of the Somaliland minister of interior, accused the journalist of "exaggerating reports of a meeting that was creating instability in Sool, Sanaag, and Cayn regions." He was released after one day in custody.

Somaliland senior officials and ministers used their positions to harass journalists who reported on official corruption. On January 11, authorities in Borama, Awdal Region detained *Waheen* journalist Ali Ismail Aare for one week after he photographed a gas station and building belonging to the Somaliland vice president. Local residents had complained the buildings were constructed incorrectly and encroached upon roads, leaving no room for traffic or pedestrians.

### **Internet Freedom**

Authorities did not restrict access to the Internet, and there were no reports that the government monitored e-mail or Internet chat rooms.

According to the International Telecommunication Union, only 1.25 percent of persons in the country used the Internet in 2011.

In September al-Shabaab claimed responsibility for the Mogadishu abduction and beheading of online journalist Abdirahman Mohamed Ali.

### **Academic Freedom and Cultural Events**



Academics practiced self-censorship. The Puntland administration required that individuals obtain government permits in order to conduct academic research.

With the exception of al-Shabaab-controlled areas, there were no official restrictions on attending cultural events, playing music, or going to the cinema. The security situation effectively restricted access to and organization of cultural events in the south and central regions. In al-Shabaab-controlled areas, activities such as football and singing were banned.

## **b. Freedom of Peaceful Assembly and Association**

### **Freedom of Assembly**

The TFC provided for freedom of assembly, as does the federal provisional constitution. General insecurity effectively limited this right in many areas, and authorities in Puntland and Somaliland used force and killed protesters (see section 1.a.).

The minister of interior required his approval for all public gatherings, citing security concerns such as the risk of attack by al-Shabaab suicide bombers. However, this move was viewed by many as a means to prevent political dissent directed against Somali authorities, particularly the former TFG president.

Somaliland forcibly prevented its residents from assembling for protests and killed protesters (see sections 1.d. and 2.a.).

Somaliland police reportedly used force to disperse a demonstration against the Registration of Associations Committee's (RAC) April 20 determination that several political associations had not qualified to participate in the electoral process. Some of those arrested claimed to have been beaten.

Some residents of SSC regions called for self-determination, agreed to form a TFG-aligned regional state called Khatumo on January 10, and elected three rotating presidents. Somaliland forces repeatedly clashed with Khatumo's local militia and forcibly quelled pro-Khatumo demonstrations. For example, on January 12, Somaliland forces fired on and killed civilians who were staging demonstrations in Las Anod, Sool Region. Neighboring Puntland State, which also claims the Sool Region as its territory, condemned the attack and accused Somaliland of forcing people there to support the Somaliland administration.

In November Puntland presidential guards shot and killed a girl and wounded at least two other demonstrators who were protesting against the visit of Puntland's president to Qardho, Karkaar Region, and his one-year extension in office (see section 1.a.).

Al-Shabaab did not allow gatherings of any kind without prior consent.

### **Freedom of Association**

The TFC provided for freedom of association. The provisional federal constitution also protects freedom of association. There were no reports that TFG/governmental authorities restricted this freedom.

Persons in the south and central regions outside of al-Shabaab areas could freely join civil society organizations focusing on a wide range of issues. Civil society organizations were generally well respected by Somalis for their ability to deliver social services in the absence of functional government ministries.

Somaliland authorities prevented civil society from participating in meetings related to Somalia, which it perceived as undermining Somaliland sovereignty, including the federal roadmap process.

Some Puntland civil society members stated that oversight of and interference in their activities increased during the year. The Puntland administration prohibited civil society organizations and residents from participating in civic education activities related to the federal draft constitution process, since Puntland was undergoing its own state constitution awareness-raising process. Puntland did allow its residents to participate in the national constituent assembly that adopted the federal provisional constitution on August 1 as well as on a committee that finalized the provisional constitution's drafting.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The TFC provided for the right of citizens to travel freely within the country. The provisional federal constitution states every person lawfully residing within the country has the right to freedom of movement, freedom to choose their residence, and freedom to leave the country. In practice freedom of movement was restricted in some parts of the country.

In-country Movement: Ad hoc checkpoints operated by armed militias, clan factions, TFG forces and allied groups, and al-Shabaab inhibited movement and exposed citizens to looting, extortion, and harassment. For example, on September 9, after AMISOM began shelling Kismayo in an offensive to take the port city from al-Shabaab, al-Shabaab ordered Kismayo residents not to flee the city and warned residents they would face fines if they were caught attempting to leave. On November 25, President Hassan Sheikh Mohamud ordered the dismantling of illegal checkpoints in Benadir Region, which includes Mogadishu. By year's end government forces and police dismantled the majority of checkpoints.

Somaliland restricted TFG officials, including those from Somaliland, from entering Somaliland. It also prevented traditional elders in Somaliland from traveling to Mogadishu to participate in the selection processes for the federal parliament and national constituent assembly.

Al-Shabaab arrested elders attempting to participate in the federal roadmap process. In the Hiraan and Shabelle regions, it arrested more than 100 traditional elders it suspected of intending to participate in the selection process for national constituent assembly delegates and parliamentarians. Most of the elders were released after two to three weeks in custody.

Foreign Travel: Few citizens had the means to obtain passports. Given widespread passport fraud, many foreign governments did not recognize the Somali passport as a valid travel document.

### **Internally Displaced Persons (IDPs)**

On July 17, the Office of the UN High Commissioner for Refugees (UNHCR) announced the population exodus from the country had exceeded one million, with refugees having fled mainly to Kenya (534,200 registered Somali refugees at the end of July), Yemen, and Ethiopia. There were more than 1.36 million IDPs

across the country during the reporting period. According to the UNHCR, a third of Somalia's population lived in forced displacement throughout the year.

Conflict and drought resulted in continued displacement and new displacements. On March 15, the governor of Gedo reported an estimated 5,000 people were displaced by al-Shabaab-related conflict during a two-week period in March. The UNHCR reported that after TFG officials urged people to evacuate the Afgoye corridor on February 13, in the lead-up to a TFG/AMISOM offensive against al-Shabaab, 17,500 people fled Afgoye during a 10-day period, the majority to Mogadishu.

The UNHCR reported that between August 2011 and July 2012, approximately 63,000 persons returned to Mogadishu, mostly IDPs. The UNHCR in February began assisting IDP returns from Mogadishu. On February 19, the UN, TFG, Turkey, and the Organization of Islamic Cooperation formed a policymaking body to address returns, evictions, and related humanitarian issues in Mogadishu.

Authorities in the TFG/government, Somaliland, and Puntland administrations provided some protection and assistance to IDPs, although the response in TFG/government areas was largely ineffective as a consequence of limitations on resources, capacity, and poor coordination.

The July 2011 report of the UN Monitoring Group on Somalia and Eritrea described the security context and operational environment aid agencies faced in Somalia as "among the most prohibitive in the world." TFG forces and aligned militia looted and collaborated in the diversion of humanitarian aid from intended beneficiaries in Mogadishu. Most international aid organizations evacuated their staff or halted food distribution and other aid-related activities in al-Shabaab-controlled areas due to continued killings, extortion, threats, and harassment.

Gender-based violence, including sexual assault of female IDPs, remained a problem. Women and children living in IDP settlements in Bosaaso and Galkacyo, Puntland State; Hargeisa, Somaliland; and along the Afgoye corridor reported a large number of rapes to UN implementing partners. The number of reports of TFG forces and allied militias committing sexual violence, including rape, against women in and around Mogadishu IDP camps increased compared to the previous year. There was also a reported increase in rapes within IDP camps in Puntland.

Puntland authorities continued to sporadically arrest and forcibly return individuals from the south and central regions, particularly those from Bay and Bakool.

In January Puntland's president ordered security forces to confiscate vehicles transporting displaced people from the south and to send the IDPs back to their home areas.

In August Sool regional authorities issued a decree ordering young male IDPs (generally between the ages of 17 and 30) residing in Las Anod and originating from the southern regions to leave Las Anod by September 12. The order was expected to affect an estimated 400 men from the Bay, Bakool, and Benadir regions. The regional governor accused these youth of destabilizing the region and of being linked to al-Shabaab. The order was not enforced, but did cause some to voluntarily leave before the deadline.

### **Protection of Refugees**

The UNHCR reported that 2,128 refugees and 8,481 registered asylum seekers resided in the country. Most of them were persons from the Oromiya and Ogaden regions of Ethiopia who arrived between 1996 and 2000 and lived in the Somaliland and Puntland regions.

Access to Asylum: The TFC provided that political asylum may be granted to persons who flee their or another country because of political, religious, and cultural persecution. The provisional federal constitution states every person who has sought refuge in the country has the right not to be returned or taken to any country in which that person has a well-founded fear of persecution. However, there was no official system for providing such protection.

Refoulement: Somaliland ended all registration of asylum seekers in 2008. An unknown number of Ethiopians and others wanted to claim asylum in Somaliland during the year.

Somaliland continued its practice of forcibly returning refugees and asylum seekers to Ethiopia. Somaliland authorities detained 56 Ethiopian refugees and asylum seekers and deported 33 of them on August 30 after violence broke out between them and the local community at the Refugee Social Welfare Center in Hargeisa. Hundreds of Ethiopians had been camped out there since October 2011. Most of the 33 made their way back to Somaliland the following week.

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

The TFG completed the September 2011 Roadmap for Ending the Transition during the year, partnering with representatives of Puntland, Galmudug, ASWJ, and the international community. This included drafting a provisional federal constitution, forming an 825-member NCA that ratified the provisional constitution, selecting a 275-member federal parliament, and holding speakership and presidential elections.

Al-Shabaab continued to lose territory in the south and central regions. Local governance structures in place before al-Shabaab took over were typically reinstated, although there were cases of unilateral appointments and interference by former TFG president Sheikh Sharif and the TFG minister of interior in post-al-Shabaab district level leadership formation.

#### **Elections and Political Participation**

Recent Elections: On May 5, under the roadmap process, 135 traditional clan elders convened in Mogadishu to nominate 825 NCA delegates to consider the provisional federal constitution. The elders also nominated parliamentarians for Somalia's 275-member federal parliament to serve four year terms under the provisional constitution. There were accusations of bribery and intimidation involved in the selection of the 135 traditional elders and in their nomination of parliamentarians, but overall, the parliamentarians were viewed by the roadmap signatories and others as broadly representative of their communities.

A 27-member Technical Selection Committee (TSC), assisted by international observers from the African Union, League of Arab States, European Union, Intergovernmental Authority on Development (IGAD), Organization of Islamic Cooperation, and UNPOS vetted and approved the NCA delegates and federal parliament nominees submitted by the traditional elders. In some cases, TSC members and their families were threatened and intimidated during the process. On August 1, the NCA ratified the provisional federal constitution. The federal parliament was inaugurated on August 20. On August 28, parliament elected Professor Mohamed Sheikh Osman (Jawari) as its speaker.

On September 10, in the presence of international observers, the parliament held an indirect presidential election through a secret ballot in which Hassan Sheikh Mohamud defeated incumbent TFG president Sheikh Sharif in the second and final round of voting. There were unsubstantiated reports of presidential candidates bribing parliamentarians in exchange for their vote. The election was broadcast live on television and Internet sites. Sheikh Sharif conceded defeat and deemed the vote as fair. The election was the first federal presidential election to be held inside Somalia in more than four decades.

On October 6, President Hassan Sheikh Mohamud nominated Abdi Farah Shirdon (Saacid) as prime minister, and the federal parliament approved his appointment. The parliament endorsed a 10-member cabinet on November 13.

Somaliland laws prevented citizens in its region from participating in the TFG, the federal draft constitution process, consultative meetings on ending the political transition in Somalia, and the federal parliament.

In Somaliland parliamentary elections were last held in 2005 and were two years overdue. Somaliland has a bicameral parliament comprised of an appointed 82-member House of Elders, known as the Guurti, and an elected 82-member parliament with proportional clan representation. In the first quarter of the year, Somaliland's RAC registered nine political associations that could compete to become political parties. Some persons in Somaliland blamed parliamentarians for the delayed elections, accusing them of deliberately failing to pass electoral legislation in the interest of self-preservation. Parliament, however, cited registration fraud, insecurity, and technical problems as the main constraints to holding timely elections.

Puntland State has a single-chamber 66-member parliament appointed by a Council of Elders, referred to as the Council of Issims. In 2009 the council elected Abdirahman Mohamed Mohamud (Farole) as Puntland State's president.

On April 18, Puntland State's constituent assembly overwhelmingly adopted a state constitution that enshrines a multiparty political system. The constitution's passing also extended the four-year term under which Farole was selected by one year to January 2014 since the constitution called for a five-year presidential-term moving forward. This extension led to small -scale protests scattered across Puntland, as well as the Puntland administration's ban on media covering opposition candidates who claimed Farole's term had expired.

Al-Shabaab prohibited citizens in areas it controlled from changing their al-Shabaab administrators. Some al-Shabaab administrations, however, consulted local traditional elders on specific issues and allowed preexisting district committees to remain in place.

Political Parties: There were no official political parties in the south and central regions, and there was no official mechanism to register parties. However, there were several political associations describing themselves as parties. For example, President Hassan Sheikh claimed to be elected from the Peace and Development Party. The provisional constitution provides that every citizen has the right to take part in public affairs, and this right includes forming political parties and participating in their activities and being elected for any position within a political party. According to the provisional constitution, the federal parliament is responsible for forming the National Independent Electoral Commission whose responsibilities include regulating the political party system.

The Somaliland and Puntland constitutions and electoral legislation limit the number of political parties to three and establishes conditions pertaining to their political programs, finances, and constitutions.

Somaliland conducted a registration period for political associations, and in April the RAC announced six associations that had fulfilled the requirements to compete against the three established political parties in local council elections. RAC's disqualification of seven associations led to short-lived protests across Somaliland, mainly because the RAC had failed to explain why the associations had not qualified. The rejected associations launched a supreme court case against RAC on July 30; the court ruled in favor of the RAC in September. The nonqualified associations' members subsequently merged into the registered associations and parties.

In August Puntland finalized legislation that allowed the opening of a registration period for political associations. In September the Transitional Puntland Electoral Commission (TPEC) opened the official registration period, and by year's end six political associations had officially registered with TPEC to compete in local council elections scheduled for 2013.

Participation of Women and Minorities: The roadmap process included specific quotas for women's political participation. According to the Garowe II Principles



signed by the roadmap signatories on February 17, 30 percent of the NCA was to be composed of women. The final representation was approximately 24 percent. The Garowe II Principles also dictated the federal parliament should consist of at least 30 percent women, who were to be nominated by the 135 traditional elders (who were all men) and approved by the TSC before the elders could nominate men to the parliament. Several traditional elders and their clan constituencies refused to adhere to the regulations, and only 14 percent of seats in the final federal parliament were held by women. The previous Transitional Federal Parliament had 6.7 percent of its seats held by women.

The TFG cabinet under Prime Minister Abdiweli Mohamed Ali included one woman and two ethnic minority members among 18 positions. The subsequent 10-member cabinet appointed in November had two women, including the first female deputy prime minister/foreign affairs minister.

Civil society, minority clans, and Puntland State called for the abolition of the “4.5 formula” by which political representation was divided among the four major clans with the minority clans combined as the “five.” Under this system, minority clans were allocated a fixed and low number of slots on roadmap committees, in the NCA, and in the new parliament. In 2011 the roadmap signatories signed the Garowe Principles on the Finalization and Adoption of the Constitution and the End of the Transition (referred to as Garowe I Principles), in which they agreed that the 4.5 formula would be retained during the roadmap process and during the subsequent government’s first term, due to security conditions that kept many Somalis from directly participating in the process. However, they agreed that after the new parliament’s and president’s first four-year term, subsequent elections and federal institutions would be based on universal suffrage, direct elections, and no longer subject to the 4.5 formula.

Prime minister Abdi Farah Shirdon and president Hassan Sheikh Mohamud broke with this 4.5 formula in their appointment of two minorities to the 10-member cabinet, for a total of 20 percent minority representation. Minorities were given the same number of ministerial positions as the four major clans.

Somaliland had two women in its 86-member House of Representatives and one woman in the Guurti, who was appointed after her husband, who occupied the seat, died. Women traditionally were locked out of the Guurti. There was one woman minister out of 24 positions. The cabinet included no minorities.

In September 2011 Somaliland's president appointed a committee comprised of cabinet and parliamentary members and charged it with recommending ways to strengthen women's and minorities' political participation. On March 8, the president recommended parliament implement some of the recommendations. The committee's report was not made public. One recommendation was for a quota of 25 to 30 percent female representation in Somaliland institutions. On September 1, the parliament voted to remove legislation on the quota from the parliamentary agenda, claiming there was nothing barring women's participation and therefore no special provisions were necessary.

A woman remained chair of the Somaliland human rights commission during the year, and a minority youth served as the deputy chair. The Somaliland president appointed a presidential advisor on minority issues and increased advocacy and initiatives such as a scholarship trust fund for minority university students.

In Puntland there have never been any women on the Council of Elders. Exclusively male traditional clan elders select members of the state's parliament, leaving little opportunity for women to be chosen. Only three women served in the 66-member parliament during the year. The 18-person cabinet included only one woman and did not include members of minority groups. The nine-member TPEC included one woman.

#### **Section 4. Corruption and Lack of Transparency in Government**

The TFC called for all necessary measures to combat corruption and all fraudulent activities. TFG officials engaged in corrupt practices with impunity. The provisional constitution calls for an independent anticorruption commission to be formed with a mandate to investigate allegations of corruption in the public sector; the commission was not established by year's end.

It was unclear what regulatory or penal frameworks were in place to combat or punish official corruption at the federal level and in the regional entities, including financial disclosure laws or laws providing for public access to government information.

Corruption was endemic within the TFG. The UN Monitoring Group on Somalia and Eritrea reported in August that in 2011 almost \$12 million in outlays (or more than a quarter of total TFG expenditures) went to the operating costs of the offices of the three top leaders (president, speaker, and prime minister). The SEMG

recommended to the UN Security Council that former speaker of Parliament Sharif Hassan be sanctioned. The former president criticized the SEMG's chair and the report itself for being "one-sided, unfair, destructive, and politically motivated."

On July 19, Mohamed Ali Hussein, a senior official in the TFG Ministry of Finance, was assassinated by unknown gunmen in Mogadishu. Shortly prior to his murder, the UN Monitoring Group on Somalia and Eritrea had interviewed him regarding TFG corruption.

The TFG established a Public Finance Management Unit in the prime minister's office in 2010. Its May 2011 audit investigative financial report (AIFR) detailed millions of dollars in discrepancies between TFG financial statements in 2009 and 2010 and the actual internal and external revenue received. The World Bank commissioned a financial diagnostic assessment (FDA) of the AIFR in 2011. The FDA's findings included a lack of reliable information and lack of cooperation by the Ministry of Finance on providing financial information for transparency and accountability purposes, and that TFG revenue exceeded official TFG expenditures by \$72 million in 2009 and \$39 million in 2010.

During the year TFG forces and allied militia continued to extort money from taxi, bus, and truck drivers, at times resulting in death.

Individual officials were tried in Somaliland for corruption during the year. Somaliland had a functioning national auditor and a governance and anticorruption commission appointed by Somaliland's president.

Puntland did not have an anticorruption commission or equivalent, and no Puntland officials were tried for corruption during the year.

Al-Shabaab extorted high and unpredictable zakat (a Muslim obligation to donate to charity during Ramadan) and sadaqa (a voluntary charity paid by Muslims) taxes in the regions it controlled. It also diverted and stole humanitarian food aid.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A number of local and international human rights groups operated in areas outside of al-Shabaab-controlled territory, investigating and publishing their findings on human rights cases. However, security considerations constrained their ability to

operate freely in the south and central regions. International and local NGOs generally worked without major restrictions in Puntland and Somaliland, although exceptions occurred.

During the year attacks and incidents of harassment of humanitarian, religious, civil society, and NGO workers resulted in deaths. Several human rights defenders fled the country.

The TFG was sometimes cooperative and responsive to NGOs. However, in matters related to official corruption, the TFG frequently dismissed the findings of international and local NGOs as well as the World Bank and internal auditors.

After receiving permission from the Somaliland Ministry of Justice to conduct a general human rights assessment mission in Las Anod, researchers from an international human rights organization were denied access to the region by the Sool governor upon their arrival in April. After refusing the researchers' entry, the governor's security personnel arrested at least one person who was scheduled to meet with the researchers; the arrested man was released after 24 hours.

UN and Other International Bodies: On May 11, the TFG signed a memorandum of understanding with OHCHR and the UNPOS for formalized technical cooperation in seven thematic human rights areas (1) signing, ratifying, and implementing international human rights treaties; (2) protecting and promoting the rights of vulnerable groups, including women, children, internally displaced persons, and journalists; (3) strengthening the rule of law and the administration of justice; (4) building institutional capacity to promote and protect human rights; (5) raising awareness about human rights through media; (6) advancing economic and social rights; and (7) facilitating effective cooperation with special procedures of the Human Rights Council.

On May 16 and 17, the TFG Ministry of Constitutional Affairs and Reconciliation and Ministry of Information, with the support of UN, the National Democratic Institute, and the International Development Law Organization, hosted a conference on fundamental rights, media law, and transitional justice as it relates to the provisional federal constitution, which was later adopted on August 1.

Puntland was the only region during the year that denied permission for the UNPOS's Human Rights Unit to conduct confidential interviews with detainees, claiming that it was for the UN staff's own protection.

Government Human Rights Bodies: The provisional federal constitution calls for an independent national human rights commission and a truth and reconciliation commission to be formed within 45 days and 30 days, respectively, of the formation of the Council of Ministers and outlines their various responsibilities and powers. These commissions were not formed by year's end.

Limited resources as well as inexperienced commissioners impacted the Somaliland Human Rights Commission that was formed in 2011. The nominee for Puntland's position of human rights defender withdrew and was not replaced.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The TFC provided equal protection and benefit in regards to race, birth, language, religion, sex, and political affiliation, but did not prohibit other forms of discrimination. The provisional federal constitution states all citizens, regardless of sex, religion, social or economic status, political opinion, clan, disability, occupation, birth, or dialect shall have equal rights and duties before the law. The provisional constitution does not prohibit discrimination based on sexual orientation or gender identity. Antidiscrimination provisions were not effectively enforced in any of the regions.

### **Women**

Rape and Domestic Violence: Laws prohibiting rape existed; however, they were almost never enforced. Penalties for rape range from death to several years of imprisonment, depending on the judge and aggravating factors. There were no laws against spousal rape. The UNHCR and UNICEF documented patterns of rape perpetrated with impunity, particularly of displaced women (see section 2.d.) and members of minority clans.

Federal forces and militia members engaged in rape. From October to December, more than 522 rape cases were reported in Mogadishu, 40 percent allegedly committed by men in uniform, according to service and care providers. The SNA made some arrests of security force members accused of raping women and girls. A military court in Mogadishu sentenced four men to five years' imprisonment in November for having raped a 15-year-old girl. President Hassan Sheikh, noting the increase in reported rape cases, announced in December government security personnel found guilty of rape would face execution.

Traditional approaches to dealing with rape tended to ignore the victim's situation and instead communalized the resolution or compensation for rape through a negotiation between members of the perpetrator's and victim's clans. Federal, Puntland, and Somaliland authorities prosecuted rape cases during the year. However, for the most part formal structures were rarely used to address rape. Victims suffered from subsequent discrimination based on the attribution of "impurity."

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. Many cases were not reported.

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

Female Genital Mutilation/Cutting: See Section 6, Children.

Sexual Harassment: There was no data on, laws pertaining to, or governmental programs to address sexual harassment, although it was thought to be widespread in all regions. The provisional federal constitution provides that all workers, particularly women, shall have a special right of protection from sexual abuse and discrimination. Labor law and practice are required to comply with gender equality in the work place.

Reproductive Rights: Decisions regarding reproduction were often determined by a woman's husband. Women had very limited ability to decide freely and responsibly the number, spacing, and timing of their children. Women had very limited information about and little, if any, access to contraception. According to the UN, only an estimated 1 percent of girls and women aged 15-49 had access to a modern method of contraception. With inadequate health care, women rarely had skilled attendants during childbirth or essential obstetric and postpartum care. The UN reported that of the approximately 1.5 million people that were currently displaced, an estimated 600,000 were women of reproductive age, and more than 80 percent of them had no access to safe maternal delivery. The maternal mortality

ratio was 1,400 per 100,000 live births, due to complications during labor that often involved anemia, FGM/C and/or the lack of medical care. A woman's lifetime risk of maternal death was one in 14.

Discrimination: Women did not have the same rights in practice as men and were systematically subordinated, despite provisions in the federal constitution prohibiting such discrimination.

Only men administered Sharia. It was often applied in the interests of men. According to Sharia and the local tradition of blood compensation, anyone found guilty of the death of a woman paid to the victim's family only half the amount required for a male's death.

Women formed a negligible part of those employed in both the formal public and private sectors because of girls' low education level. However, women were not discriminated against in owning or managing businesses, except in al-Shabaab-controlled areas. Al-Shabaab claimed women's participation in economic activities was anti-Islamic.

While formal law and Sharia provide women with the right to own and dispose of property independently, women often were obstructed from practicing such rights because of various legal, cultural, and societal barriers. By law, girls and women could inherit only half the amount of property to which their brothers were entitled. A 2010 report from a local women's organization in Somaliland indicated that 75 percent of women did not own livestock, land, or other property. Only 15 to 20 percent had received inheritance from male family members.

## **Children**

Birth Registration: Under the TFC, citizenship was derived from birth in the country or from one's father or from being in the country at the time of the TFC's signing in 2004. The provisional federal constitution states there shall be only one Somali citizenship, and the House of the People of the Federal Parliament of Somalia shall enact a special law that shall define how to obtain, suspend, or lose it. Parliament had not passed such a law by year's end.

According to UNICEF, only 3 percent of births were registered in the country. Births were not registered in Puntland or in the south and central regions. Under the Somaliland constitution, citizenship is derived from being a descendant of a

person residing in Somaliland on June 26, 1960 or earlier. Birth registration occurred in Somaliland for hospital and home births; however, limited capacity combined with the nomadic lifestyle of many persons caused numerous births in this region to go unregistered. Failure to register births did not result in denial of public services such as education.

Education: Education needs were partially met by a patchwork of institutions, including a traditional system of Quranic schools; public primary and secondary school systems financed by communities, foreign donors, and the Somaliland and Puntland administrations; Islamic charity-run schools; and a number of privately run primary and secondary schools, universities, and vocational training institutes. In many areas children did not have access to schools other than madrassas. Attendance rates for girls were lower than for boys.

In al-Shabaab-controlled areas, jihad was included in the curriculum of elementary schools. There was a continued influx of foreign teachers to teach in private Quranic schools and madrassas. These schools were inexpensive and provided basic education; however, there were reports they required the veiling of small girls and other conservative Islamic practices.

Child Abuse: Child abuse and rape of children were serious problems, although no statistics on their prevalence were available. There were no known efforts by regional governments to combat these practices. Children remained among the chief victims of continuing societal violence.

The practice of “asi walid,” a custom whereby parents placed their children in prison for disciplinary purposes and without any legal procedure, continued. Many of these juveniles were incarcerated with adults.

Child Marriage: Child marriage was prevalent. In rural areas parents often compelled their daughters as young as 12 to marry. In areas under its control, al-Shabaab arranged compulsory marriages between their soldiers and young girls and used the lure of marriage as a recruitment tool.

The provisional federal constitution does not specify a minimum legal age of marriage but notes no marriage shall be legal without the free consent of both the man and the woman.



Early marriages were common; 45 percent of women aged 20 to 24 were married by age 18 and 8 percent were married by age 15.

Harmful Traditional Practices: The provisional federal constitution describes female circumcision as cruel and degrading, equates it with torture, and prohibits the circumcision of girls. However, female genital mutilation/cutting (FGM/C) was widespread throughout the country. As many as 98 percent of women and girls had undergone FGM/C; 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.

In December 2011 Puntland's president signed a bill into law that outlawed some forms of female circumcision but allowed for "Sunna circumcision," which consists of the removal of the prepuce (retractable fold of skin) and/or the tip of the clitoris. The legislation also abolished blame if a child were to die during FGM/C. Human rights workers largely considered this a retrogressive step in the protection of women's rights.

The Somaliland administration worked with the UN FGM/C task force to develop an FGM/C policy for Somaliland, but the policy was not completed by year's end.

Sexual Exploitation of Children: Child prostitution was illegal in all regions. In al-Shabaab areas the penalty was flogging or even death by stoning. There is no formal statutory rape law or minimum age for consensual sex. Child pornography is not expressly prohibited. Sexual exploitation of children reportedly occurred. Girls were also reportedly placed in pirates' homes to be exploited in sexual servitude.

Child Soldiers: The use of child soldiers was a problem (see section 1.g.).

Displaced Children: There was a large population of IDPs and children who lived and worked on the street.

Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

## **Anti-Semitism**

There is no known Jewish community in the country, and there were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Persons with Disabilities**

The TFC did not address discrimination on the basis of disabilities, although it did state the government shall guarantee the welfare of persons with disabilities. The provisional federal constitution provides equal rights before the law for those with disabilities, and prohibits the state from discriminating against those with disabilities. This was not enforced in practice. The provisional federal constitution does not specifically discuss intellectual, mental, or sensory disabilities.

There are no laws to ensure building access for disabled persons.

The needs of most persons with disabilities were not addressed. A report by the World Health Organization and Swedish International Development Aid (SIDA) estimated up to 15 percent of the population was physically disabled. In 2011 SIDA found 75 percent of all public buildings were not designed to include accessibility for wheelchair users, and there were no public transportation facilities with wheelchair access.

Several local NGOs in Somaliland provided services for persons with disabilities and reported numerous cases of discrimination. Without a public health infrastructure, there were few specialized institutions to provide care or education for the mentally ill. It was common for such persons to be chained to a tree or restrained within their homes.

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

More than 85 percent of the population shared a common ethnic heritage, religion, and nomad-influenced culture. In most areas members of groups other than the predominant clan were excluded from effective participation in governing

institutions and were subject to discrimination in employment, judicial proceedings, and access to public services.

Minority group clans included the Bantu (the largest minority group), Benadiri, Rer Hamar, Brawanese, Swahili, Tumul, Yibir, Yaxar, Madhiban, Hawrarsame, Muse Dheryo, Faqayaqub, and Gabooye. Intermarriage between minority groups and mainstream clans was restricted by custom. Minority groups, often lacking armed militias, continued to be disproportionately subject to killings, torture, rape, kidnapping for ransom, and looting of land and property with impunity by faction militias and majority clan members. Many minority communities continued to live in deep poverty and suffer from numerous forms of discrimination and exclusion.

### **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

Antidiscrimination provisions do not apply to lesbian, gay, bisexual, and transgender (LGBT) individuals. Sexual orientation was considered a taboo topic, and there was no public discussion of this issue in any region of the country. There were no known LGBT organizations and no LGBT events occurred. There were no reports of societal violence or discrimination based on sexual orientation due to severe societal stigma that prevented LGBT individuals from making their sexual orientation known.

### **Other Societal Violence or Discrimination**

Persons with HIV/AIDS continued to face discrimination and abuse in their local communities and by employers in all parts of the country. UNICEF reported that persons with HIV/AIDS were subjected to physical abuse, rejected by their families, and subjected to workplace discrimination and dismissal. Children with HIV-positive parents also suffered discrimination, which hindered access to services. There was no official response to such discrimination.

## **Section 7. Worker Rights**

### **Freedom of Association and the Right to Collective Bargaining**

The TFC provided for the right of workers to form and belong to unions and to strike. The provisional federal constitution provides for the right of every worker to form and join a trade union, to participate in the activities of a trade union, to

conduct legal strikes, and to engage in collective bargaining. There were no specific legal restrictions that limit these rights. The law does not provide limits on the scope of collective bargaining. The provisional federal constitution does not address antiunion discrimination or the reinstatement of workers fired for union activity. There were no particular groups of workers who were excluded from relevant legal protections. The TFG/government lacked the capacity to effectively enforce applicable laws.

Freedom of association was respected in practice. There were no known examples of collective bargaining. Worker organizations were independent of government and political parties. There were no reports of instances of government interference in the functioning of workers' organizations. There were no reported strikes during the year. There were no reports of antiunion discrimination by employers in practice or of union members being targeted by authorities or al-Shabaab.

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

The pre-1991 penal code and the TFC prohibited all forms of forced and compulsory labor. The provisional federal constitution states a person may not be subjected to slavery, servitude, trafficking, or forced labor for any purpose.

Authorities lacked the capacity to effectively enforce these laws. There were no data or reports on TFG/government efforts to prevent and eliminate forced labor in the country during the year.

Forced labor occurred in practice. Children and individuals from minority clans were reportedly used as porters in the khat trade as well as in farming and animal herding. The use of child soldiers was a problem (see section 1.g.). Al-Shabaab also forced persons in al-Shabaab-controlled camps to move to the countryside, reportedly to raise cash crops for al-Shabaab.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

#### **c. Prohibition of Child Labor and Minimum Age for Employment**

It was unclear whether there was a minimum age for employment. The pre-1991 labor code prohibits child labor, provides a legal minimum age of 15 for most

employment, prescribes different minimum ages for certain hazardous activities, and prohibits those under 18 from night work in the industrial, commercial, and agricultural sectors apart from such work that engages family members only. However, the TFC stated the government shall establish by law the minimum age. The provisional federal constitution states, “no child may perform work or provide services that are not suitable for the child’s age or create a risk to the child’s health or development in any way.” The provisional federal constitution defines a child as any person less than 18 years of age.

The federal Ministries of Labor, and Social Affairs, Gender and Family Affairs are responsible for enforcing child labor laws. In practice, however, these ministries did not enforce those laws. There was no specific TFG/government action during the year to prevent child labor or remove children from such labor.

Child labor was widespread. Recruitment and use of child soldiers was a problem. Young persons were commonly employed in herding, agriculture, and household labor from an early age. Children broke rocks into gravel and worked as vendors of cigarettes and khat on the streets. UNICEF estimated that from 1999 to 2005, 36 percent of children between the ages of five and 14 were in the workforce. The actual percentage of working children was believed to be even higher.

Also see the Department of Labor’s *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

#### **d. Acceptable Conditions of Work**

There was no national minimum wage.

The pre-1991 labor code requires equal pay for equal work. It provides for a standard workweek of 48 hours and at least nine paid national holidays and 15 days annual leave, requires premium pay for overtime, and limits overtime to a maximum of 12 hours per week. The law sets occupational health and safety standards.

Although the TFC included provisions for acceptable working conditions, there was no organized effort to monitor working conditions. The provisional national constitution does not address acceptable working conditions. The Ministry of Labor was responsible at the federal level for enforcement, although it was not

effective. There was no information on the existence or status of foreign or migrant workers in the country.

In practice wages and working conditions were established largely on the basis of ad hoc arrangements based on supply, demand, and the influence of a worker's clan.