



## UNHCR POSITION ON RETURNS TO SOUTHERN AND CENTRAL SOMALIA (UPDATE I)

### *Introduction*

1. There is general recognition of the fact that finding solutions to protracted large-scale displacement will be a major consideration in the stabilization and peace consolidation efforts in Somalia.<sup>1</sup> Against this background, in November 2013 the Government of the Federal Republic of Somalia, the Government of Kenya and UNHCR signed a tripartite agreement that sets out the legal framework for the voluntary repatriation of Somali refugees from Kenya to Somalia.<sup>2</sup> The agreement specifies that all returns should be voluntary and take place in safety and dignity. In July 2015, and while recognizing the fragile and fluid security situation in Somalia, the Tripartite Commission for the Voluntary Repatriation of Somali Refugees from Kenya agreed upon operational modalities to realize the safe, dignified and voluntary repatriation of Somali refugees from Kenya.<sup>3</sup> To contribute to the creation of conditions in Somalia that are conducive to successful and sustainable returns and reintegration, a Ministerial Pledging Conference<sup>4</sup> on Somali Refugees was jointly organized by the European Union and UNHCR in October 2015, for the purpose of mobilizing resources for both Kenya and Somalia under an Integrated Plan of Action for Sustainable Return and Reintegration of Somali Refugees from Kenya to Somalia.<sup>5</sup>

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<sup>1</sup> Norwegian Refugee Council/Internal Displacement Monitoring Centre (NRC/IDMC), *Somalia: Over a Million IDPs Need Support for Local Solutions*, 18 March 2015, <http://www.internal-displacement.org/assets/Uploads/201503-af-somalia-overview-en.pdf>, pp. 2-3.

<sup>2</sup> UNHCR, *Tripartite Agreement Between the Government of the Republic of Kenya, the Government of the Federal Republic of Somalia and the United Nations High Commissioner for Refugees Governing the Voluntary Repatriation of Somali Refugees Living in Kenya*, 2013, 10 November 2013, <http://www.refworld.org/docid/5285e0294.html>.

<sup>3</sup> The Joint Strategy and Operational Plan envisages the voluntary repatriation of 435,000 Somali refugees in phases from 2015 to 2019 and is based on experience from the Voluntary Repatriation Pilot Phase (December 2014 to June 2015), under which 2,589 Somali refugees returned voluntarily to their areas of origin. For further information, see UNHCR, *Voluntary Return and Reintegration of Somali Refugees from Kenya, Pilot Phase (8 December 2014 – 30 June 2015), Evaluation Report* (undated), <http://www.unhcr.org/560b962f9.html>; UNHCR, *Explanatory Note, Integrated Action Plan for Sustainable Return and Reintegration of Somali Refugees from Kenya to Somalia*, October 2015, <http://www.unhcr.org/561e55049.html>; UNHCR, *Action Plan 2016-2017: Integrated Action Plan for Sustainable Return and Reintegration of Somali Refugees from Kenya to Somalia*, October 2015, <http://www.unhcr.org/561e54069.html>.

<sup>4</sup> UNHCR, *Ministerial Pledging Conference on Somali Refugees: Creating Conditions for Voluntary Return* (undated), <http://www.unhcr.org/pages/55fac9aa6.html>.

<sup>5</sup> UNHCR, *Tripartite Commission for the Voluntary Repatriation of Somali Refugees from Kenya, Joint Communiqué*, 30 July 2015, <http://www.refworld.org/docid/5608e2234.html>. For further information relating to the Pledging Conference see <http://www.unhcr.org/pages/55fac9aa6.html>; and UNHCR, *Pledging Conference Raises Euro 94 Million to Help Somali Refugees Return Home*, 21 October 2015, <http://www.unhcr.org/562896076.html>. In November 2013, UNHCR launched a Global Initiative on Somali Refugees (GISR). Within this GISR framework, stakeholders met in August 2014 with the objective to (a) articulate a renewed commitment

2. Access to basic necessities such as water and sanitation, as well as health care and education are absent in many parts of Somalia; where such services exist, their capacity is often limited.<sup>6</sup> Warnings have been sounded that increased pressure on fragile services as a result of increased population numbers due to return movements from neighbouring countries could lead to tensions with local communities and IDPs living in the affected areas.<sup>7</sup> Similarly, increased competition over land and property could trigger further conflicts and insecurity.<sup>8</sup>

### *Security Situation*

3. The general security situation in Mogadishu and the regions of southern and central Somalia remains volatile.<sup>9</sup> Different conflict dynamics are playing out, involving Al Shabaab, clan militias and inter-clan disputes.<sup>10</sup> Fighting between clan militias and other inter-communal violence is reported to be a major

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to Somali refugees, (b) agree on a common ground in the search for solutions for them, and (c) take forward the process of galvanizing the international community towards these objectives. As a result, the Addis Ababa Commitment towards Somali Refugees was adopted on 20 August 2014. For further information see UNHCR, *The High Commissioner's Global Initiative on Somali Refugees* (undated), <http://www.unhcr.org/pages/527b8f7d6.html>; and UNHCR, *The High Commissioner's Global Initiative on Somali Refugees, Report on the Ministerial Meeting*, 20 August 2014, <http://www.unhcr.org/550befe49.html>. See also UNHCR, *Addis Ababa Commitment towards Somali Refugees*, 20 August 2014, <http://www.unhcr.org/540dac2c6.html>.

<sup>6</sup> UN Office for the Coordination of Humanitarian Affairs (OCHA), *2016 Somalia Humanitarian Needs Overview*, 25 November 2016, <https://www.humanitarianresponse.info/en/operations/somalia/document/2016-somalia-humanitarian-needs-overview>.

<sup>7</sup> UNHCR, *Action Plan 2016-2017, Integrated Action Plan for Sustainable Return and Reintegration of Somali Refugees from Kenya to Somalia*, October 2015, <http://www.unhcr.org/561e54069.html>, pp. 40, 44, 50. See also, UNHCR, *Yemen Situation: Regional Refugee and Migrant Response Plan Overview, October - December 2015 / January - December 2016 (Preliminary estimates)*, 5 October 2015, <http://www.refworld.org/docid/561378d24.html>. Returnees from Kenya who were interviewed by Justice Forum and the International Commission of Jurists reported that they were living as IDPs after their return to Mogadishu in 2014. They reported experiencing difficult living conditions, with insufficient access to food and water, overcrowding, no access to education for their children, as well as concerns relating to insecurity. Some also reported living in fear of being profiled as a member of Al Shabaab by government forces. Justice Forum and International Commission of Jurists, *Dignity Denied: Somali Refugees Expelled from Kenya in 2014*, 4 September 2015, <http://www.refworld.org/docid/565da2fba.html>, pp. 15, 22, 25, 28, 33, 40.

<sup>8</sup> The increasing number of returnees has reportedly already led to an increase in the number of disputes over land and property, as well as an increasing number of forced evictions and relocations of IDPs. NRC/IDMC, *Somalia: Over a Million IDPs Need Support for Local Solutions*, 18 March 2015, <http://www.refworld.org/docid/550fcb244.html>, pp. 9-11. See also Legal Action Worldwide and Norwegian Refugee Council, *Housing, Land and Property in Somalia, Persons of Concern in Somaliland and South-Central Somalia*, October 2014, <http://www.refworld.org/docid/565da3ed4.html>, pp. 27-29, 36-37.

<sup>9</sup> UN Security Council (UNSC), *Report of the Secretary-General on Somalia*, 8 January 2016, S/2016/27, <http://www.refworld.org/docid/5698a0b64.html>, para. 12. According to the Tony Blair Faith Foundation, in February 2016 "Somalia was once again among the deadliest countries for civilians, with 107 killed." Tony Blair Faith Foundation, *Global Extremism in February 2016*, <http://tonyblairfaithfoundation.org/sites/default/files/Extremism%20Monitor%202016.16.pdf>, p. 3. In January 2016 Somalia "saw more incidents related to violent extremism than any other country". Tony Blair Faith Foundation, *Global Extremism in January 2016*, <http://tonyblairfaithfoundation.org/religion-geopolitics/reports-analysis/report/global-extremism-january-2016>, pp. 7-8. "The volatile security situation has deteriorated since the beginning of the year [2015], making the delivery of assistance and protection services to people in need even more dangerous." OCHA, *2016 Somalia Humanitarian Needs Overview*, 25 November 2016, <https://www.humanitarianresponse.info/en/operations/somalia/document/2016-somalia-humanitarian-needs-overview> p. 11. In January 2016, the Armed Conflict Location and Event Data Project (ACLED) reported that for the second consecutive year Somalia showed the highest incidence of armed conflict events per 100,000 inhabitants (19.4), against an average African rate of 1.2 events per 100,000 inhabitants. ACLED also noted that "Somalia witnessed the highest number of battles in Africa, with 1,296 events recorded in 2015". These high levels of armed conflict events in 2015 nevertheless represented a decline compared to 2014, with ACLED reporting the number of such events in Somalia declined by more than 20 per cent in 2015 compared to the previous year. ACLED, *Conflict Trends (No. 45) Real-Time Analysis of African Political Violence*, January 2016, [http://www.acledata.com/wp-content/uploads/2016/01/ACLED\\_Conflict-Trends-Report-No.45-January-2016.pdf.pdf](http://www.acledata.com/wp-content/uploads/2016/01/ACLED_Conflict-Trends-Report-No.45-January-2016.pdf.pdf), pp. 2, 3. In November 2015 the UN Assistant Secretary-General for human rights Ivan Šimonović told reporters in Mogadishu at the end of a five-day visit to Somalia that "despite persisting challenges there is significant improvement in the security situation in Somalia". At the same time, he "stressed that Somalia continues to face a 'series of human rights challenges', such as recent allegations of serious human rights violations committed during military operations." UN News Service, *Somalia: Senior UN Official Calls for Global Support to Improve Human Rights Situation*, 17 November 2015, <http://www.refworld.org/docid/564ee93640b.html>.

<sup>10</sup> United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>.

destabilizing factor.<sup>11</sup> Such violence is reportedly often fuelled by disputes over land and political control.<sup>12</sup>

4. Civilians continue to be severely affected by the conflict, with reports of civilians being killed and injured in conflict-related violence, widespread sexual and gender-based violence against women and children, forced recruitment of children, and large-scale displacement.<sup>13</sup> Government forces, AMISOM troops and clan militia are reported to be responsible for grave human rights violations including killings, rape, other forms of sexual abuse and violence, and sexual exploitation.<sup>14</sup> Civilian casualties

<sup>11</sup> European Asylum Support Office (EASO), *Country of Origin Information Report: Somalia Security Situation*, February 2016, <http://www.refworld.org/docid/56e157934.html> (hereafter: EASO, *COI Report: Somalia Security Situation*), pp. 51-53; NRC/IDMC, *Global Overview 2015: People Internally Displaced by Conflict and Violence - East Africa*, 6 May 2015, <http://www.refworld.org/docid/55a61760e.html>; UN Human Rights Council, *Report of the Independent Expert on the Situation of Human Rights in Somalia*, 28 October 2015, A/HRC/30/57, <http://www.refworld.org/docid/565eb3434.html> (hereafter: OHCHR, *Independent Expert Report*), para. 8. “Al-Shabaab’s loss of territory in the face of military defeats, and the absence of viable alternative civilian administrations in its place, have resulted in the re-emergence of intercommunal conflicts in parts of southern and central Somalia.” UNSC, *Letter Dated 9 October 2015, from the Chair of the Security Council Committee Pursuant to Resolutions 751 (1992) and 1907 (2009) Concerning Somalia and Eritrea Addressed to the President of the Security Council, Report of the Monitoring Group on Somalia and Eritrea Pursuant to Security Council Resolution 2182 (2014): Somalia*, 19 October 2015, [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2015\\_801.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_801.pdf) (hereafter: UNSC, *Report of the Monitoring Group on Somalia*), p. 6.

<sup>12</sup> For example, where pro-Government forces and AMISOM have forced Al-Shabaab to retreat from homes and land, disputes over land have arisen. United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>. See also ICRC, *Annual Report 2014 - Somalia*, 9 June 2015, <http://www.refworld.org/docid/558131ac2c.html>. “Conflict throughout the Somali region – particularly in Southern and Central Somalia – has long revolved around access to fertile land and water resources [...] The removal of Al-Shabaab as a governing authority in many regions has created a power vacuum, with neither the Federal Government of Somalia nor the fledgling interim regional administrations sufficiently able to fill it [...] There has been a marked increase in intercommunal conflict since the end of the transition in 2012 [...] In Middle Juba – mostly still held by Al-Shabaab – inter-clan conflict [...] over pasturelands broke out early in 2015 [...] The Monitoring Group is concerned that, following the removal of Al-Shabaab from the region, historically marginalized communities will suffer at the hand of militarily stronger communities vying for fertile agricultural land for commercial exploitation along the lower reaches of the Juba river.” UNSC, *Report of the Monitoring Group on Somalia*, p. 15 (para. 28), and p. 16 (para. 32). The Rift Valley Institute (RVI) notes that there are frequently competing claims to land and property: by indigenous inhabitants with customary rights but no formal titles, by persons who obtained title due to their connections with the Siyad Barre regime, and the current occupiers of those properties who ousted the previous titleholders. The RVI observes that “struggles over resources within Somalia have tended to intensify parochial loyalties and harden notions of clan exclusivity [...] Collective claims by outsiders to ‘ownership’ of any portion of a territory lying within the acknowledged *deegaan* [the ‘home turf’] of another clan are unlikely to be acceptable to the hosts.” RVI, *Hosts and Guests: A Historical Interpretation of Land Conflicts in Southern and Central Somalia*, 2015, ISBN 978-1-907431-34-0, <http://www.refworld.org/docid/54f86b8f4.html>, pp. 5-8, 11, 18, 20, 32, 35. See also footnote 8.

<sup>13</sup> “Warring parties, including government forces, allied militia, opposition armed groups, and the African Union Mission to Somalia (AMISOM) and other foreign forces committed violations of the laws of war, resulting in numerous civilian casualties.” HRW, *Somalia: Civilians at Serious Risk*, 27 January 2016, <http://www.refworld.org/docid/56b120a111.html>. “With an increase in the number and variety of foreign and national forces, all of the security forces present in Somalia are believed to have targeted civilians, either as a deliberate tactic of war, in service of political or economic aims or through disproportionate use of force. [...] In the context of the anti-Al-Shabaab military offensive AMISOM, the Somali National Army (SNA) and its partners were often overstretched and forced to relinquish captured areas. Al-Shabaab subsequently committed violent reprisals on the civilian population perceived to have acquiesced in the transfer of power. UNSC, *Report of the Monitoring Group on Somalia*, p. 37 (para. 123); see also *idem*, p. 8 and Annex 6.1, pp. 226-227 (paras 3-4). See also United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>; UNSC, *Report of the Secretary-General on Somalia*, 8 January 2016, S/2016/27, <http://www.refworld.org/docid/5698a0b64.html>, paras 50, 64; OCHA, *2016 Somalia Humanitarian Needs Overview*, 25 November 2015, <https://www.humanitarianresponse.info/en/operations/somalia/document/2016-somalia-humanitarian-needs-overview>, pp. 5-11; UN General Assembly, *Resolution Adopted by the Human Rights Council on 2 October 2015*, 13 October 2015, [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a\\_hrc\\_res\\_30\\_20.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_hrc_res_30_20.pdf), para. 5; Somalia Humanitarian Country Team, *Contingency Plan Somalia, 2015-16 El Nino*, September 2015, <http://reliefweb.int/report/somalia/somalia-2015-16-el-ni-o-contingency-plan-september-2015>, p. 3.

<sup>14</sup> United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>; HRW, *World Report 2016 - Somalia*, 27 January 2016, <http://www.refworld.org/docid/56bd991f3f.html>; UN News Centre, *Somalia: Senior UN Official Calls for Global Support to Improve Human Rights Situation*, 17 November 2015, <http://www.un.org/apps/news/story.asp?NewsID=52575>. On 15 November 2015, at least 11 people who were queuing for food in an IDP camp in Mogadishu were killed after rival Somali security forces opened fire. BBC News, *Somali Refugees Killed as Forces Clash in Mogadishu*, 16 November 2015, <http://www.bbc.com/news/world-africa-34833538>. The use of sexual violence against civilians in Somalia is reported to continue unabated. “The main perpetrators were reported as unidentified armed men. There were also reports implicating the Somali national army and police force, Al-Shabaab, and some AMISOM contingents.” UNSC, *Report of the Secretary-General on Somalia*, 12 May 2015, S/2015/331, <http://www.refworld.org/docid/556581e64.html>, para. 62. See also UNSC, *Children and Armed Conflict: Report of The Secretary-General*, 5 June 2015, A/69/926-S/2015/409, <http://www.refworld.org/docid/557abf904.html>, paras 145-159; OHCHR, *Independent Expert Report*, paras 40-42. “Inter-clan conflict was once again a context in which rape was used as a tool to punish and assert dominance.” UNSC, *Report of the Monitoring Group on Somalia*, Annex 6.4, p. 244 (para. 49); see also *idem*, p. 38 (para. 127). A report by Journalists for Justice documents evidence of air strikes targeting civilian villages, livestock and wells by the Kenyan Defence Forces (KDF), in breach of international human rights and humanitarian laws. Journalists for Justice, *Black and White: Kenya’s Criminal Racket in Somalia*, November 2015, <http://www.jfjustice.net/userfiles/file/Research/Black%20and%20White%20Kenya's%20Criminal%20Racket%20in%20Somalia.pdf>, pp. 3, 7-12. President Hassan Sheikh Mohamud has reportedly criticised the KDF for causing many civilian casualties in Gedo Region. Africa

are also reported to result from indiscriminate use of force by AMISOM, including at checkpoints, in reaction to assaults on its personnel and convoys, and in airstrikes.<sup>15</sup> Further threats to the safety and security of civilians arise from armed clashes between Federated States over border demarcations, as well as from incidents of fighting between pro-Federal Government forces and Ahl al-Sunna wal-Jama'a.<sup>16</sup>

5. The police and security forces are reported to lack capacity.<sup>17</sup> Civilian authorities do not maintain effective control over the security forces.<sup>18</sup> Police officers and members of the military are reported to be responsible for serious human rights violations, including killings, rape and extortion of civilians.<sup>19</sup> In and around Mogadishu, members of government forces, allied militias, AMISOM troops, and persons referred to as "men wearing uniforms" have been reported to subject civilians to sexual violence, including rape (see para. 5 above).<sup>20</sup> The police and security forces are reportedly able to commit abuses in a climate of impunity. Law enforcement agencies are also reported to fail to prevent, or to respond to or investigate incidents of violence.<sup>21</sup> The civilian judicial system is reported to be largely non-functional across the country.<sup>22</sup> General crime rates have reportedly increased significantly in 2015.<sup>23</sup>
6. Al-Shabaab reportedly continues to pose a major threat to peace and security,<sup>24</sup> fighting against the Somali National Armed Forces (SNAF) and the African Union Mission in Somalia (AMISOM).<sup>25</sup> In response to continued military operations conducted by SNAF, AMISOM, and allies, notably Kenya

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Confidential, *Amisom Struggles: A Funding Gap and a String of Defeats Head a Long List of Problems for the African Alliance Fighting Islamist Militants*, 4 March 2016, [http://www.africa-confidential.com/article/id/11547/Amisom\\_struggles](http://www.africa-confidential.com/article/id/11547/Amisom_struggles).

<sup>15</sup> HRW, *World Report 2016 - Somalia*, 27 January 2016, <http://www.refworld.org/docid/56bd991f3f.html>. See also, United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>; EASO, *COI Report: Somalia Security Situation*, p. 59; UNSC, *Report of the Monitoring Group on Somalia*, p. 38 (para.127), and Annex 6.1, pp. 230-231 (paras 15, 17).

<sup>16</sup> United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>; EASO, *COI Report: Somalia Security Situation*, p. 22; HRW, *World Report 2016 - Somalia*, 27 January 2016, <http://www.refworld.org/docid/56bd991f3f.html>; HRW, *Somalia: Civilians at Serious Risk*, 27 January 2016, <http://www.refworld.org/docid/56b120a111.html>; UNSC, *Report of the Secretary-General on Somalia*, 8 January 2016, S/2016/27, <http://www.refworld.org/docid/5698a0b64.html>, para. 6; UNSC, *Report of the Secretary-General on Somalia*, 12 May 2015, S/2015/331, <http://www.refworld.org/docid/556581e64.html>, para.15.

<sup>17</sup> "In the cities from where Al Shabaab has been driven away, law and order has decreased. The police associated with SFG or their allies, lack the capacity and the integrity needed to be able to function." Lifos (Swedish Migration Board), *Security Situation in Southern and Central Somalia*, 29 April 2015 (in Swedish, with a summary in English), <http://Lifos.migrationsverket.se/dokument?documentSummaryId=34553> (hereafter: Lifos, *Security Situation in Somalia*). "Police were generally ineffective." United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>.

<sup>18</sup> United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>. "The Monitoring Group also received allegations against regional security forces outside the control of the FGS. In this regard, the unlawful use of force attributed to the forces of the Interim Jubba administration (IJA), including detentions, unlawful killings and torture, were the most frequently alleged." UNSC, *Report of the Monitoring Group on Somalia*, Annex 6.1, p. 229 (para. 12).

<sup>19</sup> See footnote 23.

<sup>20</sup> United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>; see also footnote 23.

<sup>21</sup> "Governmental authorities took minimal steps to prosecute and punish officials who committed abuses, particularly military and police officials accused of committing rape, killings, clan warfare, and extortion of civilians." Military courts have also been used to try civilians. United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>. See also, OHCHR, *UN Human Rights Expert Urges Somalia to Further Protect Human Rights During State-Building Process*, 1 June 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16028&LangID=E>.

<sup>22</sup> United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>.

<sup>23</sup> Lifos, *Security Situation in Somalia*.

<sup>24</sup> OHCHR, *Independent Expert Report*, p. 1, para. 13; UNSC, *Report of the Secretary-General on Somalia*, 12 May 2015, S/2015/331, <http://www.refworld.org/docid/556581e64.html>, paras 9, 11-12; NRC/IDMC, *Somalia: Over a Million IDPs Need Support for Local Solutions*, 18 March 2015, <http://www.refworld.org/docid/550fcb244.html>, p. 3; Lifos, *Security Situation in Somalia*; African Union, Peace and Security Council, *521st Meeting, Communique*, 30 June 2015, <http://www.peaceau.org/en/article/communique-of-the-521st-meeting-peace-and-security-council-on-the-joint-au-un-mission-in-somalia>, para. 4.

<sup>25</sup> UNSC, *Report of the Secretary-General on Somalia*, 8 January 2016, S/2016/27, <http://www.refworld.org/docid/5698a0b64.html>, para. 12; New York Times, *Somalia: Soldiers Killed in Rebel Attack*, 3 November 2015, <http://www.nytimes.com/2015/11/04/world/africa/somalia-soldiers-killed-in-rebel-attack.html>; Al Jazeera, *Al-Shabab Claims 'Scores' Killed in Attack on AU Troops*, 1 September 2015, <http://www.aljazeera.com/news/2015/09/al-shabab-claims-scores-killed-attack-au-troops-150901041528125.html>; Al Jazeera, *Somalia's Al-Shabab Attacks Military Base in Mogadishu*, 21 June 2015, <http://www.aljazeera.com/news/2015/06/al-shabab-kills-raid-mogadishu-army-base-150621051813728.html>.

and Ethiopia, Al-Shabaab has reportedly enhanced its ability to engage in asymmetric warfare with “increasing efficiency and lethality”,<sup>26</sup> which disproportionately affects the civilian population.<sup>27</sup> During 2014 and 2015, there were several large-scale attacks in Mogadishu targeting civilians and civilian infrastructure, including hotels, government buildings (including Villa Somalia which houses the Office of the President), as well as a Mogadishu hospital and Mogadishu International Airport.<sup>28</sup> The number of attacks in Mogadishu against humanitarian aid workers increased significantly in 2015, with 120 violent incidents being recorded, compared to 75 in 2014.<sup>29</sup> Al-Shabaab is also reported to be responsible for a wide range of grave human rights abuses, including extrajudicial killings, abductions and disappearances, rape and other forms of sexual violence, forced recruitment of children, forced marriages to Al-Shabaab members, restrictions on civil liberties and freedom of movement, and restrictions on NGOs and humanitarian assistance.<sup>30</sup>

7. Support for Al-Shabaab by the general population has reportedly decreased.<sup>31</sup> Al-Shabaab has reportedly been increasingly focused on eradicating what it perceives as espionage for or collaboration

<sup>26</sup> African Union, Peace and Security Council, 544th Meeting, *Report of the Chairperson of the Commission on the Follow-up of the Relevant Provisions of Communiqué PSC/PR/COMM. (DXXI) on the Situation in Somalia*, 18 September 2015, <http://www.peaceau.org/uploads/psc-rpt-somalia-18-09-2015-9p.pdf>, para.14.

<sup>27</sup> Human Rights Watch (HRW), *World Report 2016 - Somalia*, 27 January 2016, <http://www.refworld.org/docid/56bd991f3f.html>; OHCHR, *Independent Expert Report*, paras 14-15, 18; UNSC, *Report of the Secretary-General on Somalia*, 12 May 2015, S/2015/331, <http://www.refworld.org/docid/556581e64.html>, para. 83. “Al-Shabaab maintains an ability to adapt to changing circumstances and exploit weaknesses in the security and governance architecture. In the face of allied advances against the towns and villages it holds, the group can withdraw, blockade essential supplies from reaching the “liberated” populations, and simply wait until the security presence is sufficiently weakened or demoralized before striking again.” UNSC, *Report of the Monitoring Group on Somalia*, p. 7; see also *idem*, p. 37 (para. 125).

<sup>28</sup> “Al-Shabaab carried out targeted attacks on civilians and civilian infrastructure, in the capital, Mogadishu, and other towns under government or allied authority, and increased high-profile attacks on AMISOM facilities. [...] Al-Shabaab regularly targets civilians and civilian structures, particularly in Mogadishu, resulting in numerous casualties.” HRW, *World Report 2016 - Somalia*, 27 January 2016, <http://www.refworld.org/docid/56bd991f3f.html>. See also UNSC, *Report of the Secretary-General on Somalia*, 8 January 2016, S/2016/27, <http://www.refworld.org/docid/5698a0b64.html>, paras 12-14. “As both the fight against Al-Shabaab and the group’s grip on populations still under its control intensified, violations against civilians rose, with both sides using weapons and tactics that resulted in large civilian and military casualties. [...] Suicide attacks on civilian targets in urban areas, particularly hotels and public institutions, resulted in significant casualties.” UNSC, *Report of the Monitoring Group on Somalia*, p. 37 (para. 125); see also *idem*, p. 27 (para. 82), and Annex 6.1, p. 226 (para. 3). For further details of specific incidents see, for example, Reuters, *Dozens Dead after Al-Shabaab Islamists Bomb Town in Somalia*, 29 February 2016, <http://www.theguardian.com/world/2016/feb/29/dozens-dead-after-al-shabaab-islamists-bomb-town-in-somalia>; Reuters, *Islamists Kill Somalia’s Former Defence Minister with Car Bomb*, 15 February 2016, <http://af.reuters.com/article/topNews/idAFKCN0VO1M2>; UN News Service, *Somalia: UN Condemns Deadly Al-Shabaab Attacks Against Civilian Targets in Mogadishu*, 22 January 2016, <http://www.refworld.org/docid/56a5d2c340d.html>; Al Jazeera, *Al-Shabab Attacks African Union Base in Somalia*, 15 January 2016, <http://www.aljazeera.com/news/2016/01/al-shabab-attacks-african-union-base-somalia-160115070814884.html>; BBC, *Somali Forces End Mogadishu Restaurant Siege after Deadly Attack*, 22 January 2016, <http://www.bbc.com/news/world-africa-35377484>; New York Times, *Popular Hotel in Somalia Is Bombed by Militants*, 1 November 2015, <http://www.nytimes.com/2015/11/02/world/africa/2015-11-02-world-africa-sahafi-shabab-militants-attack-hotel-somalia.html>; OHCHR, *Independent Expert Report*, paras 14-15, 18; United States Department of State, *Country Reports on Terrorism 2014 - Foreign Terrorist Organizations: Al-Shabaab*, 19 June 2015, <http://www.refworld.org/docid/5587c7305f.html>; Reuters, *Somalia’s al Shabaab Say Fire Mortars at Presidential Palace*, 26 February 2015, <http://www.reuters.com/article/2015/02/26/us-somalia-security-idUSKBN0LU19G20150226>. See also International Crisis Group, *Crisis Watch Database*, <http://www.crisisgroup.org/en/publication-type/crisiswatch/crisiswatch-database.aspx> (apply filter for “Somalia” and the required time period).

<sup>29</sup> UNSC, *Report of the Secretary-General on Somalia*, 8 January 2016, S/2016/27, <http://www.refworld.org/docid/5698a0b64.html>, para. 71. The number of attacks in Mogadishu against humanitarian aid workers reportedly rose by 53 per cent in 2014 compared to 2013. See for example, UN General Assembly, *Assistance to Refugees, Returnees and Displaced Persons in Africa: Report of the Secretary-General*, 20 August 2015, A/70/337, <http://www.refworld.org/docid/560149a34.html>, para. 44; USAID, *Somalia – Complex Emergency*, 19 February 2015, [http://www.ecoi.net/file\\_upload/1788\\_1425133834\\_somalia-ce-fs02-02-19-2015.pdf](http://www.ecoi.net/file_upload/1788_1425133834_somalia-ce-fs02-02-19-2015.pdf); OCHA, *Somalia Humanitarian Key Messages*, July 2015, [http://reliefweb.int/sites/reliefweb.int/files/resources/150701\\_Somalia\\_Key\\_Humanitarian\\_Messages.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/150701_Somalia_Key_Humanitarian_Messages.pdf). See also UNSC, *Report of the Monitoring Group on Somalia*, p. 34 (para. 110) and p. 35 (para. 115).

<sup>30</sup> “Credible reports indicate that Al-Shabaab administers arbitrary justice and severely restricts basic rights in areas under its control, and continued to forcibly recruit children. Al-Shabaab committed targeted killings, beheadings and executions, particularly of those accused of spying. On February 7 [2015], Al-Shabaab publicly executed two women accused of working for NISA [National Intelligence and Security Agency] in Jilib, Middle Juba.” HRW, *World Report 2016 - Somalia*, 27 January 2016, <http://www.refworld.org/docid/56bd991f3f.html>. “Al-Shabaab committed the most egregious violations against civilian populations during the course of the mandate – particularly with regard to the forced recruitment of children [...] Al-Shabaab imposed violent punishments and severe restriction of rights on civilians still residing in its areas of control. Extrajudicial killings, torture, detention—for purposes of extortion and punishment—and denial of life-saving assistance were among the tactics deployed to both maintain its grip on the population and generate resources for an intensified military campaign.” UNSC, *Report of the Monitoring Group on Somalia*, p. 8, and Annex 6.1, p. 227 (para. 5). See also United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>; United States Department of State, *Country Reports on Terrorism 2014 - Somalia*, 19 June 2015, <http://www.refworld.org/docid/5587c73f15.html>; UNSC, *Children and Armed Conflict: Report of The Secretary-General*, 5 June 2015, A/69/926-S/2015/409, <http://www.refworld.org/docid/557abf904.html>, paras 145-159; UNSC, *Report of the Secretary-General on Somalia*, 12 May 2015, S/2015/331, <http://www.refworld.org/docid/556581e64.html>, paras 11-12; Lifos, *Security Situation in Somalia*.

<sup>31</sup> UNSC, *Report of the Secretary-General on Somalia*, 8 January 2016, S/2016/27, <http://www.refworld.org/docid/5698a0b64.html>, para. 104; Lifos, *Security Situation in Somalia*; Danish Immigration Service, *South Central Somalia: Country of Origin Information for Use in the*

with the Federal Government of Somalia (FGS), with civilians accused of engaging in such acts reportedly being executed.<sup>32</sup> More generally, the entity reportedly continues to engage in the targeted killing of civilians whom it views as the enemy, including government and security officials, members of regional administrations, members of pro-Government forces, humanitarian workers, NGO employees, UN staff and diplomatic mission staff, prominent peace activists, community leaders, clan elders and their family members, as well as people who express opinions opposed to it, such as journalists, politicians, teachers, religious and local leaders, and businessmen.<sup>33</sup> Al-Shabaab is also reported to block key routes and access to some of the areas recovered by the SNAF and AMISOM,<sup>34</sup> restricting freedom of movement of civilians and inhibiting trade, and negatively impacting humanitarian conditions. In July 2015, the threats posed by Al-Shabaab were considered too high for the UN to deploy a peacekeeping mission to Somalia.<sup>35</sup>

8. While Al-Shabaab has reportedly lost control of many of the cities and towns in the regions of central and southern Somalia, they still control some smaller towns and most rural areas<sup>36</sup> thereby limiting overall access by the FGS and other actors even to the urban centres under government control.<sup>37</sup> Furthermore, even in those cities that have been recovered by AMISOM/SNAF, the presence of Al-Shabaab is reported to remain significant at the urban periphery and in some parts of these cities.<sup>38</sup> Reports suggest that the entity often establishes illegal checkpoints to control movements of goods and persons on major supply routes and infiltrates cities mainly at night to launch attacks.<sup>39</sup> Some analysts maintain that it is more correct to say that the FGS “has influence” over these cities than to say that the

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*Asylum Determination Process*, 2 October 2015, <http://www.refworld.org/docid/560e863d4.html> (hereafter: DIS, *Security and Human Rights Issues in S/C Somalia*), p. 51. Note, however, that the Monitoring Group on Somalia and Eritrea reports that, “A resurgent Al-Shabaab appears increasingly able to exploit the failures of its opponents to consolidate control, establish local administrations, provide security and build public trust.” UNSC, *Report of the Monitoring Group on Somalia*, p. 6.

<sup>32</sup> These extrajudicial executions are reportedly carried out in public and within a few hours after an Al-Shabaab court has convicted and sentenced someone. OHCHR, *Independent Expert Report*, para. 15. See also, United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>; HRW, *World Report 2016 - Somalia*, 27 January 2016, <http://www.refworld.org/docid/56bd991f3f.html>; UNSC, *Report of the Monitoring Group on Somalia*, Annex 6.1, p. 227 (para. 5).

<sup>33</sup> “Al-Shabaab, which remained in control of significant swathes of the country, attacked civilians and civilian infrastructure and carried out numerous targeted killings and executions.” HRW, *Somalia: Civilians at Serious Risk*, 27 January 2016, <http://www.refworld.org/docid/56b120a111.html>. See also United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>; HRW, *World Report 2016 - Somalia*, 27 January 2016, <http://www.refworld.org/docid/56bd991f3f.html>; UNSC, *Report of the Monitoring Group on Somalia*, p. 35 (para. 115); Al Jazeera, *Al-Shabab Assault Targets Senior Somali Officials*, 1 November 2015, <http://www.aljazeera.com/news/2015/11/attackers-storm-somali-hotel-car-bomb-explosion-151101034215244.html>; United States Department of State, *Country Reports on Terrorism 2014 - Somalia*, 19 June 2015, <http://www.refworld.org/docid/5587c73f15.html>; UNSC, *Report of the Secretary-General on Somalia*, 12 May 2015, S/2015/331, <http://www.refworld.org/docid/556581e64.html>, paras 9-12; Lifos, *Security Situation in Somalia*.

<sup>34</sup> United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>; UNSC, *Report of the Secretary-General on Somalia*, 8 January 2016, S/2016/27, <http://www.refworld.org/docid/5698a0b64.html>, para. 14; UNSC, *Report of the Monitoring Group on Somalia*, p. 28 (para. 87), p. 34 (para. 109), and Annex 5.1, p. 206 (para. 3); UNSC, *Report of the Secretary-General on Somalia*, 12 May 2015, S/2015/331, <http://www.refworld.org/docid/556581e64.html>, para. 67; OHCHR, *Independent Expert Report*, para. 16.

<sup>35</sup> UN News Service, *Full-Fledged UN Peacekeeping Mission In Somalia Would Be 'High-Risk Undertaking,' Security Council Told*, 16 July 2015, <http://www.refworld.org/docid/55acd0d14.html>.

<sup>36</sup> United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>; DIS, *Security and Human Rights Issues in S/C Somalia*, pp. 9, 16; Lifos, *Security Situation in Somalia*; OHCHR, *Independent Expert Report*, para. 16.

<sup>37</sup> EASO, *COI Report: Somalia Security Situation*, pp. 32-33, 56, 60. “While Al-Shabaab lost control of some key towns, it maintains control over large swathes of territory, and many key transport routes.” HRW, *World Report 2016 - Somalia*, 27 January 2016, <http://www.refworld.org/docid/56bd991f3f.html>. See also, Lifos, *Security Situation in Somalia*; International Committee of the Red Cross (ICRC), *Annual Report 2014 - Somalia*, 9 June 2015, <http://www.refworld.org/docid/558131ac2e.html>. UNHCR Somalia has noted that “Some cities with AMISOM/SNAF presence could be described as islands in Al-Shabaab territory”, while other sources added that Al-Shabaab has a “clandestine presence” in the centre of most cities and surrounding most towns. DIS, *Security and Human Rights Issues in S/C Somalia*, pp. 9-10. “The Monitoring Group notes with concern that those recaptured areas have been reduced to isolated islands, with the threat of Al-Shabaab ambushes and improvised explosive devices rendering resupply by road highly perilous.” UNSC, *Report of the Monitoring Group on Somalia*, para. 87.

<sup>38</sup> “In many instances where it had officially ceded territory, Al-Shabaab continued to make its presence felt, creating a climate of fear which dissuaded humanitarian operations [...] In areas officially ‘recovered’ from Al-Shabaab, the group continued to extort, facilitated by mobile money and other forms of remittance services.” UNSC, *Report of the Monitoring Group on Somalia*, Annex 5.1, para 4, and Annex 5.3, para. 35.

<sup>39</sup> United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>; HRW, *World Report 2016 - Somalia*, 27 January 2016, <http://www.refworld.org/docid/56bd991f3f.html>; UNSC, *Report of the Secretary-General on Somalia*, 8 January 2016, S/2016/27, <http://www.refworld.org/docid/5698a0b64.html>, para. 53; Lifos, *Security Situation in Somalia*.

cities are under the effective control of the FGS.<sup>40</sup> In parallel, rivalry among different clan-based actors competing for power reportedly continues to provoke instances of heavy fighting, while the city administrations are reported to remain dysfunctional.<sup>41</sup> Even in Mogadishu the FGS reportedly continues to face significant challenges in providing basic security to civilians.<sup>42</sup>

### *Humanitarian Situation*

9. The conflict also continues to have a detrimental impact on the humanitarian situation, with vital humanitarian assistance reportedly being intercepted and confiscated by armed groups.<sup>43</sup> Within a context of chronic food insecurity and a lack of sufficient health care services, the fluid security situation has reportedly made it increasingly difficult to maintain humanitarian access and supplies to vulnerable communities.<sup>44</sup> Both pro-Government forces and militias have reportedly diverted humanitarian aid from beneficiaries; many international aid organizations have evacuated from or halted activities in Al-Shabaab controlled areas.<sup>45</sup> Concerns have also been expressed about the negative impact on the humanitarian situation in Somalia of restrictions placed on remittances to Somalia by major banks, putting an estimated US\$1.2 billion of remittances, or 20 per cent of the country's GDP, at risk.<sup>46</sup>

<sup>40</sup> Lifos, *Security Situation in Somalia*. "The security situation remained volatile in government-controlled towns. Government forces failed to protect civilians, including journalists, clan elders, clerics and lawmakers and other officials from targeted killings by Al-Shabab as well as by unknown gunmen, primarily in Mogadishu, Baidoa, the capital of the Bay region, and Beletweyn, the capital of Hiraaan." HRW, *World Report 2016 - Somalia*, 27 January 2016, <http://www.refworld.org/docid/56bd991f3f.html>.

<sup>41</sup> UNSC, *Report of the Secretary-General on Somalia*, 8 January 2016, S/2016/27, <http://www.refworld.org/docid/5698a0b64.html>, para. 22; Lifos, *Security Situation in Somalia*; DIS, *Security and Human Rights Issues in S/C Somalia*, pp. 9-10. "Significant territorial advances against Al-Shabaab by the African Union Mission in Somalia (AMISOM), the Somali National Army and other loosely aligned forces since the end of the transition have not been matched by the expansion of the capacity of the Federal Government of Somalia or the interim regional administrations to maintain security and offer an alternative form of governance [...] The removal of Al-Shabaab as a governing authority in many regions has created a power vacuum, with neither the Federal Government of Somalia nor the fledging interim regional administrations sufficiently able to fill it, or help to rebuild effective local administrations capable of maintaining security." UNSC, *Report of the Monitoring Group on Somalia*, p. 10 (para. 11), and p. 15 (para. 28).

<sup>42</sup> EASO, *COI Report: Somalia Security Situation*, p. 51. UNHCR Somalia as cited in the Danish Fact Finding Mission in May 2015. DIS, *Security and Human Rights Issues in S/C Somalia*, pp. 7, 26. In February 2015, following an attack on a hotel in Mogadishu which killed at least 10 persons including a number of high-level politicians, the Wall Street Journal reported, "Somalia's al-Shabaab militants claimed responsibility for the attack, the latest reminder that al-Shabaab is able to move freely in the highly fortified city and target even high-level officials. As the government seizes more territory from al-Shabaab in the countryside, it has struggled to translate those gains into improved security and stability." The Wall Street Journal, *Militants Attack Hotel in Somali Capital, Killing At Least 10*, 20 February 2015, <http://www.wsj.com/articles/explosions-at-hotel-in-somali-capital-1424434179>. The US State Department noted that, "The ability of the federal, local, and regional authorities to prevent and preempt al-Shabaab terrorist attacks remained limited." United States Department of State, *Country Reports on Terrorism 2014 - Foreign Terrorist Organizations: al-Shabaab*, 19 June 2015, <http://www.refworld.org/docid/5587c7305f.html>.

<sup>43</sup> "Humanitarian access was deliberately restricted, including through the use of road blocks and checkpoints by non-State armed groups and militias in southern and central Somalia." UN General Assembly, *Assistance to Refugees, Returnees and Displaced Persons in Africa: Report of the Secretary-General*, 20 August 2015, A/70/337, <http://www.refworld.org/docid/560149a34.html>, para. 44. See also United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>; UNSC, *Report of the Monitoring Group on Somalia*, Annex 5.3, p. 218 (para. 35).

<sup>44</sup> OCHA, *2016 Somalia Humanitarian Needs Overview*, 25 November 2016, <https://www.humanitarianresponse.info/en/operations/somalia/document/2016-somalia-humanitarian-needs-overview>, p. 11. "[T]he quality of [humanitarian] access remained extremely fragile, particularly as a new anti-Al-Shabaab offensive began in July 2015." UNSC, *Report of the Monitoring Group on Somalia*, p. 33 (para. 108). "Military gains made in recovering territories from Al-Shabaab have not really translated into the opening up of access for humanitarian actors to easily deliver basic services in newly liberated areas." OHCHR, *Independent Expert Report*, paras 16 and 45. See also, UN News Service, *In Somalia, Food Security and Malnutrition Situation is 'Alarming' - UN Report*, 8 February 2016, <http://www.refworld.org/docid/56ba1f2540b.html>; Food Security and Analysis Unit, *Somalia Post - Deyr 2015/16, Food Security and Nutrition Outlook (February to June 2016)*, 7 February 2016, <http://www.fsnau.org/publications>; ICRC, *Annual Report 2014 - Somalia*, 9 June 2015, <http://www.refworld.org/docid/558131ac2c.html>; UNSC, *Report of the Secretary-General on Somalia*, 12 May 2015, S/2015/331, <http://www.refworld.org/docid/556581e64.html>.

<sup>45</sup> United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>. "In areas under its control, Al-Shabaab maintained its ban against operations by most humanitarian agencies", OHCHR, *Independent Expert Report*, para. 16. "The key challenges to humanitarian access [...] included [...] obstructive 'regulation' and taxation by federal and regional government officials." UNSC, *Report of the Monitoring Group on Somalia*, p. 34, para. 109.

<sup>46</sup> UNDP, *Counter-Terrorism Measures Threaten Money Sent Home by Somali Diaspora, Says UN Rights Experts*, 18 January 2016, <http://www.undp.org/content/unct/somalia/en/home/presscenter/news/counter-terrorism-measures-threaten-money-sent-home-by-somali-di.html>. In a climate where humanitarian funding to Somalia is declining, such measures are likely to aggravate the humanitarian situation. OHCHR, *Independent Expert Report*, para. 45. A "number of banks in many countries have started to close down the accounts of money transfer organizations that enable the Somali diaspora to send money home to family and friends for food, water, health and education." UNSC, *Report of the Secretary-General on Somalia*, 12 May 2015, S/2015/331, <http://www.refworld.org/docid/556581e64.html>, paras 65, 97.

## Political Developments

10. In its “Vision 2016” the Somali Government committed to holding a constitutional referendum in 2015 and national elections in 2016.<sup>47</sup> Special Representative of the Secretary-General for Somalia and head of UNSOM, Nicholas Kay, has expressed his concern about Al-Shabaab’s intentions to derail the political process.<sup>48</sup> In July 2015, President Hassan Sheikh Mohamud announced that while he was committed to holding elections before the end of his term in August 2016, it would not in fact be possible to organize a popular vote.<sup>49</sup>

## Internal Displacement and Evictions

11. Armed conflict, military operations, clan and intercommunal violence, forced evictions and natural hazards continue to be major causes of internal displacement.<sup>50</sup> While precise figures for the number of internally displaced persons (IDPs) are unavailable, estimates suggest that there are more than 1.1 million IDPs in Somalia, the majority in the southern and central regions.<sup>51</sup> There are approximately 370,000 IDPs in Mogadishu.<sup>52</sup> Approximately 70 to 80 per cent of Somalia’s IDPs are women and children,<sup>53</sup> who are reported to be disproportionately at risk of serious human rights violations.<sup>54</sup> Living

<sup>47</sup> Freedom House, *Freedom in the World 2015 - Somalia*, 15 April 2015, <http://www.refworld.org/docid/553616be24.html>.

<sup>48</sup> “2016 will be a year of heightened political tensions: a bumpy, adrenaline-fueled ride. Al Shabaab will do everything they can to disrupt federalism and the electoral process.” United Nations Assistance Mission in Somalia, *SRSF Nicholas Kay’s Briefing to the UN Security Council Meeting on Somalia*, 9 November 2015, <http://unsom.unmissions.org/Default.aspx?tabid=6254&ctl=Details&mid=9770&ItemID=42195&language=en-US>. See also OHCHR, *Independent Expert Report*, para. 6; UN News Service, *Security Council Extends UN Mission in Somalia until August*, 26 May 2015, <http://www.refworld.org/docid/55684cb64.html>.

<sup>49</sup> UNSC, *Report of the Secretary-General on Somalia*, 8 January 2016, S/2016/27, <http://www.refworld.org/docid/5698a0b64.html>, para. 3. The lower house of Parliament will be elected based on a power-sharing formula between clans. See AFP, *Somalia Cabinet Backs 2016 House Election; Delight as Women to Hold 30% of All Seats*, 29 January 2016, <http://mgafica.com/article/2016-01-29-somalia-cabinet-backs-2016-election-in-big-step-women-to-hold-30-of-all-seats-in-parliament>; African Union Mission in Somalia, *Somali National Consultative Forum Convenes to Discuss 2016 Electoral Process*, October 2015, <http://amisom-au.org/2015/10/somali-national-consultative-forum-convenes-to-discuss-2016-electoral-process/>; The Economist, *One Man, No Vote*, 26 September 2015, <http://www.economist.com/news/middle-east-and-africa/21665950-somalia-has-been-attempting-build-government-2007-it-proving-impossible-hold-fully>; Foreign Policy, *Somalia’s Incredible Shrinking Election*, 6 August 2015, <http://foreignpolicy.com/2015/08/06/somalias-incredible-shrinking-election-hassan-sheikh-mohamud>.

<sup>50</sup> See, for example, UNHCR Somalia, *Displacements recorded by the Protection & Return Monitoring Network (1-31 December 2015)*, 31 December 2015, <http://www.refworld.org/docid/56fcc2bf4.html>; OCHA, *2016 Somalia Humanitarian Needs Overview*, 25 November 2016, <https://www.humanitarianresponse.info/en/operations/somalia/document/2016-somalia-humanitarian-needs-overview> pp. 5-11. “The El Niño phenomenon caused flooding from the start of the rainy season in October, cumulatively affecting 145,000 people and displacing an estimated 60,000 people across southern and central Somalia.” UNSC, *Report of the Secretary-General on Somalia*, 8 January 2016, S/2016/27, <http://www.refworld.org/docid/5698a0b64.html>, para. 67. “The largest displacements of people during the mandate were caused by the forced eviction of huge numbers of internally displaced and poor communities from urban centres in Somalia.” UNSC, *Report of the Monitoring Group on Somalia*, p. 8; see also *idem*, Annex 6.4, p. 247 (para. 58). “Over 116,000 people have reportedly been forcibly evicted during the first eight months of 2015”. Somalia Humanitarian Country Team, *Contingency Plan Somalia, 2015-16 El Niño*, September 2015, <http://reliefweb.int/report/somalia/somalia-2015-16-el-ni-o-contingency-plan-september-2015>, p. 3. “Military operations launched in July 2015 have triggered new displacements in parts of southern and central Somalia. About 42,000 people have so far been displaced”. Somalia Humanitarian Country Team, *Contingency Plan Somalia, 2015-16 El Niño*, September 2015, <http://reliefweb.int/report/somalia/somalia-2015-16-el-ni-o-contingency-plan-september-2015>, p. 3.

<sup>51</sup> UNHCR, *Somalia: February 2016 - Total Internally Displaced Persons*, 18 March 2016, <http://www.refworld.org/docid/56f15e514.html>. NRC/IDMC notes that the estimate of 1.1 million IDPs is “a static estimate in a context that changes rapidly”. Moreover, in the context of Somalia it is sometimes difficult to distinguish between forced and voluntary movements. Additionally, precise data on the number of IDPs is not available, as IDP monitoring in many areas of the country is impossible due to constraints on access, and because the government does not register displaced persons. NRC/IDMC, *Global Overview 2015: People Internally Displaced by Conflict and Violence - East Africa*, 6 May 2015, <http://www.refworld.org/docid/55a61760e.html>. See also United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>; HRW, *Somalia: Forced Evictions of Displaced People*, 20 April 2015, <http://www.refworld.org/docid/553653094.html>.

<sup>52</sup> HRW, *Somalia: Forced Evictions of Displaced People*, 20 April 2015, <http://www.refworld.org/docid/553653094.html>.

<sup>53</sup> OCHA estimates that 70 to 80 per cent of all IDPs are women and children, based on 2012 figures from UNDP. OCHA, *2015 Humanitarian Needs Overview Somalia*, November 2014, <https://docs.unocha.org/sites/dms/Somalia%202015%20Humanitarian%20Needs%20Overview%20-%20FINAL.pdf>. See also, UNDP, *Somalia Human Development Report 2012*, [http://hdr.undp.org/sites/default/files/reports/242/somalia\\_report\\_2012.pdf](http://hdr.undp.org/sites/default/files/reports/242/somalia_report_2012.pdf), p. 23.

<sup>54</sup> OCHA, *2016 Somalia Humanitarian Needs Overview*, 25 November 2016, <https://www.humanitarianresponse.info/en/operations/somalia/document/2016-somalia-humanitarian-needs-overview>; HRW, *World Report 2016 - Somalia*, 27 January 2016, <http://www.refworld.org/docid/56bd991f3f.html>, pp. 8-9. 84 per cent of survivors of sexual and gender based violence are reported to be IDPs. UNSC, *Report of the Monitoring Group on Somalia*, Annex 6.4, p. 244 (para. 48). See also, United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>; OHCHR, *Independent Expert Report*, paras 43, 50-51; UNSC, *Report of the Secretary-General on Somalia*, 12 May 2015, S/2015/331, <http://www.refworld.org/docid/556581e64.html>, paras 62, 65; HRW, *Somalia: Forced Evictions of Displaced People*, 20 April 2015, <http://www.refworld.org/docid/553653094.html>; Minority Rights Group International, *State of the World’s Minorities and Indigenous Peoples 2015 - Somalia*, 2 July 2015, <http://www.refworld.org/docid/55a4fa4313f.html>; NRC/IDMC,

conditions in IDP settlements are reported to be deplorable<sup>55</sup> and durable solutions are unattainable for most IDPs under current circumstances.<sup>56</sup> IDPs are also reported to face serious food insecurity, with many being above the emergency threshold for malnutrition; the situation is reportedly exacerbated by an ongoing drought.<sup>57</sup>

12. Individuals' families and clans are reportedly their most important support structures and a means of obtaining access to basic necessities, such as accommodation and food.<sup>58</sup> However, the capacity of clans to provide such support has reportedly been overstretched, leaving many families and clan networks unable to respond to the needs of their displaced relatives.<sup>59</sup> Members of minority clans often lack vital protection and suffer pervasive discrimination. The same applies to others who, being displaced, find themselves outside their normal social clan structures and unable to rely on the protection and support generally extended by such social networks.<sup>60</sup> For instance, Somali ethnic Bantus, as well as some other minority clans, reportedly continue to be highly vulnerable to discrimination, severe poverty, exclusion and marginalization, and are reportedly disproportionately subjected to killings, torture, rape,

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*Somalia: Over a Million IDPs Need Support for Local Solutions*, 18 March 2015, <http://www.refworld.org/docid/550fcb244.html>, p. 1. IDPs with disabilities are reportedly particularly vulnerable to human rights violations and risk being exposed to exploitation, rape, and poor living conditions. They reportedly are often subjected to forced evictions by the government and are left with no choice but to settle on the outskirts of Mogadishu. Refugees International, *Disable and Displaced: the Plight of Somalia's Most Vulnerable*, 2 February 2016, <http://www.refugeesinternational.org/blog/2016/2/2/disable-and-displaced-the-plight-of-somalias-most-vulnerable>. See also, Amnesty International, *Somalia: People with Disabilities Exploited, Raped and Abused*, 12 March 2015, <https://www.amnesty.org/en/latest/news/2015/03/somalia-people-with-disabilities-exploited-raped-and-abused/>.

<sup>55</sup> DIS, *Security and Human Rights Issues in S/C Somalia*, p. 26. "Many internally displaced people live in appalling and largely unprotected conditions in overcrowded settlements with limited access to appropriate water, sanitation and hygiene services, putting them at high risk of diseases." Somalia Humanitarian Country Team, *Contingency Plan Somalia, 2015-16 El Nino*, September 2015, <http://reliefweb.int/report/somalia/somalia-2015-16-el-ni-o-contingency-plan-september-2015>, p. 3.

<sup>56</sup> In December 2015, the Resident Coordinator / Humanitarian Coordinator launched the development of a comprehensive durable solutions strategy for IDPs in Somalia. UN Special Advisor to the DSRSG/RC/HC on Internally Displaced Persons, *Somali IDP Solutions Initiative: Mission to Nairobi and Somalia*, 27 January – 11 February 2016, [http://www.regionaldss.org/sites/default/files/2016Feb29\\_Kaelin\\_second%20mission\\_%20report%20FINAL.pdf](http://www.regionaldss.org/sites/default/files/2016Feb29_Kaelin_second%20mission_%20report%20FINAL.pdf). The Somalia Return Consortium works to support the voluntary return and reintegration of IDPs. For further information, see: <http://somalireturnconsortium.org/>. The Solutions Alliance Somalia supports initiatives to address protracted displacement situations. For further information, see: <http://www.endingdisplacement.org/>. For priorities related to Peace building and State Building Goals under the Somalia New Deal / Somalia Compact, see: <http://new-deal.so/peacebuilding-and-state-building-goals-psg/>.

<sup>57</sup> OCHA, *Somalia: Humanitarian Snapshot (as of 12 February 2016)*, 10 February 2016, <http://reliefweb.int/report/somalia/somalia-humanitarian-snapshot-12-february-2016>. "At national level, the current (January 2016) number of people in Crisis (IPC Phase 3) and Emergency (IPC Phase 4) is 912,000 – IDPs represented 71 percent in total. Approximately 3.6 million additional people were classified as Stressed (IPC Phase 2)." Food Security and Analysis Unit, *Somalia Post – Deyr 2015/16, Food Security and Nutrition Outlook (February to June 2016)*, 7 February 2016, <http://www.fsna.org/publications>. "The level of malnutrition, especially among children, is of serious concern, with nearly 305,000 children under the age of five years acutely malnourished. We estimate that 58,300 children face death if they are not treated. The drought could push these numbers higher in the months to come." UN News Service, *In Somalia, Food Security and Malnutrition Situation Is 'Alarming' - UN Report*, 8 February 2016, <http://www.refworld.org/docid/56ba1f2540b.html>. See also, Somalia Humanitarian Country Team, *Contingency Plan Somalia, 2015-16 El Nino*, September 2015, <http://reliefweb.int/report/somalia/somalia-2015-16-el-ni-o-contingency-plan-september-2015>, p. 3; UN Resident and Humanitarian Coordinator for Somalia, *Somalia: Food Security and Malnutrition Situation Alarming*, 8 February 2016, <http://reliefweb.int/report/somalia/somalia-food-security-and-malnutrition-situation-alarming>; OCHA, *Humanitarian Response Plan: Somalia, January – December 2016*, 19 January 2016, <https://www.humanitarianresponse.info/en/operations/somalia/document/somalia-2016-humanitarian-response-plan>; OHCHR, *Independent Expert Report*, para. 45; BBC, *Somalia Drought Leaves 50,000 Children 'Facing Death'*, 8 February 2016, <http://www.bbc.com/news/world-africa-35522643>.

<sup>58</sup> "The Somali clan system shapes social, political and economic life and is fundamental to understanding many aspects of contemporary Somali society, including displacement. Extended family and clan affiliation is an essential source of protection and a determinant of the level of access to social assistance." NRC/IDMC, *Somalia: Over a Million IDPs Need Support for Local Solutions*, 18 March 2015, <http://www.refworld.org/docid/550fcb244.html>, p. 5. "If a person returned to an area where he does not have strong [clan] connections, protection would tend to be weaker than if he/she could rely on clan and community support and solidarity. People without clan affiliations in areas of return have a higher risk of experiencing protection problems. [...] For Somalis in Mogadishu, it is very difficult to survive without a support network, and newcomers to the city, particularly when they do not belong to the clans or nuclear families established in the district in question, or when they originate from an area formerly or presently controlled by an insurgent group, face a precarious existence in the capital. Often they are forced to settle in IDP settlements. [...] [P]ersons leaving Al-Shabaab areas and attempting to relocate to cities or towns with AMISOM/SNAF presence will be forced to settle in IDP settlements unless they have nuclear or extended family with the necessary resources to support them." DIS, *Security and Human Rights Issues in S/C Somalia*, pp. 20, 21, 26.

<sup>59</sup> UNHCR has previously noted that, "The absorption capacity of Mogadishu is overstretched and mass returns to the city and its environs in the current environment could have serious humanitarian consequences unless urgent and substantial action is taken to comprehensively address the situation of IDPs in particular." DIS, *Security and Human Rights Issues in S/C Somalia*, p. 23; see also *idem*, p. 20.

<sup>60</sup> "In most areas the predominant clan excluded members of other groups from effective participation in governing institutions and subjected them to discrimination in employment, judicial proceedings, and access to public services." United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>. See also, NRC/IDMC, *Somalia: Over a Million IDPs Need Support for Local Solutions*, 18 March 2015, <http://www.refworld.org/docid/550fcb244.html>, pp. 5-6; Minority Rights Group International, *State of the World's Minorities And Indigenous Peoples 2015 - Somalia*, 2 July 2015, <http://www.refworld.org/docid/55a4fa4313f.html>; OHCHR, *Independent Expert Report*, para. 43.

kidnapping for ransom, forced recruitment, bonded labour as well as looting of land and property with impunity by militias and majority clan members.<sup>61</sup>

13. In 2015, there was reportedly a significant increase in forced evictions of IDPs from public and private lands and buildings in many cities and towns in Somalia, including Mogadishu, Kismayo, Baidoa, Galkayo, Bosasso, Hargeisa or Luuq.<sup>62</sup> Over 116,000 people were reported to have been forcibly evicted during the first eight months of 2015.<sup>63</sup> The majority of these evictions were reported to be unlawful, notably due to lack of adherence to due process and the provision of adequate alternatives.<sup>64</sup> Most evictees in Mogadishu were reportedly forced to move to the outskirts of the city where security is a serious concern, rights violations are pervasive, living conditions in settlements dire and access to basic services is very limited.<sup>65</sup> Forced evictions have exacerbated the humanitarian and human rights situation for Somali IDPs.<sup>66</sup> Both the authorities and private individuals are reported to instigate forced evictions.<sup>67</sup> Forced evictions have also reportedly been used by “a multitude of actors” as “a tactic of warfare in order to obtain and exert control”.<sup>68</sup>

### *Deportations and Returns from War-Affected Countries*

<sup>61</sup> Somali ethnic Bantus are reported to be the largest minority group in Somalia. The Bantus are reportedly actively targeted by members of majority clans. United States Department of State, *2015 Trafficking in Persons Report - Special Case: Somalia*, 27 July 2015, <http://www.refworld.org/docid/55b73b9d6.html>. See also, United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>; Minority Rights Group International, *State of the World's Minorities and Indigenous Peoples 2015 - Somalia*, 2 July 2015, <http://www.refworld.org/docid/55a4fa4313f.html>; Minority Rights Group International, *Looma Ooyaan – No One Cries for Them: The Predicament Facing Somalia's Minority Women*, 30 January 2015, <http://www.refworld.org/docid/556ea6db4.html>, pp. 9-10, 19, 23; Rift Valley Institute (RVI), *Hosts and Guests: A Historical Interpretation of Land Conflicts in Southern and Central Somalia*, 2015, <http://www.refworld.org/docid/54f86b8f4.html>, pp. 18-22. Al Shabaab has reportedly recruited many young Bantu men. Some Bantus reportedly use Al Shabaab as a source of security against the dominating majority clans. DIS, *Security and Human Rights Issues in S/C Somalia*, pp. 27, 40, 47, 51. At the same time, Somali Bantu minorities are also reportedly targets of religious persecution by Al-Shabaab. European Asylum Support Office (EASO), *EASO Country of Origin Information report. South and Central Somalia Country Overview*, August 2014, <http://www.refworld.org/docid/542e8b9d4.html>, sections 1.2.2, 2.2.1, 2.2.3, 4.2.1.1, and 4.3.2.

<sup>62</sup> OHCHR, *Independent Expert Report*, para. 50. UNHCR, *Forced Evictions in Mogadishu, 1 Jan – 28 Feb 2015*, 28 February 2015, <http://www.refworld.org/docid/5608e0a64.html>; NRC/IDMC, *Somalia: Over a Million IDPs Need Support for Local Solutions*, 18 March 2015, <http://www.refworld.org/docid/550fcb244.html>, p. 3. “During the first two months of 2015 over 40,000 people were evicted, mainly in Mogadishu, and moved further into the outskirts of the city, where access to basic services is limited.” UNSC, *Report of the Secretary-General on Somalia*, 12 May 2015, S/2015/331, <http://www.refworld.org/docid/556581e64.html>, para. 65. In March 2015, security forces reportedly evicted an estimated 21,000 IDPs from informal camps in Mogadishu, using force against civilians, destroying their shelters and property. Minority Rights Group International, *State of the World's Minorities and Indigenous Peoples 2015 - Case Study: Minorities On The Margins Of Mogadishu*, 2 July 2015, <http://www.refworld.org/docid/55a4fa2ec.html>; HRW, *Somalia: Forced Evictions of Displaced People*, 20 April 2015, <http://www.refworld.org/docid/553653094.html>. Between January and December 2014, over 32,500 individuals (over 90 per cent of whom were IDPs) were reported to have been forcibly evicted. UNHCR, *Forced Evictions in Mogadishu, 1 Jan – 28 Dec 2014*, 1 December 2014, <http://www.refworld.org/docid/5608e1654.html>.

<sup>63</sup> Somalia Humanitarian Country Team, *Contingency Plan Somalia, 2015-16 El Nino*, September 2015, <http://reliefweb.int/report/somalia/somalia-2015-16-el-ni-o-contingency-plan-september-2015>, p. 3.

<sup>64</sup> United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>; UNSC, *Security Council Resolution 2232 (2015) [On Deployment of the African Union Mission in Somalia (AMISOM) Until 30 May 2016 And Extension Of The Mandate Of The UN Assistance Mission In Somalia (UNSOM) Until 30 Mar. 2016]*, 28 July 2015, S/RES/2232 (2015), <http://www.refworld.org/docid/55e5bdb44.html>, para. 30; Legal Action Worldwide and Norwegian Refugee Council, *Housing, Land and Property in Somalia, Persons of Concern in Somaliland and South-Central Somalia*, October 2014, <http://www.refworld.org/docid/565da3ed4.html>, pp. 27-28.

<sup>65</sup> HRW, *Somalia: Forced Evictions of Displaced People*, 20 April 2015, <http://www.refworld.org/docid/553653094.html>; UNHCR, *Forced Evictions in Mogadishu, 1 Jan – 28 Feb 2015*, 28 February 2015, <http://www.refworld.org/docid/5608e0a64.html>. “The protection, peace and security implications of forcing an estimated 100,000 vulnerable IDPs into the Afgoye corridor—an area with increasing Al-Shabaab presence—appear not to have been considered.” UNSC, *Report of the Monitoring Group on Somalia*, Annex 6.4, p. 247 (para.59).

<sup>66</sup> “IDPs access to housing, land, and property rights is furthermore severely constrained as forced evictions continue to rise.” Somalia Humanitarian Country Team, *Contingency Plan Somalia, 2015-16 El Nino*, September 2015, <http://reliefweb.int/report/somalia/somalia-2015-16-el-ni-o-contingency-plan-september-2015>, p. 3.

<sup>67</sup> HRW, *Somalia: Civilians at Serious Risk*, 27 January 2016, <http://www.refworld.org/docid/56b120a111.html>; UNSC, *Report of the Monitoring Group on Somalia*, p. 8, and Annex 6.4, p. 247 (para. 58); HRW, *Somalia: Forced Evictions of Displaced People*, 20 April 2015, <http://www.refworld.org/docid/553653094.html>. In 2013 Somali authorities declared their intention to ease overcrowding in Mogadishu by relocating 270,000 displaced persons from shelters to camps on the outskirts of the city. United States Department of State, *2014 Country Reports on Human Rights Practices - Somalia*, 25 June 2015, <http://www.refworld.org/docid/559bd53c12.html>.

<sup>68</sup> NRC/IDMC, *Somalia: Over a Million IDPs Need Support for Local Solutions*, 18 March 2015, <http://www.refworld.org/docid/550fcb244.html>, p. 3.

14. From December 2013 to September 2015, an estimated 70,000 Somali nationals were deported to Somalia from the Kingdom of Saudi Arabia. Many of the deportees were reportedly unable to return to their places of origin in Somalia, thus ending up in IDP settlements.<sup>69</sup>
15. As a result of renewed fighting in Yemen, more than 31,000 persons fled from Yemen to Somalia, including more than 27,000 Somalis refugees who had initially fled from Somalia to Yemen and who subsequently fled from Yemen to Somalia. The remainder are Yemeni nationals and third-country nationals who fled from Yemen to Somalia.<sup>70</sup> More than half of persons who arrived in Somalia from Yemen, including the returned Somali refugees, have expressed an intention to go to Mogadishu.<sup>71</sup> Concerns have been raised about the limited absorption capacity in Somalia and the wide array of challenges faced by the returnees.<sup>72</sup> At the same time and despite the conflict in Yemen, throughout 2015 thousands of Somalis arrived in Yemen.<sup>73</sup>

*Refugee Protection under the 1951 Convention or Regional Instruments, and Eligibility for Complementary Forms of Protection*

16. In relation to Somalis who originate from the southern and central regions of Somalia and who seek international protection in countries outside the AU, UNHCR would like to recall that many such

<sup>69</sup> United States Department of State, *2015 Country Reports on Human Rights Practices - Somalia*, 13 April 2016, <http://www.refworld.org/docid/5716120a8.html>.

<sup>70</sup> Somalia Task Force on Yemen Situation, *Weekly Inter-Agency Update #4*, 16 – 29 February 2016, <http://data.unhcr.org/horn-of-africa/country.php?id=197>; UNHCR *Yemen Regional Refugee and Migrant Response Plan: Arrivals from Yemen by Country*, last updated 21 March 2016, <http://data.unhcr.org/yemen/regional.php>; Integrated Regional Information Networks (IRIN), *Somalia Offers Yemenis a Safer Home*, 2 February 2016, <http://www.refworld.org/docid/56b1b8b24.html>. By the end of 2016, the number of returned Somali refugees and other new arrivals in Somalia is expected to have reached 111,000. UNHCR, *Yemen Situation: Regional Refugee and Migrant Response Plan Overview, October - December 2015 / January - December 2016 (Preliminary Estimates)*, October 2015, <http://www.refworld.org/docid/561378d24.html>, p. 42. See also, BBC, *Yemen Refugees Choosing to Return to a Failed State*, 30 October 2015, <http://www.bbc.com/news/world-middle-east-34645877>; World Food Programme, *On the Run Again: Somali Refugees Return Home from Yemen*, 28 August 2015, <https://www.wfp.org/stories/somali-refugees-yemen>. Between 1 April 2015 and 8 February 2016, a total of 171,442 people fled from Yemen. UNHCR, *Yemen: Total Arrivals from Yemen in the Region*, last updated 8 Feb 2016, <http://data.unhcr.org/yemen/regional.php>. See also, UNHCR, *Yemen Situation: Regional Refugee and Migrant Response – Population Movement Out of Yemen*, 1 January 2016, <http://data.unhcr.org/yemen/regional.php>; UNHCR, *Yemen Situation: UNHCR Regional Update #34*, December 2015, <http://data.unhcr.org/yemen/regional.php>. “Yemen is also host to over 266,000 refugees, of which some 250,000 are Somali.” UNHCR, *UNHCR Warns Against Perilous Horn of Africa Sea Crossings*, 19 January 2016, <http://www.unhcr.org/569e3b19530.html>.

<sup>71</sup> Between 27 March 2015, at the early onset of the renewed crisis in Yemen, and 1 February 2016 a total of 30,728 persons fled from Yemen to Somalia. Of these, 53 per cent expressed an intention to go to Mogadishu. UNHCR, *Somalia Task Force on Yemen Situation: Inter-Agency Update #2 (19 January – 01 February 2016)*, 1 February 2016, <http://www.refworld.org/docid/56bd9e254.html>. See also, UNHCR Somalia, *Somali Refugees in the Horn of Africa and Yemen*, January 2016, [http://reliefweb.int/sites/reliefweb.int/files/resources/January\\_2016\\_Somalia\\_Refugees\\_Horn\\_of\\_Africa.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/January_2016_Somalia_Refugees_Horn_of_Africa.pdf).

<sup>72</sup> According to OCHA, “[t]he absorption capacity of host communities and Government institutional capacity needs to be strengthened to ensure sustainability. The influx [of persons fleeing from Yemen to Somalia] adds to the larger longstanding situation of internally displaced persons in the country and Somali refugees in neighbouring countries.” OCHA, *2016 Somalia Humanitarian Needs Overview*, 25 November 2015, <https://www.humanitarianresponse.info/en/operations/somalia/document/2016-somalia-humanitarian-needs-overview>, p. 9. “The influx of returnees and refugees fleeing the conflict in Yemen is increasing the burden on already limited basic services.” UNICEF, *2016 Humanitarian Action for Children: Somalia*, [http://www.unicef.org/appeals/files/HAC\\_2016\\_Somalia.pdf](http://www.unicef.org/appeals/files/HAC_2016_Somalia.pdf). “Reintegration of Somali returnees poses additional challenges as the widespread conflict and political strife have crippled essential infrastructure and more than three quarters of the population lack access to healthcare, proper sanitation and safe drinking water. [...] The authorities in Somalia generally have limited capacity to manage a medium/large influx of arrivals, and many face a difficult environment characterized by conflict, violence, insecurity, protracted displacement, poor living conditions, and absence of functioning or effective institutions. [...] Consequently, access to shelter, infrastructure, health, water and sanitation, education, and livelihood opportunities continues to be a challenge for refugees, returnee and IDPs alike; durable solutions remain limited. [...] The sudden and rapid increase in the number of refugees, returnees and migrants from Yemen in 2015 has strained the capacity of agencies to provide adequate assistance, and urban areas like Hargeisa and Bossaso have struggled and continue to struggle to absorb the number of new arrivals looking for food, shelter and housing. [...] return to places of origin/choice will be difficult for many Somali returnees from South Central regions of Somalia due to the prevailing conditions as conditions for mass return to Southern and Central regions of Somalia are not yet established.” UNHCR, *Yemen Situation: Regional Refugee and Migrant Response Plan Overview, October - December 2015 / January - December 2016 (Preliminary Estimates)*, October 2015, <http://data.unhcr.org/yemen/download.php?id=58>, pp. 5, 37-38, 43. See also World Food Programme, *On the Run Again: Somali Refugees Return Home from Yemen*, 28 August 2015, <https://www.wfp.org/stories/somali-refugees-yemen>.

<sup>73</sup> “Latest data on sea arrivals shows that 92,446 people arrived in Yemen by boat in 2015 [...] Almost 90 per cent (82,268) of [2015] arrivals were from Ethiopia [...] The number of Somalis who made the journey to Yemen [approx. 9,000 in 2015] compares to a high of just over 33,000 in 2008.” UNHCR, *UNHCR Warns Against Perilous Horn of Africa Sea Crossings*, 19 January 2016, <http://www.unhcr.org/569e3b19530.html>; UNHCR, *Yemen Situation: Population Movement from and to Yemen*, 1 December 2015, <http://data.unhcr.org/yemen/documents.php?page=2&view=grid>; UNHCR, *Somali Refugees in the Horn of Africa and Yemen - November 2015*, 7 December 2015, <http://www.refworld.org/docid/566685904.html>.

applicants have profiles that may bring them within the scope of the 1951 Refugee Convention.<sup>74</sup> In Member States of the African Union, eligibility for international refugee protection under the 1969 OAU Convention should also be considered.<sup>75</sup>

17. For UNHCR's position on the availability of an internal flight or relocation alternative (IFA/IRA) in southern and central Somalia, UNHCR refers to its *International Protection Considerations with Regard to People Fleeing Southern and Central Somalia*.<sup>76</sup> In relation to the availability of an IFA/IRA in Mogadishu in particular, UNHCR recalls that where an applicant for international protection has a well-founded fear of persecution at the hands of the State and its agents, there is a presumption that consideration of an IFA/IRA is not relevant for areas under the control of the State. Furthermore, UNHCR considers that in relation to a proposed IFA/IRA for Somalis fleeing persecution or serious harm by Al Shabaab, protection from the State is generally not available in Mogadishu even though the city is under the control of government forces supported by AMISOM troops. This applies in particular to Somalis who can be presumed to be on Al-Shabaab's hit list.
18. For applicants for whom an IFA/IRA in Mogadishu has been deemed relevant, the reasonableness of the proposed IFA/IRA must be assessed. In this regard UNHCR considers that particular attention must be given to the extent to which the applicant can expect to receive genuine support from his or her immediate family or clan in the context of the general weakening of traditional protection mechanisms; availability of basic infrastructure and access to essential services in the proposed area of relocation; access to shelter in the proposed area of relocation; and the presence of livelihood opportunities.
19. Where the proposed area of relocation is an urban area where the applicant has no access to pre-identified accommodation and livelihood options, and where he/she cannot be reasonably expected to fall back on meaningful support networks, the applicant will likely find himself or herself in a situation comparable to that of urban IDPs. Under these circumstances, to assess the reasonableness of the IFA/IRA, adjudicators need to take into account the scale of internal displacement in the area of prospective relocation and the living conditions of IDPs in the location, as well as the fact that many IDPs are exposed to various human rights abuses, including forced evictions.

#### *UNHCR Position on Forced Returns*

20. Under the present circumstances, UNHCR continues to urge States to refrain from forcibly returning any persons to areas of southern and central Somalia that are affected by military action and/or ensuing displacement, remain fragile and insecure after recent military action, or remain under full or partial

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<sup>74</sup> See UNHCR, *International Protection Considerations with Regard to People Fleeing Southern and Central Somalia*, 17 January 2014, HCR/PC/SOM/14/01, <http://www.refworld.org/docid/52d7fc5f4.html>.

<sup>75</sup> See article 1.1 and 1.2, Organization of African Unity (OAU), *Convention Governing the Specific Aspects of Refugee Problems in Africa* ("OAU Convention"), 10 September 1969, 1001 U.N.T.S. 45, <http://www.refworld.org/docid/3ae6b36018.html>. Outside the African Union, other broader refugee protection criteria may apply. These include the Cartagena Declaration on Refugees, *Colloquium on the International Protection of Refugees in Central America, Mexico and Panama*, 22 November 1984, <http://www.refworld.org/docid/3ae6b36ec.html>. Although the Cartagena Declaration is included in a non-binding regional instrument, the Cartagena refugee definition has attained a particular standing in the region, not least through its incorporation into 14 national laws and State practice. For guidance on the interpretation of the Refugee Definition in the Cartagena Declaration, see: UNHCR, *Summary Conclusions on the Interpretation of the Extended Refugee Definition in the 1984 Cartagena Declaration: Roundtable 15 and 16 October 2013, Montevideo, Uruguay*, 7 July 2014, <http://www.refworld.org/docid/53c52e7d4.html>. In Member States of the European Union, subsidiary protection under articles 2(f) and 15 of the Qualification Directive would need to be considered: European Union, *Directive 2011/95/EU of the European Parliament and of the Council on standards for the qualification of third - country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)*, 13 December 2011, <http://www.refworld.org/docid/4f06fa5e2.html>.

<sup>76</sup> UNHCR, *International Protection Considerations with Regard to People Fleeing Southern and Central Somalia*, 17 January 2014, HCR/PC/SOM/14/01, <http://www.refworld.org/docid/52d7fc5f4.html>, pp. 13-15, 17. The consideration of possible internal relocation is not generally relevant to the determination of refugee status under Article I(2) of the OAU Convention. UNHCR, *Guidelines on International Protection No. 4: "Internal Flight or Relocation Alternative" Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003, <http://www.refworld.org/docid/3f2791a44.html>, para. 5. Article I(2) of the 1969 Convention extends the refugee definition to "every person, who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality" [emphasis added]. The same considerations apply to individuals coming within the refugee definition as contained in Article I(2) of the Bangkok Principles, which is identical to the refugee definition of the 1969 OAU Convention.

control of non-State armed groups. General *non-refoulement* obligations under international human rights law may be engaged in the context of forcible return of Somalis to southern and central Somalia.

#### *Spontaneous and Organized Returns*

21. Individual Somalis who are outside the country and who are considering return to southern or central Somalia in a spontaneous manner should be provided with as much detailed information on the situation in their place of origin as possible, so as to allow them to take into account the current situation as regards security, governance and livelihoods and to make a fully informed choice.
22. Individual Somalis who are outside the country and who are considering to return to Somalia, but who cannot return to their place of origin because of continued or renewed insecurity or other adverse conditions, should be provided with detailed information on the current situation in the intended place of settlement. Those who consider going to Mogadishu should be provided with information about the situation of IDPs in the city in terms of security, accommodation and livelihoods, as returnees who are not originally from Mogadishu will likely face similar problems as IDPs currently living there. Similar considerations apply to Somalis who consider going to other towns and cities in South and Central Somalia which are not their home towns.
23. The tripartite agreement governing voluntary returns from Kenya to Somalia<sup>77</sup> does not affect the assessment of international protection needs of asylum-seekers from Somalia. As with nationals of other countries, the fact that individual Somalis may choose to return to their country despite the less than ideal circumstances does not change the fact that many Somalis<sup>78</sup> continue to be in need of international protection, whether for 1951 Convention reasons, or for reasons that may bring them within the criteria of the 1969 OAU Convention, or for reasons that may bring them within broader criteria for international protection.<sup>79</sup>
24. UNHCR supports voluntary repatriation to Somalia from neighbouring countries or countries in the region, subject to ensuring that the decision of refugees is fully informed and voluntary. Prior to extending support for voluntary repatriation to Somali nationals, UNHCR will verify and confirm the voluntariness of the decision to return to the specific location in Somalia, whether it is a location of origin or an alternative location, through individual interviews with all members of returning families.
25. Any assistance provided by UNHCR for return to Somalia aims at supporting individuals who, being fully informed of the situation in their places of origin or an alternative area of their choice, choose voluntarily to return. Any role of UNHCR in the support to voluntary repatriation movements to Somalia and any involvement by UNHCR in efforts aimed at sustainable reintegration for returnees and IDPs in Somalia should not be construed as implying an assessment on the part of UNHCR of the safety and other aspects of the situation in Somalia for individuals who have applied for international protection in countries of asylum. It should be noted in this regard that voluntary repatriation and forced return are processes of fundamentally different characters, engaging different responsibilities on the parts of the various actors involved.

UNHCR, May 2016

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<sup>77</sup> See footnote 2.

<sup>78</sup> In 2014, 19,857 Somalis applied for international protection in 44 industrialized States. UNHCR, *UNHCR Asylum Trends 2014*, March 2015, <http://www.unhcr.org/551128679.html>, table 3. In the 28 Member States of the European Union, in 2014 a total of 8,905 first-instance decisions were made on applications for international protection by Somalis. A total of 5,855 of these decisions were positive, or a protection rate of 65.7 per cent at first instance.

<sup>79</sup> Outside the African Union, other broader international protection criteria may apply.