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Building the Evidence Base for Effective Antislavery  
Governance

# Somalia Country Profile

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# About this report

This report was prepared by Dr Ana Valverde-Cano (Rights Lab Research Fellow in Antislavery Law and Policy), Dr Katarina Schwarz (Rights Lab Associate Director), and Dr Daniel Ogunniyi (Rights Lab Research Fellow).

The report is based primarily on research conducted from 2020-2021 and may not therefore consider more recent emerging evidence. Updates to the report to reflect new and emerging evidence are ongoing.

The authors welcome enquiries on the report and the project more broadly, which may be directed to Katarina Schwarz at [Katarina.Schwarz@nottingham.ac.uk](mailto:Katarina.Schwarz@nottingham.ac.uk)

# About the project

The report was produced to support the research project ‘Building the Evidence Base for Effective Antislavery Governance in the UK and the Top 20 UK Source Countries’, funded by the Modern Slavery and Human Rights Policy and Evidence Centre. The research team consisted of Dr Katarina Schwarz (Rights Lab, University of Nottingham), Dr Ana Valverde-Cano (Rights Lab), Dr Daniel Ogunniyi (Rights Lab), Alexandra Williams-Woods (CSIS, University of Liverpool), and Prof Jean Allain (Wilberforce Institute, University of Hull).

The **Rights Lab** is a University of Nottingham “Beacon of Excellence” and home to the world’s largest and leading group of modern slavery researchers. Through its five research programmes, impact team, and INSPIRE project, the Rights Lab is underpinning antislavery with an advanced research agenda, collaborating with civil society, business, and government, and elevating survivor-informed research as a key part of knowledge production to help end slavery.

The **Wilberforce Institute** at the University of Hull aims to advance fundamental knowledge of slavery and emancipation, informing policy, business practice and public debate at local, national and international levels. The Wilberforce Institute brings together experts in humanities, law and social sciences to help tackle this global problem head on.

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# 1. Overview of antislavery and anti-trafficking governance in Somalia

## 1.1. GSI rankings and government response ratings<sup>1</sup>

	Vulnerability		Prevalence			Government response	
	Ranking <sup>2</sup>	Score <sup>3</sup>	Ranking <sup>4</sup>	Absolute <sup>5</sup>	/ 1000 <sup>6</sup>	Ranking <sup>7</sup>	Rating <sup>8</sup>
<b>2013</b>	1	88.05	27	69,000	6.77	-	-
<b>2014</b>	1	94.9	67	45,600	4.35	155	C
<b>2016</b>	3	67.07	8	121,900	11.3	-	-
<b>2018</b>	6	89.5	11	216,000	15.5	-	C

Although the nature of modern slavery makes measuring the phenomenon an inherently difficult task, the Walk Free Foundation's Global Slavery Index (GSI) aims to provide the 'best available data and information about the scale and regional distribution of modern slavery'.<sup>9</sup> This includes **national prevalence estimates** of the number of people experiencing modern slavery in each country, calculated on the basis of a predictive model that accounts for individual and country-level risk factors.

National prevalence estimates are analysed in the context of results of Walk Free's **Vulnerability Model**. This model uses 'statistical testing and processes to identify the factors that explain or predict the prevalence of modern slavery'.<sup>10</sup> The 2018 Vulnerability Model features five factors, made up of 23 distinct variables: governance issues, lack of basic needs, inequality, disenfranchised groups, and effects of conflict.

Walk Free also tracks **government responses** to modern slavery, tracking government efforts across five milestones: (1) survivors of slavery are identified and supported to exit and remain out of slavery; (2) criminal justice mechanisms function effectively to prevent modern slavery; (3) coordination occurs at the national and regional level, and governments are held to account for their response; (4) risk factors such as attitudes, social systems, and institutions that enable modern slavery are addressed; and (5) government and business stop sourcing goods and services produced by forced labour.<sup>11</sup>

It should be noted that the scope, methodology, and sources underpinning GSI findings has changed over the years. This means that data between different reporting years is not directly comparable.

<sup>1</sup> Walk Free Foundation, 'The Global Slavery Index 2013' (2013), available [here](#); 'The Global Slavery Index 2014' (2014), available [here](#); 'The Global Slavery Index 2016' (2016), available [here](#); 'The Global Slavery Index 2018' (2018), available [here](#) accessed 12 November 2020.

<sup>2</sup> Note: a higher ranking (closer to 1) indicates high vulnerability relative to other countries.

<sup>3</sup> Note: a higher score indicates increased vulnerability to modern slavery, with a median country score of 47.28 in 2018.

<sup>4</sup> Note: a higher ranking (closer to 1) indicates a high number of people experiencing modern slavery per 1000 in the overall population relative to other countries.

<sup>5</sup> Note: absolute prevalence measures the estimated number of people experiencing modern slavery in the country.

<sup>6</sup> Note: prevalence /1000 measures the number of people estimated to experience modern slavery per 1000 people in the overall population.

<sup>7</sup> Note: a higher ranking (closer to 1) indicates better government responses to modern slavery relative to other countries.

<sup>8</sup> Note: government response ratings are broken into scoring bands, with an A rating representing the strongest government response to modern slavery (with a score of 70-79.9), followed by BBB (60-69.9), BB (50-59.9), B (40-49.9), CCC (30-39.9), CC (20-29.9), C (10-19.9), and D (<0-9.9).

<sup>9</sup> Walk Free Foundation, 'Global Findings' (2018), available [here](#).

<sup>10</sup> Walk Free Foundation, 'Methodology: Vulnerability' (2018), available [here](#).

<sup>11</sup> Walk Free Foundation, 'Methodology: Government Response' (2018), available [here](#).

## 1.2. TIP Rankings 2001-2020

*There's been no TIP ranking for Somalia since inception.*

## 1.3. Quantitative measures on anti-trafficking governance (TIP Reports)<sup>12</sup>

Measure	Year	Qty	
<b>Potential trafficking victims identified in Somaliland</b>	2019	300	[1]
<b>Arrests related to immigration violations and alleged human trafficking crimes in Somalia</b>	2019	17	[1]
<b>Trafficking cases in Puntland</b>	2019	2	[1]
<b>Internally Displaced People</b>	2019	2,6 m	[2]
<b>Child recruitment in armed conflicts</b>	September-December 2019	260	[1]
<b>Child recruitment in armed conflicts</b>	2018	1,850	[3]
<b>Trafficking investigations by the anti-trafficking unit</b>	2018	43	[3]
<b>Trafficking investigations in Somalia</b>	2017	1	[4]
<b>Child sex trafficking cases investigated in Puntland</b>	2017	23	[5]
<b>Trafficking victims who received assistance in Puntland</b>	2016	23	[5]

<sup>12</sup> Sources:

[1] US Department of State (2020), '2020 Trafficking in Persons Report' (2020) <<https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>> accessed 28 September 2020

[2] Mixed Migration Centre (2020) <<http://www.mixedmigration.org/>> accessed 06 October 2020.

[3] US Department of State, '2019 Trafficking in Persons Report' (2019) <<https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>> accessed 24 September 2020.

[4] US Department of State, '2018 Trafficking in Persons Report' (2018) <<https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>> accessed 24 September 2020

[5] US Department of State, '2017 Trafficking in Persons Report' (2017) <<https://www.state.gov/reports/2017-trafficking-in-persons-report/somalia>> accessed 24 September 2020

## 2. Treaty commitments<sup>13</sup>

Instrument	Ratification date
1926 Slavery Convention	N/A
1953 Protocol to the Slavery Convention	N/A
1930 Forced Labour Convention	18 November 1960
2014 Protocol to the Forced Labour Convention	N/A
1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery	N/A
1957 Abolition of Forced Labour Convention	8 December 1961
1966 International Covenant on Civil and Political Rights (ICCPR)	24 January 1990
1966 Optional Protocol to the ICCPR	24 January 1990
2005 Council of Europe Convention on Action against Trafficking in Human Beings	N/A
1990 Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	N/A
1998 Rome Statute of the International Criminal Court	N/A
1989 Convention on the Rights of the Child	2015 <sup>14</sup>
1999 Worst Forms of Child Labour Convention	20 March 2014
2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children	N/A
2000 Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	N/A
2000 Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict	N/A
2011 Domestic Workers Convention	N/A
<b>Regional Commitments</b>	
African Charter on Human and Peoples' Rights	1985
2009 African Union Convention for the Protection of Internally Displaced Persons "the Kampala Convention"	26 November 2019
<b>Key International Commitments</b>	
1948 Universal Declaration of Human Rights	
1985 Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power	
2005 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law	
2015 UN Sustainable Development Goals (5.3, 8.7)	

<sup>13</sup> UN Treaty ratification info sourced from UN Treaty Collection available [here](#); ILO Convention ratifications available [here](#); Rome Statute ratification status available [here](#). Membership data on the 2017 Call to Action is found at Delta8.7, 'Call to Action' available [here](#), accessed 04 November 2020.

<sup>14</sup> Although Somalia does not consider itself bound by Articles 14, 20, 21 of the Convention and any other provisions of the Convention contrary to the General Principles of Islamic Sharia

## 3. General country context

### 3.1. Constitutional structure<sup>15</sup>

Somalia is a federal parliamentary republic conformed after an eight-year political transition process completed in 2012 with the adoption of a overwhelmingly voted Provisional Constitution<sup>16</sup> before the country's 2012 elections, which led to the establishment of the Federal Government of Somalia (FGS).<sup>17</sup> The bicameral Federal Parliament, consisting of the Upper House and the House of the People,<sup>18</sup> is vested with legislative authority and elects the President, which is the Head of the State. The Prime Minister is appointed by the President with the approval of the House of People,<sup>19</sup> and so is the Cabinet appointed by the Prime Minister.<sup>20</sup> According to the Constitution, two levels of government are established: the FGS and, at regional levels, governments of the Federal Member States and local governments.<sup>21</sup> Judicial authority is endowed in courts, which together with the Constitutional Court, federal government courts and federal member states (regional) courts are supposed to operate on three levels,<sup>22</sup> and apply a mixed legal system of civil law, Islamic (Shari'ah) law, and customary law (referred to as "Xeer"<sup>23</sup>). However, Islamic law conforms Somalia's legal foundation, since the 2012 Provisional Constitution asserts that all laws must comply with Shari'ah law.<sup>24</sup> Somalia accepts compulsory International Court of Justice jurisdiction with reservations, although it is a non-party state to the International Criminal Court.

It is important to note that the territory of Somalia is divided de facto into three distinct administrative areas: Somaliland (a self-declared independent state, not recognised by the international community), Puntland (a self-declared autonomous state of Somalia) and the area south of Puntland, referred to as South/Central Somalia.<sup>25</sup> The self-declared Republic of Somaliland adopted the Constitution of Somaliland on 2000,<sup>26</sup> while Puntland is

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<sup>15</sup> See an unofficial English version of the Somalian Constitution 2012 in <<http://hrlibrary.umn.edu/research/Somalia-Constitution2012.pdf>> accessed 22 September 2020.

<sup>16</sup> As Antonios Kouroutakis explains, 'The term 'Provisional' Constitution is fraught with ambiguity. On the one hand, it may have been used in contrast to state constitutions and to imply a hierarchy between federal and states' constitutions. On the other hand, it may have been used in contrast to the transitional constitutions'. See Antonios Kouroutakis, 'The provisional Constitution of the Federal Republic of Somalia: process, architecture, and perspectives' (2014) 3(4) *Cambridge Journal of International and Comparative Law* 1200.

<sup>17</sup> UN News Centre, 'UN officials welcome historic approval of new constitution for Somalia' (01 August 2012) <[www.un.org/apps/news/story.asp?NewsID=42603#.Vd8MGbCUcrQ](http://www.un.org/apps/news/story.asp?NewsID=42603#.Vd8MGbCUcrQ)> accessed 22 September 2020.

<sup>18</sup> Members of the two houses of parliament are selected through indirect elections, with House of the People membership chosen on clan affiliation and a power-sharing formula, and Upper House membership chosen by state assemblies. See US Department of State, '2019 Country Reports on Human Rights Practices: Somalia' (2019) <<https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/somalia/>> accessed 24 September 2020.

<sup>19</sup> Article 89 of the 2012 Constitution. See further CIA, 'The World Factbook- Somalia' (14 September 2020) <<https://www.cia.gov/library/publications/the-world-factbook/geos/so.html>> accessed 22 September 2020.

<sup>20</sup> Article 134 of the 2012 Provisional Constitution.

<sup>21</sup> Article 48 of the 2012 Provisional Constitution.

<sup>22</sup> Article 108 of the 2012 Provisional Constitution.

<sup>23</sup> See further Hatem Elliesie, 'Statehood and Constitution-Building in Somalia' in Rainer Grote and Tilmann Röder (ed.), *Constitutionalism in Islamic Countries: Between Upheaval and Continuity* (Oxford University Press, 2012) 570 and ff.

<sup>24</sup> In practice, as noted in the BTI Report about Somalia, "[t]he formal court system remains weak, and courts are only available in larger cities. Therefore, Shariah and Xeer are in varying combinations simultaneously practiced across the country. Religious norms exert a strong influence on political, economic and social practices in the country. In areas governed by al-Shabaab, politics and everyday administration are strictly guided by religious dogma". See BTI, 'Somalia' (2020) 9 <[https://www.bti-project.org/content/en/downloads/reports/country\\_report\\_2020\\_SOM.pdf](https://www.bti-project.org/content/en/downloads/reports/country_report_2020_SOM.pdf)> accessed 23 September 2020.

<sup>25</sup> European Asylum Support Office (European Union), 'Country of Origin Information report. South and Central Somalia Country overview' (2014) 14 <<https://www.refworld.org/docid/542e8b9d4.html>> accessed 23 September 2020.

<sup>26</sup> Mario I. Aguilar, 'The Constitution of Somaliland: The Problem of Constitutional Generations and Clan Dissolution' (2015) 5 *Sociology Mind* 245-254. See an unofficial English version of the Constitution: <[http://www.somalilandlaw.com/body\\_somaliland\\_constitution.htm](http://www.somalilandlaw.com/body_somaliland_constitution.htm)> accessed 23 September 2020.

governed by the 2012 Constitution of Puntland, subject only to Somalia's federal Constitution.<sup>27</sup>

### 3.2. Political context

A clear understanding of the current political context in Somalia requires further historical contextualisation. Created in 1960 from a former British protectorate and an Italian colony, Somalia collapsed into anarchy following the overthrow of the military regime of President Siad Barre in 1991. Ever since, the country and its population have suffered from civil war, lack of efficient governmental structures, hunger, drought, conflicts and isolation.<sup>28</sup> Although reconciliation initiatives were attempted to restore normality under auspices of the United Nations and other neighbour States such as Kenya, Ethiopia and Djibouti, they were unsuccessful.<sup>29</sup> The 2011 Kampala Accord, otherwise contentious,<sup>30</sup> paved the way for the Garowe Process, which defined and facilitated the constitution-making process leading to the 2012 Provisional Constitution and 2012's federal elections.<sup>31</sup> In the last presidential elections in 2017, President Mohamed Abdullahi Mohamed –commonly known as “Farmaajo”–, was elected as president of the FGS. By contrast to the electoral process for the Parliament, which was widely viewed as flawed and marred with corruption, the President Farmaajo's election was viewed fair and transparent.<sup>32</sup>

However, within this period the government has failed to consolidate nascent federal structures.<sup>33</sup> The self-declared independent Republic of Somaliland and the regional government Puntland have retained control of security and law enforcement in their respective regions, and the FGS had limited influence outside Mogadishu, even with the support of the African Union Mission to Somalia (AMISOM).<sup>34</sup> The status of the federal member states (FMS) and the tasks and responsibilities of the federal and central institutions have not yet been clarified and tensions between the central and federal states have persisted.<sup>35</sup> On another note, the Islamist militia Harakat al-Shabaab al-Mujahideen (al-Shabaab) has firmly established itself in rural areas in the southern half of Somalia, and controls major supply routes to towns,<sup>36</sup> which it is used as a base to exploit the local population by collecting illegal taxes. It also conducts attacks across the country, and was itself involved in human trafficking.<sup>37</sup>

A strong traditional clan system (known as xeer) is informally used to regulate most social affairs and deliberations in the Somali homogeneous culture,<sup>38</sup> where male clan leaders have powers to decide on various aspects of the Somali social lifestyle, lineage issues, and conflict resolution.<sup>39</sup> ‘The xeer has proven itself to be extremely relevant for achieving and maintaining social stability despite clan's internal changes, and works in this sense as a social contract, for it regulates societal actions’.<sup>40</sup> Against this backdrop, it is important to take into account, as Hawa Noor Mohammed has pointed out, that women have remained

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<sup>27</sup> See Conciliation resources, ‘Whose peace is it anyway? Connecting Somali and international peacemaking’ (2010) 21 *Accord an international review of peace initiatives*, 91 ff.

<sup>28</sup> Antonios Kouroutakis, above n 16, 1196 ff. Transitional agreements have been attempted since the so-called Arta Process in 2000 and the Mbagathi Talks in 2002, which eventually led to a deadlock.

<sup>29</sup> Andre Le Sage, ‘Somalia: Sovereign Disguise for a Mogadishu Mafia’ (2002) 29 *Review of African Political Economy* 132.

<sup>30</sup> Ken Menkhaus, ‘Somalia at the Tipping Point?’ (2012) *Current History* 169, 170.

<sup>31</sup> Laura Hammond, ‘Somalia Rising: Things Are Starting to Change for the World's Longest Failed State’ (2013) 7 *Journal of Eastern African Studies* 183, 184

<sup>32</sup> US Department of State, above n 18.

<sup>33</sup> BTI, above n 24, 3.

<sup>34</sup> GARDA, ‘Somalia Country Report’ (05 April 2019) <<https://www.garda.com/crisis24/country-reports/somalia>> accessed 24 September 2020.

<sup>35</sup> BTI, above n 24, 3.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid, 5 ff; US Department of State (2019), above n 12, 508.

<sup>38</sup> Hawa Noor Mohammed, ‘Kenya and Somalia: Fragile constitutional gains for women and the threat of patriarchy’ (2015) 24(4) *African Security Review* 458, 462

<sup>39</sup> Marco Zoppi, ‘Somalia: federating citizens or clans? Dilemmas in the quest for stability’ (2018) 36(1) *Journal of Contemporary African Studies*, 54, 58; Laura Hammond, *Safety, Security and Socio-Economic Wellbeing in Somaliland. A Study by Laura Hammond* (SOAS, London, 2013) 32.

<sup>40</sup> Marco Zoppi, above n 39, 58. See further European Asylum Support Office (European Union), above n 25, 43.



a fundamental pillar in Somali society throughout the conflict, 'mobilising women's peace lobby groups, and providing shelter, medical care, food and medication to combatants, as well as taking care of their families'.<sup>41</sup>

### 3.3. Migration profile

In terms of migration, Somalia is a country of origin, transit and destination for mixed migration flows in and out of the East and Horn of Africa region.<sup>42</sup> At mid-2019 the country's emigrant population was estimated to be 2,1 million, while the number of international migrants residing in the country was estimated 52,1 thousand (0,3% of the total population).<sup>43</sup> Political insecurity, terrorist attacks and environmental factors including drought, famine and other natural disasters continue to force Somalis to leave their homes.<sup>44</sup> The Protection Return and Monitoring Network (PRMN) and IOM estimated that 2.6 million Somalis were internally displaced due to conflict and climate-related events as of November 2020.<sup>45</sup> According to the Internal Displacement Monitoring Centre, 'conflict and violence triggered 188,000 new displacements in 2019, mainly in the south-east where al-Shabaab, which is affiliated to al-Qaeda, has its stronghold. More than 264,000 IDPs were evicted during the year, making forced evictions one of the main triggers of secondary displacement in the country. Disasters triggered 479,000 new displacements. In common with other countries in East Africa, Somalia was affected by widespread flooding in the second half of 2019 during an unusually wet rainy season influenced by El Niño'.<sup>46</sup> Most of the internal migration occurs in the form of rural-urban migration: 32% of the 291,000 new displacements between 2017 to 2018 migrated towards the capital of Somalia, Mogadishu.<sup>47</sup>

UNHCR reported that by 31 May 2020, 761,276 Somalis had sought refuge in neighbouring countries including Kenya (35%), Yemen (34%), Ethiopia (26%) and Uganda (5%).<sup>48</sup> The majority of Somali refugees (87.1%) stay within the continent of Africa, while 12.9% migrate to other continents, including 11.4% heading to Europe.<sup>49</sup> As of mid-2019, there were 905,100 refugees from Somalia registered by UNHCR globally.<sup>50</sup> Due to the 2013 Tripartite Agreement Governing the Voluntary Repatriation of Somali Refugees Living in Kenya, between December 2014 and 31 March 2018, a total of 81,030 Somali refugees have repatriated under this agreement.<sup>51</sup> The original aim was that returns would be directed to three areas in South Central Somalia, but this has since expanded to include nine areas, including some in Somaliland and Puntland.<sup>52</sup>

<sup>41</sup> Hawa Noor Mohammed, above n 38, 462-463

<sup>42</sup> Maastricht Graduate School of Governance, 'Somalia Migration Profile- Study on Migration Routes in the East and Horn of Africa' (2017), 2 <<https://i.unu.edu/media/migration.unu.edu/publication/4719/Somalia-Migration-Profile.pdf>> accessed 28 September 2020.

<sup>43</sup> Migration Data Portal (2020) <[https://migrationdataportal.org/data?focus=profile&i=stock\\_abs &t=2019&cm49=706](https://migrationdataportal.org/data?focus=profile&i=stock_abs &t=2019&cm49=706)> accessed 28 September 2020.

<sup>44</sup> Maastricht Graduate School of Governance, above n 42, 2.

<sup>45</sup> Internal Displacement Monitoring Centre (2020) <<https://www.internal-displacement.org/countries/somalia>> accessed 13 November 2020. Of the total number of 2,648,000 Internally Displaced People, 1,125,000 were new displacements that occurred in 2018, which is further classified under the two causes of a natural disaster or a man-made conflict. See Refugee Project, 'Forced Migration in Somalia' (03 December 2019) <<https://storymaps.arcgis.com/stories/ad1d7a32c68d4dc2a68bffb5264b2db8>> accessed 28 September 2020

<sup>46</sup> Internal Displacement Monitoring Centre, above n 45.

<sup>47</sup> As highlighted in the Refugee Project's report, 'regions of origin for these rural-urban migrations include areas from Lower Shabelle like Kurtunwarey, Marka, Afgooye, Qoryooley, Sablaale, Wanla Weyn and areas from Middle Shabelle like Jowhar, Balcad, Baraawe, Cadale, Adan Yabaal, with a total number of number of 136,000 new displacements in the year of 2018 moving to Somalia'. See Refugee Project, above n 45.

<sup>48</sup> UNHCR, 'Somalia Operational Update' (August 2020) <<https://reporting.unhcr.org/sites/default/files/UNHCR%20Somalia%20Operational%20Update%20-%20August%202020.pdf>> accessed 28 September 2020.

<sup>49</sup> Refugee Project, above n 45.

<sup>50</sup> Migration Data portal, above n 43.

<sup>51</sup> United Nations High Commissioner for Refugees (UNHCR), 'Somalia Repatriation Update May 1-31 March 2018' (2018) <<https://data2.unhcr.org/es/documents/details/63388>> accessed 28 September 2020.

<sup>52</sup> Maastricht Graduate School of Governance, above n 42, 3-4.

Regarding asylum-seekers and refugees, Somalia hosts a relatively small number of them: in 2020 Somalia has harboured 35,499 refugees and asylum-seekers, mostly from Ethiopia and Yemen.<sup>53</sup> Economic migrants also use the country as a transit point in route to the Gulf, which exposes them to exploitation and abuse.<sup>54</sup>

### 3.4. Development profile

#### 3.4.1 GDP Rates

Somalia GDP Growth Rate - Historical Data		
Year	GDP Growth (%)	Annual Change
1990	-1.48%	-1.31%
1989	-0.18%	0.38%
1988	-0.55%	-5.65%
1987	5.10%	1.74%
1986	3.35%	-4.80%
1985	8.15%	4.60%
1984	3.55%	12.31%
1983	-8.75%	-12.83%
1982	4.07%	-1.59%
1981	5.66%	9.56%
1980	-3.90%	-1.19%
1979	-2.71%	-6.44%
1978	3.73%	-19.58%
1977	23.31%	24.32%
1976	-1.02%	-31.09%
1975	30.07%	48.34%
1974	-18.27%	-16.32%
1973	-1.95%	-12.05%
1972	10.10%	7.47%
1971	2.63%	-1.95%
1970	4.58%	6.28%

#### 3.4.2 Employment indicators<sup>55</sup>

2017	2018	2019	2020
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<sup>53</sup> UNHCR, 'Somalia Operational Update' (1-29 February 2020) <<https://reliefweb.int/report/somalia/unhcr-somalia-operational-update-1-29-february-2020>> accessed 28 September 2020.

<sup>54</sup> Henry Wilson-Smith (Migration Policy Institute), 'On the Move in a War Zone: Mixed Migration Flows to and through Yemen' (6 February 2019) <<https://www.migrationpolicy.org/article/mixed-migration-flows-yemen-war-zone>> accessed 28 September 2020.

<sup>55</sup> World Bank (2020) <<https://data.worldbank.org/indicator/SL.UEM.TOTL.ZS?locations=SO>> accessed 28 September 2020; and FRED Economic Research (2019) <<https://fred.stlouisfed.org/series/SLUEM1524ZSSOM>> accessed 28 September 2020.

<b>Unemployment rate of the total population (%)</b>	11,4	11,2	11,3	11,4
<b>Youth unemployment rate (%)</b>	17,1	16,8	16,9	-

### 3.5. Somalia’s Human Rights Record

In Somalia, the incipient institution-building at the federal and State levels since 2012 have strengthened governance, and some progress has underpins an improvement in the enjoyment of human rights.<sup>56</sup> However, violations of human rights, forced displacement, and violations of humanitarian law continued to be the norm against a backdrop of a pervasive impunity.<sup>57</sup> Freedom House assigned to Somalia a country rating of 7/100, which places it among the bottom eight of the 210 countries surveyed,<sup>58</sup> and the international corruption rating organization –Transparency International– listed Somalia in 2018 as the most corrupt country in the world, a place Somalia has held this entire decade.<sup>59</sup>

As summarised in the US Country Report, significant human rights issues included: ‘unlawful or arbitrary killing, including extrajudicial killings, of civilians by federal government forces, clan militias, al-Shabaab, and unknown assailants;<sup>60</sup> forced disappearances by al-Shabaab; torture and other cruel, inhuman, or degrading treatment or punishment by federal government forces, clan militias, al-Shabaab, and unknown assailants; arbitrary and politically motivated arrest and detentions, including of journalists by federal government forces and regional government forces; harsh and life-threatening prison conditions; political prisoners; arbitrary or unlawful interference with privacy; serious problems with the independence of the judiciary; the worst forms of restrictions on free expression, the press, and internet, including violence, threats of violence, and unjustified arrests and prosecutions of journalists, censorship, site blocking, and the existence of criminal libel laws;<sup>61</sup> numerous acts of corruption; restrictions on political participation; unlawful recruitment or use of child soldiers by federal government forces, clan militias, Ahlu Sunna Wal Jama (ASWJ), and al-Shabaab; the existence or use of laws criminalizing consensual same-sex sexual conduct between adults; violence against women and girls, partly caused by government inaction; forced labor; and the worst forms of child labor’.<sup>62</sup> As reported by Human Rights Watch, “in 2018, the UN

<sup>56</sup> Human Rights Council, ‘Situation of human rights in Somalia- Report of the Independent Expert on the situation of human rights in Somalia’ (A/HRC/42/62, 9–27 September 2019) 5.

<sup>57</sup> BTI, above n 24, 14. ‘There are no accountability mechanisms in place to oversee the conduct of public servants or politicians. Corrupt officials operate with impunity, and while individual cases of dismissal due to corruption have been known, there are no legal repercussions, regardless of how severe the corruption. The inability of the federal institutions and donors to address endemic corruption hampers the ongoing State-building process, makes institution-building ineffective and undermines citizens’ trust in state institutions. The high risk of corruption is particularly evident in the security institutions, where mismanagement of resources and failure to pay salaries has led to severe security risks’ (pp. 17-18). See further Human Rights Watch, ‘Somalia. Events of 2019’ (2020) <<https://www.hrw.org/world-report/2020/country-chapters/somalia>> accessed 28 September 2020.

<sup>58</sup> Freedom House, ‘Somalia Profile’ (2018) <<https://freedomhouse.org/report/freedom-world/2018/somalia>> accessed 28 September 2020.

<sup>59</sup> See Transparency International, ‘Corruption perceptions index – 1995 to 2018’ (2018) <<https://www.transparency.org/research/cpi/overview>> accessed 28 September 2020.

<sup>60</sup> The UN Security Council October 2016 update remarked that there were targeted killings of civil society activists and journalists. UN Security council, ‘Letter dated 7 October 2016 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 (Section IV)’ (31 October 2017) <<http://www.securitycouncilreport.org/undocuments/somalia/>> accessed 28 September 2020.

<sup>61</sup> See UK Home Office, ‘Country Policy and Information Note Somalia (South and Central): Fear of Al Shabaab’ (July 2017) 6 <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/629570/Somalia\\_-\\_Al-Shabaab\\_-\\_CPIN\\_-\\_v2\\_0.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/629570/Somalia_-_Al-Shabaab_-_CPIN_-_v2_0.pdf)> accessed 28 September 2020

<sup>62</sup> US Department of State, above n 18.

documented more cases of children recruited and used as soldiers in Somalia than in any other country in the world. This trend continued in 2019 as Al-Shabab pursued an aggressive child recruitment campaign with retaliation against communities refusing to hand over children'.<sup>63</sup>

Sexual and gender-based violence is a widespread and serious problem throughout Somalia, including the regions of Somaliland and Puntland. There is a culture of impunity surrounding sexual and domestic violence. Customary approaches to dealing with violence against women typically involve that abuses are frequently unreported and settle between families, with perpetrators typically paying compensation or marrying the victim.<sup>64</sup> The absence of support frameworks for women, especially single women, leave them vulnerable and at risk of being subjected to exploitation.<sup>65</sup> The exclusion of women is more pronounced in Al-Shabaab-controlled areas, wherein 'a strict and harsh interpretation of Sharia law is imposed, which prohibits the exercise of several forms of human rights, such as freedom of speech, expression, movement, assembly, and religion. Women are also excluded from economic activities which are perceived as anti-Islamic'.<sup>66</sup> Furthermore, although women are entitled to own and dispose their property independently, barriers of legal, cultural and societal nature often prevent them from exercise such rights fully.<sup>67</sup> International humanitarian law is also systematically violated, with the various factions impeding access to relief supplies humanitarian access.<sup>68</sup>

### 3.6. Social support systems

The main social safety nets that exist are offered by extended families and clans.<sup>69</sup> Public health care in Somalia is managed through the three administrative systems in Somaliland, Puntland and South-Central Public and is delivered in four levels: i) Regional hospitals, ii) Referral Health Centres; iii) Health Centres (HC) and iv) Primary Health Units/health posts (PHU/HPs).<sup>70</sup> However, the widespread conflict and political instability have stagnated the health system and essential infrastructure, with the country facing chronic shortages of qualified health personnel and equipment resulting in substandard and inadequate provision of health services.<sup>71</sup> 'Reportedly there are no trained nurses or midwives in the rural and nomadic areas [...]. Access to adequate and equitable prevention, continuity of health care and referral services are thus very limited particularly for those in hard-to-reach locations. As a result, the country bears the highest under-five mortality rate and the second highest maternal mortality ratio globally. Anecdotal reports indicate that some Somalis cross the border and seek treatment for multi-drug resistant tuberculosis (MDR-TB) and/or other health care services in Kenya'.<sup>72</sup>

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<sup>63</sup> Human Rights Watch, above n 57.

<sup>64</sup> UK Home Office, 'Country Policy and Information Note Somalia: Women fearing gender-based violence' (April 2018), <sup>13</sup>  
<[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/698322/somalia-women-fearing-gender-based-violence-cpin.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/698322/somalia-women-fearing-gender-based-violence-cpin.pdf)> accessed 28 September 2020

<sup>65</sup> Ibid, 6.

<sup>66</sup> Ibid.

<sup>67</sup> US Department of State, above n 18. For instance, girls and women could inherit only one-half the amount of property to which their brothers were entitled

<sup>68</sup> Human Rights Watch, above note 53; European Asylum Support Office (European Union), above n 25, 36.

<sup>69</sup> BTI, above n 24, 29. 'Remittances from Somalis abroad account for a large part of this safety net; according to World Bank estimates, these remittances provide up to 40% of household income'.

<sup>70</sup> Leila Hussein Abdullahi, Mohamed Kalid Ali and Ali Sheikh Mohamed Omar (Save the Children), 'Community Health and Social Accountability in Somalia Programme (CHASP): Findings from Literature Review and Baseline Data' (04 June 2018) <sup>13</sup>  
<[https://somalia.savethechildren.net/sites/somalia.savethechildren.net/files/library/Health%20system%20in%20Somalia\\_CHASP%20research%20baseline%20report\\_2018\\_1.pdf](https://somalia.savethechildren.net/sites/somalia.savethechildren.net/files/library/Health%20system%20in%20Somalia_CHASP%20research%20baseline%20report_2018_1.pdf)> accessed 28 September 2020

<sup>71</sup> IOM, 'Dimensions of crisis on migration in Somalia' (February 2014) <sup>11</sup>  
<<http://128.199.179.223/iom/sites/default/files/2018-07/Dimensions%20of%20Crisis%20on%20Migration%20in%20Somalia.pdf>> accessed 28 September 2020; See further Adan Mohsan Ali et al, 'The most fragile state: healthcare in Somalia' (2014) 30(1) *Medicine, Conflict and Survival* 28, 33.

<sup>72</sup> Ibid.

Within this context, development and humanitarian NGOs, along with United Nations agencies and other community providers have played a vital role in bridging gaps in healthcare services in a sector that is almost entirely private.<sup>73</sup> In general, several challenges have been identified as main factors hindering Somali health system strengthening efforts: poor governance in the Somali Health System; lack of human and material resources; unequal access to health services due to an overwhelming disproportion between the private and public sectors; and a lack of a comprehensive information system.<sup>74</sup> Notwithstanding the above, the Somali government is taking steps towards the creation of an enabling environment which may strengthen the health care system. Notably, the Federal Ministry of Health has established a central system for coordinating efforts and ensuring the partners effectively address the needs of Somali population.<sup>75</sup>

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<sup>73</sup> Leila Hussein Abdullahi, Mohamed Kalid Ali and Ali Sheikh Mohamed Omar (Save the Children), above n **Error! Bookmark not defined.**, 13.

<sup>74</sup> Abdihamid Warsamea, Jibril Handulehb and Preeti Patel, 'Prioritization in Somali health system strengthening: a qualitative study' (2015) *International Health*, 2 ff.

<sup>75</sup> Ministry of Labour and Social Affairs (the Federal Government of Somalia), 'Somalia Social Protection Policy' (March 2019) 11 ff <<https://reliefweb.int/sites/reliefweb.int/files/resources/MoLSA-Somalia-FINAL-min.pdf>> accessed 28 September 2020; Abdihamid Warsamea, Jibril Handulehb and Preeti Patel, above n 74, 4 ff.

## 4. National modern slavery context

### 4.1. Modern slavery profile

Somalia remains a country of destination, origin, and transit of victims of trafficking. Most traffickers and smugglers were nationals of Somalia, Djibouti, Eritrea, and North Africa, who commonly used the following routes: 'a northern route to Europe via Libya; an eastern route to Europe via Turkey; a direct southern path to Kenya, Tanzania, or South Africa; and finally a path from south-central Somalia through Puntland onward to Yemen via the Bab el-Mandeb strait. [...] In Somaliland, some women acted as recruiters and intermediaries who transported victims to Puntland, Djibouti, and Ethiopia for the purposes of forced labor in domestic service or sex trafficking'.<sup>76</sup> Traffickers employed deceptive, coercive and abusive means for recruiting victims into forced labour, domestic servitude or sexual exploitation. They reportedly took advantage of the vulnerability of Internally Displaced Persons, predominantly women and children from southern and central Somalia, and often resorted to false promises of lucrative jobs abroad through social media platforms and travel agencies. Particularly, traffickers subjected Somali men to forced labour in farming and construction in the Gulf States, transported children to Saudi Arabia and Djibouti for forced begging,<sup>77</sup> and used children and minority clan members as porters to transport the mild narcotic khat (or *miraa*), or in farming and animal herding, crushing stones, and construction.<sup>78</sup> Women and girls were systematically abducted and forced to marry combatants as an incentive for new recruits and a reward for fighters. This practice enhanced their status by marrying women from more prominent clans.<sup>79</sup>

The terrorist group al-Shabaab is actively involved in human trafficking and slavery-related crimes, forcing victims –especially women and children– into sexual slavery or servitude, military support roles, direct combat, and forced marriages to al-Shabaab militants.<sup>80</sup> They used mainly coercive means, such as infiltration of madrassas and mosques, harassment of clan elders or family members, school raids, and abductions. The US TIP Report highlighted that in 2018, 'al-Shabaab reportedly conducted numerous "handing-over" ceremonies in the presence of village and clan elders, during which the terrorists forced communities to "volunteer" hundreds of their children to fight among its ranks."<sup>81</sup> Al-Shabaab forces also "taxed" families to provide male children to serve as child soldiers. These children "planted explosive devices, acted as human shields, conducted assassinations and suicide attacks, gathered intelligence, and provided domestic services."<sup>82</sup> More generally, they forced persons in their camps to move to the countryside, reportedly to raise cash crops for the organization.<sup>83</sup> Some children fleeing Al-Shabaab seek shelter in Kenya, where they are subsequently revictimized for labour and commercial sexual exploitation there.<sup>84</sup>

### 4.2. Causes and drivers of modern slavery and transnational trafficking

It has been outlined that trafficking in persons and slavery-related offences in areas affected by armed conflict is more likely to occur, for instance, a conflict exacerbates child

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<sup>76</sup> US Department of State (2020), above n 12, 544.

<sup>77</sup> Ibid.

<sup>78</sup> US Department of State, above n 18.

<sup>79</sup> Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (2019), available [here](#).

<sup>80</sup> Ibid.

<sup>81</sup> Ibid.

<sup>82</sup> US Bureau of International Labor Affairs, '2019 Findings on the Worst Forms of Child Labor- Somalia' (US Department of Labor, 2019) 2 <<https://www.dol.gov/agencies/ilab/resources/reports/child-labor/somalia>> accessed 28 September 2020.

<sup>83</sup> US Department of State, above n 18.

<sup>84</sup> US Bureau of International Labor Affairs, above n 82, 2.

recruitment practices.<sup>85</sup> Furthermore, decades of conflict and humanitarian crises remain push factors for IDP and for outward migration causing asylum seekers and refugees to flee their homes.<sup>86</sup> Displaced persons have limited access to education, financial resources or opportunities for income generation, which 'provides a fertile environment for traffickers to promise safe migration routes, employment and education or skills training, and deceive them into exploitative situations'.<sup>87</sup> These elements, coupled with fragile institutions, environmental crises, and rampant corruption, result in an environment where trafficking in persons can easily thrive.<sup>88</sup> Furthermore, women face systematic subordination to men, which is deeply-entrenched with the culture, despite provisions in laws and in the federal constitution prohibiting such discrimination.<sup>89</sup>

### 4.3. Particularly vulnerable groups

**Internally displaced persons (IDP)** constitute a particularly vulnerable group which face discrimination and various human rights abuses from state or non-state actors, exacerbated by the fact that they are outside their normal social clan structures and unable to rely on the protection and support generally extended by such social networks.<sup>90</sup>

Members of **minority clans** often lack vital protection and suffer pervasive discrimination. '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, kidnapping for ransom, forced recruitment, bonded labour as well as looting of land and property with impunity by militias and majority clan members.<sup>91</sup> In some cases, it has been reported that clan networks extend to IDP camps and restrict their access to basic services and gatekeepers.<sup>92</sup>

**Women and girls** conform a particularly vulnerable group in Somalia. Crimes against women are often perpetrated with impunity, and the intersection with other factors, such as belonging to minority clans or being IDP, exacerbates their situation of vulnerability and confirms the need for additional protection. Women and girls from minority clans or living in ID camps also often lack access to justice, due process,<sup>93</sup> and are particularly exposed to assault, rape, sexual violence, female genital mutilation/cutting and forced marriages.<sup>94</sup> Recent reports have documented a pattern of sexual exploitation by troops, in which sex is exchanged for food or money.<sup>95</sup> The United Nations Assistance Mission in Somalia verified cases of conflict-related sexual violence perpetrated against 220 girls and 19 women, attributed to: unknown armed actors (120), Al-Shabaab (26), Jubbaland forces (18), clan militias (19), Galmudug police (5), Southwest forces (4) and Puntland police (2).<sup>96</sup>

**Children** are disproportionately exposed to exploitation and violence, and there are continued reports of various militias, such as the Somali National Army (SNA), ANISOM and al-Shabaab militias unlawfully recruiting and using child soldiers, with the latter entity committing the vast majority of violations.<sup>97</sup> The US Report on the Worst Forms of Child Labour pointed to an increase since 2018 of grave violations against children linked to

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<sup>85</sup> See S/RES/2388 (2017), available [here](#).

<sup>86</sup> IOM, 'Human trafficking and smuggling of migrants in the context of mixed migration flows: State of play in the IGAD Region' (2015), 39, available [here](#).

<sup>87</sup> *displace*.

<sup>88</sup> *Ibid*, 5.

<sup>89</sup> US Department of State, above n 18.

<sup>90</sup> UK Home Office, 'Country Policy and Information Note Somalia: Majority clans and minority groups in south and central Somalia' (January 2019) 18, available [here](#); BTI, above n 24, 30

<sup>91</sup> *Ibid*.

<sup>92</sup> US Department of State, above n 12, 510.

<sup>93</sup> UK Home Office, above n 90, 8.

<sup>94</sup> *Ibid*, 19-20

<sup>95</sup> UK Home Office, above n 64, 13.

<sup>96</sup> Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, above n 79.

<sup>97</sup> US Department of State (2019), above n 12, p510. See further US Bureau of International Labor Affairs, above n 82, 2.

government forces, including recruitment and use, killing and maiming, and sexual violence.<sup>98</sup> They were targeted in attacks on schools and hospitals, abducted and denied humanitarian access.<sup>99</sup>

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<sup>98</sup> US Bureau of International Labor Affairs, above n 82, 2; Freedom House, above n 58. 'According to an international organization, all alleged state and non-state actors used 69 percent of children for unknown purposes in the conflict, 15 percent of children as combatants in hostilities, and 16 percent of children in support roles such as security escorts, checkpoint guards, messengers, and cleaners. One boy, approximately 14-16 years old and recruited by the SPF, was reportedly seen by an international observer armed and dressed in uniform while controlling traffic and directing vehicles alongside several other police officers at Warta Nabada district in Mogadishu/Banadir': US Department of State (2020), above n 12, 544.

<sup>99</sup> Human Rights Council, 'Situation of human rights in Somalia Report of the Independent Expert on the situation of human rights in Somalia' (A/HRC/45/52, 24 August 2020) 18  
<[https://reliefweb.int/sites/reliefweb.int/files/resources/A\\_HRC\\_45\\_52\\_E.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_45_52_E.pdf)> accessed 05 October 2020



## 5. Antislavery governance frameworks

### 5.1. Legislative measures

#### 1. Somali Provisional Constitution 2012<sup>100</sup>

The Provisional Constitution prohibits slavery, servitude, trafficking, and forced labour under Article 14:

A person may not be subjected to slavery, servitude, trafficking, or forced labour for any purpose.

Article 28(5) refers to consent as a necessary element of marriage to be legal:

A marriage shall not be legal without the free consent of both the man and the woman, or if either party has not reached the age of maturity

Article 29(6) envisages provisions regarding children's welfare, including the imposition of exploitative practices, or the use of children in armed conflict:

(3) 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.

(6) Every child has the right to be protected from armed conflict, and not to be used in armed conflict.

A Human Rights Commission is envisaged in article 111B, with the aim of promoting and protecting human rights, and monitoring its observance. For that end, it is endowed with powers to '(a) investigate and report on the observance of human rights' (b) To take steps to secure appropriate redress where human rights have been violated' (c) To carry out research' and (d) To educate the public and state officials on international standards relating to human rights'.

#### 2. Puntland Constitution 2012<sup>101</sup>

The prohibition of slavery is envisaged under Article 32(2) of the Constitution of Puntland, which enshrines the right to personal freedom:

1. No person shall be deprived off his/her freedom, is not liable to personal search, any form of restriction not incompliance with the law.

2. Subjection to any form of slavery trading is prohibited by law.

3. All forms of personal liberty shall be in conformity with the Islamic Sharia, Law, moral dignity, national stability or the personal rights of the others.

4. The Constitution ensures the rights and liberty of every person.

Forced labour is prohibited under Article 92(2), within a provision which deals with labour protection of workers:

(2) The act of forced labour is forbidden, unless other special regulations of law are provided and shall specify by special law.

#### 3. Somaliland Constitution 2000<sup>102</sup>

No specific provision is established prohibiting slavery or servitude in the Somaliland Constitution. Forced labour is prohibited under Article 19(3):

3. All employees have a right to payment appropriate to the work they undertake, and are free to enter into agreements with their employers on an individual or collective basis. Forced labour is prohibited.

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<sup>100</sup> See an unofficial English version of the Somalian Constitution 2012 in <<http://hrlibrary.umn.edu/research/Somalia-Constitution2012.pdf>> accessed 13 November 2020

<sup>101</sup> See an unofficial translation of Puntland Constitution 2012: <<https://www.refworld.org/pdfid/4bc589e92.pdf>> accessed 28 September 2020.

<sup>102</sup> See an unofficial translation of Somaliland Constitution 2000 <[http://www.somalilandlaw.com/body\\_somaliland\\_constitution.htm](http://www.somalilandlaw.com/body_somaliland_constitution.htm)> accessed 28 September 2020.

In terms of interpretation, the clause 21(2) establishes a relevant criteria: 'articles which relate to fundamental rights and freedoms shall be interpreted in a manner consistent with the international conventions on human rights and also with the international laws referred to in this Constitution'.

#### 4. Penal Code 1964<sup>103</sup>

The pre-1991 Penal Code—applicable at the federal and regional levels<sup>104</sup>—criminalizes slavery, slave trade, forced labour and similar practices within the Chapter referred to 'Crimes against individual personality':

##### Article 455. Reduction to Slavery

Whoever reduces a person to slavery or to a similar condition, shall be punished with imprisonment from five to twenty years.

##### Article 456. Dealing and Trading in Slaves

Whoever deals or in any manner trades in slaves or persons in a condition similar to slavery, shall be punished with imprisonment from five to twenty years.

##### Article 457. Sale and Purchase of Slaves

Whoever, other than in the cases referred to in the preceding articles, disposes of or transfers a person who is in a state of slavery or a similar condition, or takes possession of or purchases or holds such person in such state, shall be punished with imprisonment from five to fifteen years.

##### Article 458. Enforced subjection

Whoever compels another to submit to his own power, so as to reduce him to a total state of subjection, shall be punished with imprisonment from five to fifteen years.

##### Article 464. Compulsory Labour

Apart from the cases of military or civil emergency, or the cases in which compulsory labour is expressly provided for by law [2 Labour Code], whoever forces another to compulsory labour, shall be punished, where the act does not constitute a more serious offence, with imprisonment [96 P.c.] from six months to five years a fine [97 P.c.] from Sh. So. 5,000 to 20,000.

Other relevant articles include Article 408(1), which prohibits compelled prostitution of a person through violence or threats, and prescribes a penalty of two to six years' imprisonment; and Article 407, which criminalises the exploitation of prostitution.<sup>105</sup> The US Report on Worst Forms of Child Labour reported that Somaliland has criminalized trafficking for commercial sexual exploitation, and a draft human trafficking law remains under review. However, research could not find a publicly available version of these laws.<sup>106</sup>

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<sup>103</sup> Penal Code 1964 (Unofficial translation): <<https://www.refworld.org/docid/4bc5906e2.html>> accessed 28 September 2020.

<sup>104</sup> US Department of State (2020), above n 12, 542-543.

<sup>105</sup> Article 407. Instigation, aiding and exploitation of prostitution

(1) Whoever instigates another to commit prostitution, or aids or in any manner facilitates prostitution, or exploits, wholly or in part, the proceeds of prostitution, shall be liable to the punishment provided for in paragraph 1 of article 405 [imprisonment from two months to two years and with fine from Sh. So. 100 to 2,000].

(2) The punishment shall be increased where:

(a) the act is committed against a person who is incapable of giving consent;

(b) the offender is an ascendant, spouse, brother, sister, or guardian of the person;

(c) the act is committed against a person entrusted to the offender for care, education, instruction, supervision or custody

Article 408. Compulsion to prostitution-

(1) Whoever, by violence or threats, compels another to commit prostitution shall be punished with imprisonment from two to six years and with fine from Sh. So. 5,000 to 15,000.

(2) Where any of the conditions referred to in paragraph 2 of the preceding article exists, the punishment shall be increased.

<sup>106</sup> US Bureau of International Labor Affairs, above n 82, 2.

## 5. Puntland Law against Trafficking in Persons 2017<sup>107</sup>

Article 13 criminalises trafficking of adults, while child trafficking is prohibited under Article 14:

Article 13- It shall be unlawful for any person natural or legal, to commit any of the following acts:

1. To recruit, transport, transfer, harbour, provide or receive a person by any means, for the purpose of prostitution, pornography, sexual exploitation, forced labour, slavery, involuntary servitude or debt bondage;
2. To introduce for money, profit or material, economic or other consideration, any person or acquire, buy, offer, sell or trade him/her to engage in prostitution, pornography, sexual exploitation, forced labour, slavery, involuntary servitude or debt bondage;
3. To force or maintain a person in prostitution or pornography (art.408 p.c.);
4. To adopt or facilitate the adoption of persons for the purpose of prostitution, pornography, sexual exploitation, forced labour, slavery, involuntary servitude or debt bondage;
5. To recruit, hire, adopt, transport or abduct a person, by means of threat or use of force, fraud, deceit, violence, coercion, or intimidation for the purpose of removal or sale of organs of said person;
6. Whoever commits the offences set forth in paragraphs 1,2,3,4,5 of this article, shall be liable to the punishment of an imprisonment from eight (8) years to twenty (15) years [sic] (art. 96 p.c.) and a fine from \$4,000 to \$7.000 (art. 97 p.c.).

Article 14 – Acts of child trafficking

The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered trafficking in persons even if this does not involve any of the means set forth in article 13 of this law.

Whoever commits the offence of child trafficking shall be liable to the punishment of an imprisonment from ten (10) to twenty (20) years (art. 96 p.c.) and a fine from \$7,000 to \$9,000 (art. 97 p.c.)

Within this Law, legal persons can be held responsible (Article 17), and aggravating circumstances are established in Article 16.<sup>108</sup>

## 6. Labour Code 1972<sup>109</sup>

Under the heading 'freedom of labour', Article 2(6) prohibits forced labour with exceptions:

Freedom or compulsory labour is forbidden in any form.

Provided that the term 'forced or compulsory labour' shall not apply to-

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<sup>107</sup> Puntland Law No. 10/2017

<sup>108</sup> Article 16- Certain acts or circumstance shall be considered as severe trafficking in persons. 1 - Severe trafficking in person shall be considered if:

a - The trafficked person is child or disable person;

b -The offender is an ascendant, parent, sibling, guardian or a person who exercises authority over a trafficked person

c - The adoption is effected for the purpose of prostitution, pornography, sexual exploitation, forced labour, slavery, involuntary servitude or debt bondage;

d - The crime is committed by a organized group or in large scale;

e - By reason of the act of trafficking in persons, the trafficked person dies, became insane, suffer mutilation or is infected with communicable diseases or other diseases;

f - The offence is committed by a public officer, political or religious leader;

g - The crime is accompanied by maltreatment and coercing the victim to commit various actions through physical or psychological force, or brings serious consequences to health

h - The crime is committed through the utilization of a state function or public service

2 - The trafficking in person is deemed to be committed by an organized group when carried out by a group of two or more persons.

Whoever commits these acts shall be punished with imprisonment from fifteen (15) to twenty four (24) years and a fine from \$7,000 to \$9,000.

<sup>109</sup> See Labour Code 1972 in English: [https://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&isn=16530&classification=01.02](https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&isn=16530&classification=01.02) accessed 28 September 2020.

- (a) Any work or service required by law in respect of service including the organisation for national defence or in case of national calamity;
- (b) Any work or service required of a prisoner in pursuance of a sentence passed by a competent court.

The Labour Code prohibits child labour and provides a legal minimum age of 15 for most employment under Article 93. It prescribes different minimum ages for various hazardous activities (Article 90), and prohibits those under 18 from night work in the industrial, commercial, and agricultural sectors, apart from work that engages family members only (Article 94).<sup>110</sup>

It is important to note that in 2019 a draft national labour code was finalised by the FGS in consultation with organizations representing employers and employees. They also concluded a national employment policy to guide the creation of jobs.<sup>111</sup> Once adopted, it will replace the 1972 Labour Code. 'The revised Labour Code reflects international labour standards, social justice and the principle of tripartite dialogue. It will govern trade union matters, employment and remuneration issues, occupational health hazards, industrial safety, labour relations and the other fundamental rights of workers. The revised Labour Code also includes provisions aimed at enhancing the rights of workers with disabilities'.<sup>112</sup>

#### 7. Somaliland Private Sector Employees Law 2004<sup>113</sup>

Articles 10, 38(1) and 38(2) establish the minimum age for work in 15 years with some exceptions, and 18 for hazardous occupations.

#### 8. General Order No. 1 2011<sup>114</sup>

On 2011, the Transitional Federal Government (TFG) military chief of staff, issued a general order to all TFG commanders calling on them to identify cases of human rights abuses, including the recruitment and deployment of child soldiers, and bring the perpetrators to account either through disciplinary action or, if necessary, court martial.<sup>115</sup> It establishes in 18 the minimum age for voluntary state military recruitment.<sup>116</sup>

#### 9. *Communiqué between the Federal Government and the United Nations to end sexual violence in Somalia* 2013<sup>117</sup>

The communiqué included sexual violence-related measures such as the enactment, review and harmonisation of relevant legislation, especially penal laws; ensuring adequate prosecution through securing specialized capacity for investigation, prosecution, training magistrates; raising awareness campaigns among women about legal procedures and their protection in the traditional justice system; and ensuring access to services in all areas. 'The Federal Government committed itself to implement the communiqué and develop a new national action plan to end sexual violence in situations of conflict'.<sup>118</sup>

#### 10. Sexual Intercourse Related Crimes Bill 2020

In August 2020, the Somali parliament tabled a controversial bill that allows minors to marry based on reproductive maturity, independent of age or their consent; and

<sup>110</sup> US Department of State, above n 18. It is reported that 'The federal Ministries of Social Affairs and Labor and of Women and Human Rights Development, as well as the Somali National Police, are responsible for enforcing child labor laws. The ministries, however, did not enforce these laws'.

<sup>111</sup> US Department of State (2020), above n 12, 543.

<sup>112</sup> Human Rights Council, above n 99, 12.

<sup>113</sup> Law No. 31/2004. See (in Somali) <[https://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&isn=88089](https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&isn=88089)> accessed 28 September 2020.

<sup>114</sup> Joint Chief of Staff of Somali National Armed Forces, SAFFAR 17/11, July 15, 2011

<sup>115</sup> Human Rights Watch, 'No Place for Children. Child Recruitment, Forced Marriage, and Attacks on Schools in Somalia' (21 February 2012) <[https://www.hrw.org/report/2012/02/20/no-place-children/child-recruitment-forced-marriage-and-attacks-schools-somalia#\\_ftn126](https://www.hrw.org/report/2012/02/20/no-place-children/child-recruitment-forced-marriage-and-attacks-schools-somalia#_ftn126)> accessed 28 September 2020.

<sup>116</sup> US Bureau of International Labor Affairs, above n 82.

<sup>117</sup> Joint Communiqué of the Federal Republic of Somalia and the United Nations on the Prevention of Sexual Violence (7 May 2013) <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/197006/20130507\\_Joint\\_Communique\\_Somalia\\_FINAL\\_2\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/197006/20130507_Joint_Communique_Somalia_FINAL_2_.pdf)> accessed 28 September 2020.

<sup>118</sup> Human Rights Council, above n 56, 9-10.

established criminal penalties for forced marriage only if a woman is 'strongly' forced into the marriage without her family's knowledge or consent.<sup>119</sup>

This bill replaced the Sexual Offences Bill of 2018, which was developed following five years of wide-ranging consultations with women, civil society, and the international community.

## 5.2. Prosecution

The Somali Police Force Criminal Investigations Department (CID) maintained a specialized anti-trafficking and migrant smuggling unit, mandated to investigate potential cases of trafficking, and supported by international organizations. The unit did not report investigating any potential trafficking cases during the year, whereas it registered 43 investigations the year prior.<sup>120</sup> Despite the lack of comprehensive statistics on human trafficking-related investigations, prosecutions, or convictions, 17 arrests and one suspect were reported to the Attorney General's Office related to immigration violations and alleged human trafficking crimes.<sup>121</sup> In Somaliland, immigration officials arrested 6 individuals with an alleged trafficking and smuggling case, all of whom awaited trial at the end of the year. Puntland authorities registered 2 trafficking cases involving 6 suspects during 2019.<sup>122</sup> In 2018, 23 child sex trafficking cases were prosecuted, 3 of which resulted in convictions and five-year imprisonment.<sup>123</sup>

No action against military officials or authorities were reported for the unlawful recruitment and use of children during the year, or for the involvement in trafficking or criminal activities related to trafficking. The 2020 US TIP Report highlighted that 'due to the protracted campaign to degrade al-Shabaab and establish law and order in Somalia, law enforcement, prosecutorial personnel, and judicial offices remained understaffed, undertrained, and lacked capacity to effectively enforce anti-trafficking laws'.<sup>124</sup> The United Nations has recorded hundreds of sexual violence incidents against women and girls attributed to unidentified armed men, clan militiamen, Al-Shabaab elements and members of the Somali police and armed forces. The Independent Expert on the situation of human rights in Somalia reported that, although the number of prosecutions was expected to increase following technical training, it still remains very low. 'In most instances, families and victims prefer to complain to the traditional courts, where damages could be awarded to the male family member of the victim or the perpetrator is requested to marry the victim of sexual violence according to *xeer*. The outcomes of efforts by the authorities to change this practice are mixed'.<sup>125</sup>

## 5.3. National policies and plans

### 11. Child Soldier Action Plan 2012.

It establishes a strategy for ending serious violations against children, such as the recruitment and use of children. It includes provisions allowing UN agencies to access to military installations to verify the presence of children. In October 2019, the government committed to a UN Roadmap to expedite the implementation of the strategy.<sup>126</sup>

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<sup>119</sup> UN News, 'Somalia: Draft law a 'major setback' for victims of sexual violence' (11 August 2020) <<https://news.un.org/en/story/2020/08/1070022>> accessed 28 September 2020.

<sup>120</sup> US Department of State (2020), above n 12, 543

<sup>121</sup> Ibid.

<sup>122</sup> Ibid.

<sup>123</sup> US Department of State (2019), above n 12, p. 509.

<sup>124</sup> US Department of State (2020), above n 12, 542.

<sup>125</sup> Human Rights Council, above n 99, 15.

<sup>126</sup> US Bureau of International Labor Affairs, above n 82.

12. National Development Plan for 2020–2024<sup>127</sup>

It provides a path leading to economic growth and reduction of poverty within the next five years. It aims to 'reduce poverty and inequality through inclusive economic growth and employment, improve security and rule of law, and strengthen political stability.'<sup>128</sup>

13. National Policy on Refugee-Returnees and Internally Displaced Persons, July 2019<sup>129</sup>

Adopted by the Federal Government, it aims 'to find durable solutions for assisting Somali refugee-returnees and IDPs and, and to identify roles and responsibilities for national and international institutions, humanitarian and development agencies and other stakeholders who are involved in assisting refugee-returnees and IDPs'.<sup>130</sup>

14. UN Strategic Framework Somalia 2017-2020<sup>131</sup>

After completion of a number of key political milestones in Somalia, such as the federalization map, landmark parliamentary and presidential elections, the UN has developed of a new UN system-wide planning framework which includes a multi-year strategic plan to guide the UN's work and articulates its collective strategy, commitments and actions in support of the Somali Government's development priorities and in achieving the Sustainable Development Goals.<sup>132</sup>

15. Somalia Social Protection Policy, March 2019<sup>133</sup>

Its Preamble indicates that Somalia's social protection system 'will focus on mitigating vulnerability, better aligning humanitarian and developmental objectives, and reducing reliance on short-term humanitarian aid'.<sup>134</sup> To achieve this aim, a phased system will be followed focusing on capacity-strengthening (Phase I) and alignment with the government's National Development Plan (Phase II).

16. Interim Protocol on Land Distribution for Housing to Eligible Refugee-Returnees and Internally Displaced Persons and National Eviction Guidelines 2019<sup>135</sup>

They establish a framework that seeks to protect IDPs and refugee-returnees from further forced displacement, provide protection and assistance during displacement, and find a durable solution to their displacement.

17. Roadmap to end the recruitment and use of child soldiers, 30 October 2019<sup>136</sup>

It envisages practical actions and measures to prevent violations against children, release children associated with armed forces, and reintegrate them into communities.

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<sup>127</sup> Ministry of Planning, Investment and Economic Development (Republic of Somalia), 'Somalia National Development Plan 2020-2024' (2020) <<http://mop.gov.so/wp-content/uploads/2019/12/NDP-9-2020-2024.pdf>> accessed 2 October 2020.

<sup>128</sup> Ibid, 20.

<sup>129</sup> Federal Government of Somalia, 'National Policy on Refugee-Returnees and Internally Displaced Persons (IDPs)' (2019) <<https://www.refworld.org/pdfid/5d8332c64.pdf>> accessed 2 October 2020.

<sup>130</sup> Ibid, p. 12.

<sup>131</sup> United Nations, 'UN Strategic Framework Somalia 2017-2020' (2017) <[https://unsom.unmissions.org/sites/default/files/un\\_strategic\\_framework\\_2017-2020\\_somalia.pdf](https://unsom.unmissions.org/sites/default/files/un_strategic_framework_2017-2020_somalia.pdf)> accessed 02 October 2020.

<sup>132</sup> Ibid, 10.

<sup>133</sup> Ministry of Labour and Social Affairs (Federal Government of Somalia), 'Somalia Social Protection Policy' (March 2019) <<https://reliefweb.int/sites/reliefweb.int/files/resources/MoLSA-Somalia-FINAL-min.pdf>> accessed 02 October 2020.

<sup>134</sup> Ibid, 4.

<sup>135</sup> Federal Government of Somalia, 'Interim Protocol on Land Distribution for Housing to Eligible Refugee-Returnees and Internally Displaced Persons, 2019' (2019) <<https://www.refworld.org/pdfid/5d8331024.pdf>> accessed 02 October 2020.

<sup>136</sup> UNSOM, 'UN, Somalia recommit to end the recruitment and use of child soldiers' Press Release (30 October 2019) <<https://reliefweb.int/report/somalia/un-somalia-recommit-end-recruitment-and-use-child-soldiers>> accessed 05 October 2020.

## 18. Education Sector Strategic Plan (2018-2020)<sup>137</sup>

Launched by the FGS, it identified that children's lack of school access increased vulnerability for recruitment into armed groups.

### 1.1. Victim support and assistance frameworks

Due to its limited capacity and lack of financial stability for providing direct services or auxiliary support to organizations, the federal authorities relied exclusively on international organizations and NGOs to provide victim assistance and reintegration services. The government neither had standardized identification or referral procedures for trafficking victims nor a legal alternative to the removal of foreign trafficking victims from Somalia to countries where they may face hardship or retribution.<sup>138</sup> However, the US TIP Report noted that 'victim support varied significantly across the country, and specialized care was sporadic due to limited practitioners in country, and, beyond the scope of the MRCs, victims had irregular access to protective provisions.<sup>139</sup>

In Somaliland and Puntland, trafficking victims received assistance at two international organisation-run Migration Response Centres (MRC) within a scheme which provided services for the broadly vulnerable transiting migrant population. While Puntland authorities established a regional referral mechanism for trafficking victims, its effectiveness remained unclear due to the conflation between human trafficking and smuggling of migrants, and it was unclear whether care or repatriation was provided.<sup>140</sup>

### 1.2. National institutions and inter-departmental coordination

The government's main anti-trafficking official is the **Special Envoy for Children's and Migrants' Rights**, who serves as Secretariat of the technical **task force on trafficking** and is responsible for coordinating efforts on migration, trafficking, and reintegration across federal and regional governmental jurisdictions. While the Special Envoy for Children's and Migrants' Rights chairs the task force on trafficking, the FGS Ministry of Women and Human Rights and representatives from Galmudug serves as the co-chairs. 'The task force met monthly and participated in an induction training on trafficking and smuggling and on a whole-of-government approach to curbing the crime. While anti-trafficking coordination efforts modestly improved during the reporting period, a lack of technical expertise and limited civilian judicial and overarching capacity hindered the Secretariat's efforts to develop and coordinate effective anti-trafficking policy'.<sup>141</sup>

### 1.3. Training and capacity-building for responders

The 2019 and 2020 US TIP Reports describe a series of training and capacity-building activities which reached a variable number of officials and actors, exclusively provided by international organisations. For instance, in 2018, 3 human trafficking courses reached 50 officials; 3 additional courses reached 42 people, 2 of which targeted investigators and one that pertained to the Maritime Police Unit; 2 trafficking trainings aimed to help border officials to accurately identify trafficking victims, reached 125 immigration officials.<sup>142</sup> In March 2018, UNODC organized a 3-day training workshop for 5 judicial officers and 10 prosecutors with the goal of building the capacity of prosecutors to adequately prosecute trafficking in persons cases.<sup>143</sup> Previously, in Puntland, training sessions were provided for

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<sup>137</sup> Ministry of Education Culture and Higher Education (Federal Government of Somalia), 'The Education Sector Strategic Plan (2018-2020)' (2018) <<https://www.globalpartnership.org/content/education-sector-strategic-plan-2018-2020-somalia>> accessed 05 October 2020.

<sup>138</sup> US Department of State (2020), above n 12, 543.

<sup>139</sup> Ibid.

<sup>140</sup> Ibid.

<sup>141</sup> Ibid, 543.

<sup>142</sup> US Department of State (2019), above n 12, 509.

<sup>143</sup> US Bureau of International Labor Affairs, '2018 Findings on the worst forms of child labour' (US Department of Labor, 2018), 1062 <[https://www.dol.gov/sites/dolgov/files/ILAB/child\\_labor\\_reports/tda2018/ChildLaborReportBook.pdf](https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2018/ChildLaborReportBook.pdf)> accessed 05 October 2020.

the counter-trafficking board and civil society organizations involved in the newly created referral process for victims of human trafficking.<sup>144</sup>

In 2019, an advanced training course was provided for police officers; 3 trainings for 89 military officers, judges, prosecutors, police investigators, and civil society workers in Jowhar, Mogadishu, and Beledweyne on the protection of children affected by armed conflict; and trainings on child rights and child protection for a total number of 261 participants from the security sector, inter-ministerial staff, and members of parliament were provided.<sup>145</sup>

Despite these efforts, a generalised lack of technical expertise and limited overarching capacity hindered the FGS's efforts to develop and coordinate effective anti-trafficking policy. It was also reported that the government did not provide anti-trafficking training for its diplomatic personnel and other relevant front-line actors.<sup>146</sup>

#### 1.4. Public awareness raising

In 2018, the FGS held several trafficking-related awareness campaigns, including one which engaged returnees and trafficking survivors to tell their stories and other with the aim to promote broad awareness of child protection issues and means of removing children from armed conflict.<sup>147</sup> In 2019, it was reported the FGS held multiple campaigns across Somalia to elevate awareness against trafficking, including an anti-trafficking event along the border area with Kenya in the International World Trafficking Day.<sup>148</sup>

#### 1.5. Efforts to address vulnerabilities and drivers

In 2019, the Ministry of Women and Human Rights Development adopted the Somali Women's Charter, which reaffirms the unity of Somali women and calls for unconditional gender equality, empowerment and human rights for women to be included in the proposed federal constitution. The Charter reiterates the commitment of the participants to eliminate all forms of gender-based violence, including female genital mutilation. It also calls for solutions to address discrimination against women through such measures as access to education and technology.<sup>149</sup> However, although some progress with respect to the protection of women and girls was made with the above mentioned initiative and the adoption of the draft of the sexual offenses bill in May 2018,<sup>150</sup> the replacement of the long-awaited legislation by the Law on Sexual Intercourse Related Crimes represented a backward step since it permits child and forced marriage.

Several national plans are aimed at preventing child recruitment and protecting children from armed conflict, such as the Child Soldier Action Plan 2012 and the Roadmap to end the recruitment and use of child soldiers, adopted on 30 October 2019.<sup>151</sup> As reported by the UN Independent Expert on the situation of human rights in Somalia, 'the Federal Government has recognized the need to place children at the centre of its humanitarian and development agenda and has committed itself to enhancing the protection of children from the effects of conflict by strengthening the legislative, institutional frameworks at the national level, including by drafting a comprehensive child rights bill in line with its obligations under the Convention on the Rights of the Child'.<sup>152</sup>

The protection of the rights of internally displaced persons has been placed at the forefront of the Federal Government's human rights agenda. In this vein, the FGS adopted the Interim Protocol on Land Distribution for Housing to Eligible Refugee-Returnees and Internally Displaced Persons, 2019, and the National Eviction Guidelines to prevent the

<sup>144</sup> IOM, above n 86, 40.

<sup>145</sup> US Department of State (2020), above n 12, 543 and ff.

<sup>146</sup> Ibid, 543.

<sup>147</sup> US Department of State (2019), above n 12, 510.

<sup>148</sup> US Department of State (2020), above n 12, 543

<sup>149</sup> See Human Rights Council, above n 99, 9.

<sup>150</sup> BTI, above n 24, 19

<sup>151</sup> See UNICEF, 'Child Notice Somalia' (2018) p. 22  
<<https://www.unicef.nl/files/UNICEF%20Rapport%20Child%20Notice%20Somalia%202018%20-%20final.pdf>> accessed 06 October 2020.

<sup>152</sup> Human Rights Council above n 99, 17-18.



forced eviction of internally displaced persons. At the Global Refugee Forum, the Federal Government stated its commitment towards finding durable solutions for refugees, IDPs, and other vulnerable populations.<sup>153</sup>

Regarding forced labour, the US Country Report outlined that 'there were no known efforts by the government to prevent or eliminate forced labor in the country. The Ministry of Labor and Social Affairs did not have an inspectorate and did not conduct any labor-related inspections'.<sup>154</sup>

### 1.6. Frameworks for international coordination

While Somalia concentrate various projects funded by either States or international organisations,<sup>155</sup> a relatively low number of frameworks for international coordination have been identified. In 2014, an African Union-led initiative set up the African Union Horn of Africa Initiative against human trafficking and smuggling of migrants (AU-HOAI), which brought together more than 15 states from the IGAD region, including Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, and Sudan. The initiative 'provides a forum for debate and information sharing, including discussion on good practices to address human trafficking and smuggling of migrants [...] from the HoA to different destinations, mainly movements into Europe, the Middle East and Southern Africa.'<sup>156</sup> This initiative was overtaken by the EU-Horn of Africa Migration Route Initiative – known as the 'Khartoum Process' – as the principle forum for dialogue around migration. 'The transition between the two initiatives resulted in a noticeable shift away from development-centric interventions aimed at improving migration management in the region, towards far more security-focussed policies to promote border control.'<sup>157</sup>

In 2010, a border exchange between Somaliland and Djibouti Coastguard took place on Maritime Reception and Referral. The aim of the exchange, organized by the German Society for International Cooperation (GIZ), was to facilitate co-ordination between these two regions in combating migrants smuggling, human trafficking and assisting vulnerable migrants at the Sea.<sup>158</sup> The Gulf of Aden and Red Sea sub-programme of UNODC's Global Maritime Crime Programme (GMCP GARS) assists Somalia and Yemen in addressing maritime crime.<sup>159</sup> 'Somalia and Kenya cooperate in the field of border management to facilitate human mobility after having re-opened the borders after two-and-a-half decades. Open borders are expected to boost trade and allow the flow of people between the two nations. The cooperation also encompasses opening two border posts, in Doble-Liboi and Mandera-Bula Hawa.'<sup>160</sup>

It is important to note that in Somalia there is a currently active peacekeeping mission (AMISOM) operated by the African Union, supported by the support provided by the UN

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<sup>153</sup> Ibid, 6.

<sup>154</sup> US Department of State, above n 18.

<sup>155</sup> Norad, 'Mapping of modern slavery and recommendations for the Norwegian Government's development programme to combat modern slavery' (5 July 2019) 15, 18 <[https://www.regjeringen.no/en/dokumenter/modern\\_slavery/id2670039/](https://www.regjeringen.no/en/dokumenter/modern_slavery/id2670039/)> accessed 05 October 2020; William Avis and Siân Herbert (GSDRC), 'Rapid fragility and migration assessment for Somalia' (2016) 29 ff. <[http://www.gsdrc.org/wp-content/uploads/2016/04/Fragility\\_Migration\\_Somalia.pdf](http://www.gsdrc.org/wp-content/uploads/2016/04/Fragility_Migration_Somalia.pdf)> accessed 05 October 2020.

<sup>156</sup> IOM, above n 86, 14

<sup>157</sup> The Global Initiative against translational organised crime, 'Integrated Responses to Human Smuggling from the Horn of Africa to Europe' (May 2017) 23 See also <<https://www.khartoumprocess.net/>> accessed 05 October 2020.

<sup>158</sup> See European Union External Action, 'Somaliland and Djibouti will strengthen cooperation to combat migrant smuggling and human trafficking' Press release (23 December 2018) <<https://www.eucap-som.eu/somaliland-and-djibouti-will-enhance-cooperation-to-combat-migrant-smuggling-and-human-trafficking/>> accessed 05 October 2020.

<sup>159</sup> See UNODC, 'Global Maritime Crime Programme- Annual Report 2018' (2018) <[https://www.unodc.org/documents/Maritime\\_crime/20190131\\_-\\_GMCP\\_Annual\\_Report\\_2018.pdf](https://www.unodc.org/documents/Maritime_crime/20190131_-_GMCP_Annual_Report_2018.pdf)> accessed 05 October 2020.

<sup>160</sup> Maastricht Graduate School of Governance, above n 42, 40. See further Mohammed Yusuf, 'Kenya to Reopen Border with Somalia' VOA /23 March 2017) <<https://www.voanews.com/a/kenya-to-reopen-border-with-somalia/3778939.html>> accessed 05 October 2020.

Support Office in Somalia (UNSOS) and the UN Assistance Mission in Somalia (UNSOM).<sup>161</sup> In July 2012, the European Union launched the European Union Capacity Building Mission in Somalia (EUCAP), which contributes to the establishment and capacity building of maritime civilian law enforcement capability in Somalia, including Somaliland.<sup>162</sup>

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<sup>161</sup> See S/RES/2520 (2020) <<https://amisom-au.org/wp-content/uploads/2020/05/UNSCR-2520-2020.pdf>> accessed 05 October 2020.

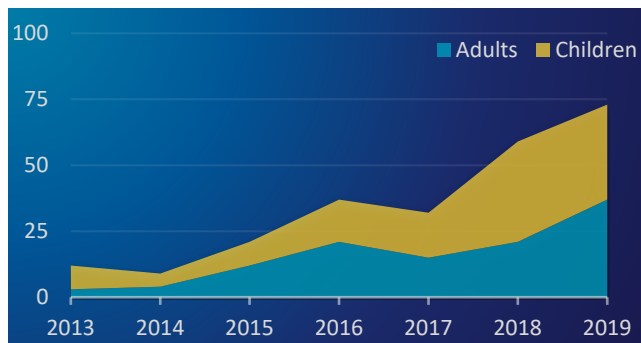
<sup>162</sup> See further <https://www.eucap-som.eu/about-us/>

## 6. Experiences of modern slavery of Somali nationals in the UK

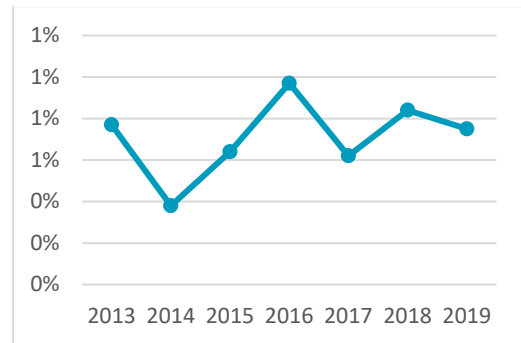
### 6.1. Demographics of Somali nationals in the NRM (including intersectionality)

Somali nationals have consistently been in the top twenty nationalities represented in National Referral Mechanism referrals, although they have typically represented less than 1% of all referrals. The number of Somali nationals referred into the NRM has varied from 9 potential victims referred in 2014, up to 75 referrals in 2019. Children have typically made up the majority of Somali nationals referred into the NRM, with between 3 (2013) and 37 (2019) adults Somali nationals referred from 2013-2019.<sup>163</sup> Since 2015, the proportion of Somali nationals referred, as a proportion of all referrals, has remained steady ranging from 0,8% and 0,97% of all referrals.

Number of Somali nationals referred into the NRM by age at time of exploitation



Proportion of potential victims referred into the NRM that are Polish nationals

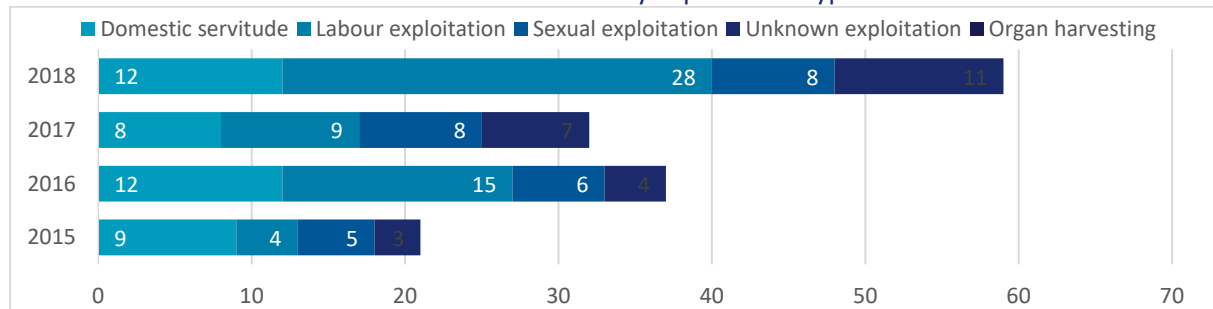


Somali nationals referred into the NRM typically experience labour exploitation, and to a lesser extent, domestic servitude. Only a relatively small proportion of Somali potential victims recorded as having experienced sexual exploitation or unknown forms of exploitation. While gender data was not disaggregated by nationality from 2015-2019,

<sup>163</sup> Home Office, 'National Referral Mechanism Statistics UK: End of Year Summary 2019: Data tables' 2<sup>nd</sup> edn available [here](#); National Crime Agency, 'National Referral Mechanism Statistics – End of Year Summary 2018' (2019) available [here](#); National Crime Agency, 'National Referral Mechanism Statistics – End of Year Summary 2017' (2018) available [here](#); National Crime Agency, 'National Referral Mechanism Statistics – End of Year Summary 2016' (2017) available [here](#); National Crime Agency, 'National Referral Mechanism Statistics – End of Year Summary 2015' (2016) available [here](#); National Crime Agency, 'National Referral Mechanism Statistics – End of Year Summary 2014' (2015) available [here](#); National Crime Agency, 'United Kingdom Human Trafficking Centre: National Referral Mechanism Statistics 2013' (2014) available [here](#).

NRM reports included such data in the 2013 and 2014 reports. In these years, the majority of Somali nationals referred into the UK NRM were female (83% in 2013 and 78% in 2014).

Number of Somali nationals referred into the NRM by exploitation type<sup>164</sup>



## 6.2. Typical journeys from Somalia to the UK for trafficking victims

One of the four major routes from the East and Horn of Africa is the Northern Route (also known as the 'Central Mediterranean Route'), which reaches Europe through Egypt, Libya and North African countries.<sup>165</sup> The UK is a particularly attractive destination for onward migration within the EU, particularly for Dutch–Somali migration to the cities of Birmingham, Bristol, Leicester, London, and Sheffield.<sup>166</sup>

In opposition to more loose and horizontal smuggling networks in the region, the Libya-based Northern network has been described as 'increasingly hierarchical, with smuggling kingpins dominating the smuggling business from Libya, and Horn of Africa smugglers playing important, but usually subordinate, positions to the Libyan kingpins',<sup>167</sup> and it is embedded with corrupt officials which may either facilitate migrant smuggling and trafficking in persons, or get involved more directly by accepting bribes or profiting from the exploitation of migrants and refugees.<sup>168</sup>

## 6.3. Experiences of exploitation and working conditions

The Northern Route is a particularly dangerous route which commonly involve abuse, kidnapping and other types of fatalities while crossing the desert, and drownings while crossing the Mediterranean Sea. 'In some cases, abuses are perpetrated by smugglers who exploit their clients during the journey; however, recent research suggests that these abuses are more commonly carried out by groups that specialise in kidnapping for ransom, forced labour, and trafficking in persons.'<sup>169</sup> For instance, one significant protection risk for smuggled migrants and refugees in their routes to Europe is extortion by smugglers, which often comprises detention in 'safe houses', where they are forced to pay to be released. This extortion often involves torture and rape to place pressure on the migrant and his/her family at home to transfer a ransom for the migrant's release.<sup>170</sup> 'A 2016 report by the Sahar Foundation and ISSP notes that, particularly in the crossing between Sudan and Libya, many smuggled migrants are at serious risk of harm, including being

<sup>164</sup> Ibid. Note that exploitation type data is not disaggregated by nationality in the 2013, 2014, or 2019 data and these years are therefore excluded.

<sup>165</sup> Maastricht Graduate School of Governance, above n 42, XI and ff.

<sup>166</sup> Ahrens et al., 'Free movement? The onward migration of EU citizens born in Somalia, Iran, and Nigeria' (2016) 22(1) *Population Space and Place* 84.

<sup>167</sup> Deanna Davy (Danish Refugee Council), 'Unpacking the Myths: Human smuggling from and within the Horn of Africa' (RMMS, 2017) 3

<<https://reliefweb.int/sites/reliefweb.int/files/resources/RMMS%20BriefingPaper6%20-%20Unpacking%20the%20Myths.pdf>> accessed 05 October 2020. 'Smugglers are also responsible for a range of other services, which may include acquiring fraudulent travel documents, bribing border guards and other government officials to enable safe passage of the clients, and paying militia and others to release captured migrants and enable them to continue their journey' (p. 7).

<sup>168</sup> Ibid, 21.

<sup>169</sup> Ibid, 7.

<sup>170</sup> Ibid, 20.

sold to ransom collectors and human traffickers in Sudan if the migrants are unable to make the first payment for smuggling services.<sup>171</sup>

Regarding particular experiences of exploitation, there is a lack of reliable data about it in regard to Somali nationals into the UK, although we know that a significant proportion of identified victims were men subjected to labour exploitation. In general, there were more male identified victims than women.<sup>172</sup> Furthermore, a 2008 study revealed forced marriage as a relatively common and covered practice within the Somali community in the UK.<sup>173</sup>

#### 6.4. Consequent effects of trafficking on survivors

Human trafficking exerts psychological effects on survivors that persist after intervention, and even after community reintegration. Effects include anxiety, depression, alienation, disorientation, aggression, suicidal ideation, attention deficit, and posttraumatic stress disorder (PTSD). In this context, community support and coping mechanisms may mitigate these effects.<sup>174</sup> Cultural attitudes towards women may have an influence on rehabilitation of survivors, particularly if there is any form of social stigma attached to experiences, for example sexual abuse.

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<sup>171</sup> Ibid, 21.

<sup>172</sup> UK Home Office, above n **Error! Bookmark not defined.**, 48.

<sup>173</sup> Refuge, 'Forced Marriage in the UK- A scoping study on the experience of women from Middle Eastern and North East African Communities' (2008) 8 <<http://refuge.org.uk/files/1001-Forced-Marriage-Middle-East-North-East-Africa.pdf>> accessed 05 October 2020

<sup>174</sup> See David Okech et al, 'Social Support, Dysfunctional Coping, and Community Reintegration as Predictors of PTSD Among Human Trafficking Survivors', (2018) 44 *Behavioral Medicine* 209-218, and Asefch Haileselassie Reda, 'An investigation into the experiences of female victims of trafficking in Ethiopia' (2018) 11 *African and Black Diaspora: An International Journal* 87.

## 7. The impact of COVID-19

### 7.1. The Government's response to COVID-19

From March 2020, Somalia has established several preventive measures to 'flatten the curve' of the virus, including the imposition of curfews, mobility restrictions and the closure of schools and universities. At the end of March, the Federal Government –in coordination with the United Nations and local NGOs– launched a national COVID-19 response plan envisaging comprehensive socioeconomic measures, with specific measures designed for internally displaced persons and vulnerable communities. These include investments in the health sector, the release of over 1,300 inmates to ease overcrowding in prisons and other places of detention, and fiscal and other economic measures to relieve the economic burden of the pandemic".<sup>175</sup> Notwithstanding these measures, the price of basic items have spiked in the country disproportionately affecting vulnerable populations, and has disrupted the flow of remittances, which is a major source of revenue for a large part of the population.<sup>176</sup>

Amidst this crisis, it has been reported human rights violations such as excessive use of force by law enforcement agencies resulting in the death of civilians, violations of the right to freedom of expression and opinion and an increase in sexual and gender-based violence and forced evictions during the pandemic.<sup>177</sup> Significantly, on 24 April a police officer killed two civilians while enforcing the curfew in Mogadishu, and despite FGS acknowledgment of the crucial role played by the media in the fight against COVID-19, journalists continued to face restrictions in the exercise of their duties, such as the arrest of a journalist working for a private radio in Mogadishu who criticised the Government's response to the pandemic.<sup>178</sup>

### 7.2. The impact of COVID-19 on workers and modern slavery victims

After decades of conflict and recent natural disasters,<sup>179</sup> the country's capacity to respond to a public health crisis of the magnitude of COVID-19 crisis has been severely jeopardised. Isolation facilities and testing capacity remain limited, and since the onset of the pandemic, a relatively high number of health-care workers have been infected by COVID-19 in Somalia. This, combined with events such as killings and abductions of health care workers by Al-Shabaab, puts an additional strain on service delivery across the country, which may have a negative impact on already vulnerable communities or groups.<sup>180</sup> A study from Save the Children revealed that 2.5 million girls are at risk of marriage by 2025 because of pandemic, which represents the greatest surge in child marriage rates in 25 years.<sup>181</sup> This particularly affects to Somali girls, who are increasingly more exposed to both physical and sexual-based violence by their parents or caregivers.<sup>182</sup> Further, in Somalia and

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<sup>175</sup> Human Rights Council, above note 93, pp. 7-8.

<sup>176</sup> Ibid, p. 8.

<sup>177</sup> Ibid, p. 7. See also S/2019/884, para. 41, S/2020/121, para. 49, and S/2020/398, para. 44.

<sup>178</sup> Human Rights Council, above note 93, p. 8.

<sup>179</sup> "Early in December, Somalia was hit with the worst desert locust outbreak in over two decades, leading to the declaration of a national state of emergency on 2 February 2020. While the heavy rains slowed the impact of the desert locusts, the 2020 crop harvest is expected to be 20-30 per cent lower than in previous years, further increasing the risk of food insecurity and malnutrition". Ibid, p. 6.

<sup>180</sup> Ibid, pp. 7-8. "On 27 May, seven health workers and one civilian were abducted and killed by Al-Shabaab in Gololey village, Middle Shabelle Region. Since the attack, the local mother and child health centre, the only medical facility in the area, has remained closed. On 8 May, Al-Shabaab abducted three aid workers who were conducting a nutrition and health assessment in the town of Dhobley, Juba Hoose Region".

<sup>181</sup> Save the Children, 'The Global Girlhood Report' (2020), p. ii <[https://resourcecentre.savethechildren.net/node/18201/pdf/global\\_girlhood\\_report\\_2020\\_africa\\_version\\_2.p df](https://resourcecentre.savethechildren.net/node/18201/pdf/global_girlhood_report_2020_africa_version_2.p df)> accessed 05 October 2020.

<sup>182</sup> UNICEF, 'COVID-19 control measure: The hidden impact on Somali children' (8 May 2020) <<https://www.unicef.org/somalia/press-releases/covid-19-control-measure-hidden-impact-somali-children>> accessed 05 October 2020.

Yemen, it has been reported that smugglers search for alternative routes to 'to avoid authorities and checkpoints', which may increase risks for those travelling with them.<sup>183</sup>

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<sup>183</sup> Mixed Migration Centre, 'The impact of COVID-19 on refugees and migrants: data and observations from MMC's 4Mi program' (2020) <<http://www.mixedmigration.org/articles/the-impact-of-covid-19-on-refugees-and-migrants-data-and-observations-from-mmcs-4mi-program/>> accessed 05 October 2020.