

## Response

### **Somalia: Protection and conflict resolution mechanisms**

#### Issue/question:

- What does clan protection imply and how are conflicts resolved?

#### **Clan protection**

Individual security in the traditional Somali society was dependent on the clan's,<sup>1</sup> i.e. the Diya group's ability to pay compensation and to defend itself in the event of attacks. This situation has not changed significantly in modern times, and the clan has remained the safety net of the Somali population since the collapse of the government institutions in 1991. Vulnerability and protection in Somalia are therefore closely linked to a clan's strength. However, weak clans or groups have traditionally been able to seek protection from and affiliation with the dominant clans in a specific area.

The internal clan conflicts that have characterised the situation in recent years, however, mean that affiliation to a dominant clan does not necessarily provide protection (interviews in Nairobi March 2007, June 2008 and March 2009). Clans are still important, but it is evident that clan loyalty is superseded by political, ideological and international conditions.

A clan's ability to provide protection is contingent on the clan's military strength. In the current situation, however, in which al-Shabaab and other Islamist groups control large parts of Southern Somalia, protection from one's own clan in, for example, an al-Shabaab controlled area is not very realistic. Al-Shabaab maintains its distance to the clan dimension, and has the support of

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<sup>1</sup> Family ties and clan affiliation are flexible structures; they are strengthened by external threats and are normalised in peaceful situations. Clan affiliation and identity are also subject to change, as Little (2003, p. 46) describes as follows:

*Instead of searching within "traditional" social structure for explanations each time a new (or old) clan identity or alliance is expressed, one needs to examine the external power relations and the material benefits associated with such changes. And these have been exceptionally dynamic in the past decade. The clan system is amazingly adaptable to the changing demands of the international community, as well as the challenges of statelessness and pastoralism. In fact there is little doubt that the proliferation, fragmentation, and – in some cases – consolidation of clan identities were strongly influenced by the presence of outside, resource-rich groups, such as the United Nations and Western development agencies. They held static traditionalist definitions of what a clan is and the necessary resources to reinforce these stereotypes.*

Clans are thus essentially different from rigid social structures, and must be interpreted as the result of shifting social and political processes.

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various clans and minority groups in the areas it controls. Numerous dominant clans in many districts are therefore currently subordinate to al-Shabaab, and must, among other things, abide by al-Shabaab's enforcement of Sharia law.

In meetings with Landinfo in Nairobi in March 2007, June 2008 and March 2009 respectively, all of the interlocutors referred to the fact that the protection aspect is composed of a number of factors, and the individual's vulnerability and potential to obtain protection and support are dependent on several conditions. Moreover, conflicts relating to scarce resources have contributed in particular to undermining the mechanisms. Clan protection is still relevant, but primarily in relation to ordinary crime. With regard to the situation linked to ideological or political conditions – which were particularly important when Ethiopian forces were present in Somalia – clan protection is not realistic (interviews in Nairobi, June 2008 and March 2009). The current dividing line is more between al-Shabaab/extremist groups on the one hand and GNU, the government of national unity, on the other hand. Moreover, clans cannot offer protection against random violence or grenade and bomb attacks. As pointed out during interviews in Nairobi, the violence is often indiscriminate “Your clan cannot protect you from bombs” (Nairobi, June 2008 and March 2009.) However, clans continue to be important in relation to *where* a person flees (interview UNHCR, June 2008).

These conflicts often trigger a number of revenge killings.<sup>2</sup> The ideological/political dimension that made its entry with the TFG, and not least the Ethiopian entry in December 2007,<sup>3</sup> has further strengthened this trend (interviews with international observers in Nairobi, June 2008). However, according to a well-informed international organisation, those leaving conflict areas still tend to go to their clan areas, and the protection issue nowadays is primarily linked to the situation in the arrival areas (interview in Nairobi, June 2008 and March 2009).

In response to the question of protection for Midgan groups, a well-informed international source explained (interview in Nairobi, March 2009) that protection for these groups often entails various forms of paid protection.<sup>4</sup> The same source described protection in Mogadishu as a protection racket. Another well-informed international source told Landinfo during a meeting in June 2008 that minorities that are forced to leave their homes due to difficult security conditions seek to establish a client relationship to a host clan at their new place of residence (interview in Nairobi, June 2008).

### **Social security network**

The clan, or rather the Diya group, is the social security network that Somalis have traditionally been able to trust, but this function is also impaired, not least because of the

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<sup>2</sup> *Xeer*, i.e. traditional Somali law, imposes a responsibility on the entire Diya group for a crime committed by one or more of the Diya group members. However, if Diya is not paid, the aggrieved clan can choose to kill the perpetrator or another of his fellow clan members. Revenge killings have traditionally been used to force an unwilling clan to pay compensation, and the scope was limited. However, since the civil war, the number of revenge killings has increased considerably due to the large number of weapons that are in circulation among both civilians and the militia (Gundel 2006, p. 25).

<sup>3</sup> The Ethiopian withdrawal started in autumn 2008 and the last Ethiopian soldiers left in 2009. There are, however, rumours that Ethiopian forces have again entered the strategically important Hiraan region (African Union Daily News Highlights 2009).

<sup>4</sup> This is in agreement with the information Landinfo has previously obtained during earlier factfinding trips, and it is particularly relevant in relation to the Benadir population.

difficult financial situation that a large proportion of the population find themselves in. Scarce resources and natural disasters such as floods and droughts limit the possibility for and willingness to support new arrivals in an area, even where they belong to the same clan. However, great efforts are still made to help relatives<sup>5</sup> and neighbours. An international aid organisation representative who had worked in Somalia for a long time told Landinfo during a meeting in Nairobi in March 2009 that it is common to find families consisting of six to eight members, opening their homes to a further six to eight relatives. They share the little they have, but without the money transfers from abroad, the already difficult living conditions would be significantly worse for the large majority of the population (interviews in Nairobi, March 2009).

### **Traditional conflict resolution mechanisms**

The Somali transitional institutions, including the legal system, are weak and the transitional authorities' ability to protect the population's rights is extremely limited.

Law enforcement in Somalia is currently carried out in three different ways; traditional common law practiced through the councils of elders/clan leaders, Islamic law practiced through Sharia courts and secular law practiced through an ordinary court authority. However, the ordinary court authority was destroyed during the civil war, and is still almost non-existent in Southern Somalia. Traditional common law is the most widespread and most commonly used legal system in present day Somalia.

The fundamental unit in the clan system is the Diya group (the blood compensation group, *mag* in Somali). The Diya group consists of the male members of one or more family lines, who have the same forefathers going back four to eight generations, and who are collectively responsible for the members' actions. The Diya groups are large enough to be able to pay compensation and it is between these groups that the traditional legal framework is practiced and agreements (*xeer*) are entered into. The members of the Diya group are therefore obliged to support each other in the political and legal responsibilities that are defined in the *xeer* agreements (Gundel 2006). The Diya group is also responsible for providing assistance to members who are in difficult financial situations, etc. *Xeer* is the most important element that links alliances between clans in Somalia, and is considered to be the glue that holds the community together. However, *xeer* is only entered into between Somali clans, with the minority groups normally being excluded from *xeer* and the Diya system.

The long-term conflict, absence of law and order and rapid changes in the socio-economic conditions have further led to continuous pressure on the traditional leaders in their role as enforcers of law and order in and between clans (Gundel 2006). The traditional mechanisms and structures are therefore facing major challenges in Southern Somalia:

*The traditional structures in South Central Somalia are different and more composite, fragmented, weakened and confused than in the North, for a range of reasons: First of all, as mentioned in the introduction to section 2.1, the ethnic composition of people are very different due to a heterogeneous mix of sedentary agriculturalist, agro-pastoralist, old*

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<sup>5</sup> In this context, relatives cover a comprehensive network extending far beyond our nuclear family and include second, third and fourth cousins, etc.

*urbanised cultures along the coastline and pastoralist people – all with differing cultural heritage and traditional structures.*

*Secondly, the history including the colonial experience is different and with that a diverse historical social construction of the traditional structures. Finally, the dynamics of the civil war in the South differed as well, resulting in an equally different impact on the traditional structures (Gundel 2006, p. 28).*

Some observers have claimed that the traditional legal system and the conflict resolution mechanisms in Somalia no longer work. A well-informed international aid organisation representative who had worked in Somalia for a long time pointed out in March 2009 that the traditional leaders are losing their hold on power. This worrying trend is evident throughout Southern Somalia, and it is more prevalent in the towns than in the country. Globalisation and, not least, the long-standing conflict in the country has led young people to dismiss the elders' advice in favour of that of others. The influence of the media and the warlords' undermining of the old authorities have weakened the position of elders (interview in Nairobi, 24 March 2009). Gundel (2006) estimates however that xeer is used to resolve between 80 and 90 per cent of all disputes and criminal cases. All of the sources that Landinfo met in Nairobi in 2007 also believed that the system still works, albeit to varying degrees. This was confirmed by Landinfo's interlocutors in Nairobi in June 2008 and in March 2009.

There are still Sharia courts in Mogadishu and other towns in South and North Somalia that deal with civil cases, but all other law is practiced in accordance with traditional Somali legislation. Sharia law has been introduced in the areas in which al-Shabaab have control, including Kismayo in Lower Juba. Strong penal reactions, including executions and whipping have had a deterring effect. Somali traditional laws can, however, be in direct contradiction to international human rights standards, and the collective responsibility that rests with the Diya group removes the individual's responsibility for criminal actions. Meeting with Landinfo in 2007, a representative for an international organisation stated that total impunity prevails for individuals. The traditional compensation system does work, but it is based on a collective responsibility and not individual punishment. UNHCR confirmed this information (interview 2007), but added that local conditions, clan power, conflict lines, gender, etc. are all determining factors in how the system works. This information was confirmed by Landinfo's interlocutors in Nairobi in March 2009.

These traditional conflict resolution and compensation mechanisms require, however, a certain degree of stability (interviews with international sources in Nairobi, 2007, 2008 and 2009). Traditional law entails a group being capable of paying compensation, and rights and security can only be maintained through defence, if necessary by force (Gundel 2006). The absence of impartial mechanisms that can force a strong clan to fall into line with a decision in favour of a weaker clan, further results in discrimination against the Somali minority groups and weak clans. This remains unchanged, but the current situation is marked by violence that is usually carried out by unknown perpetrators, and the conflict resolution mechanisms require, naturally enough, the perpetrators to be known.

A response consists of answers to specific questions presented to Landinfo by case workers within the Norwegian immigration authorities. Responses are not intended to provide exhaustive reviews of a topic or theme, but should answer the specific questions posed and include relevant background information.

## References

### Written sources

- African Union Daily News Highlights (2009, 20 May). AU condemns insurgency in Somalia. *African Union Daily News Highlights*. Available from [http://74.125.77.132/u/UAAU?q=cache:I\\_uCLwb2BckJ:www.africa-union.org/root/ua/Conferences/2009/mai/BCP/20mai/DISCOURS%2520S%2520E%2520%2520J%2520%2520P%2520%2520IGAD%2520MEETING%2520-%2520MAI%252009%2520-%2520ENGLISH%2520rev.doc+AU+condemns+insurgency+in+Somalia&cd=1&hl=no&ct=clnk&ie=UTF-8](http://74.125.77.132/u/UAAU?q=cache:I_uCLwb2BckJ:www.africa-union.org/root/ua/Conferences/2009/mai/BCP/20mai/DISCOURS%2520S%2520E%2520%2520J%2520%2520P%2520%2520IGAD%2520MEETING%2520-%2520MAI%252009%2520-%2520ENGLISH%2520rev.doc+AU+condemns+insurgency+in+Somalia&cd=1&hl=no&ct=clnk&ie=UTF-8) [downloaded 2 June 2009]
- Gundel, J. (2006, November). *The predicament of the 'Oday'. The role of traditional structures in security, rights, law and development in Somalia*. Nairobi: Danish Refugee Council & Novib/Oxfam. Available from [http://www.logcluster.org/som/infrastructure-communication-various/Gundel\\_The%20role%20of%20traditional%20structures.pdf](http://www.logcluster.org/som/infrastructure-communication-various/Gundel_The%20role%20of%20traditional%20structures.pdf) [downloaded 28 May 2009]
- Le Sage, A. (2005). *Stateless Justice in Somalia: Formal and Informal Rule of Law Initiatives*. Geneva: Centre for Humanitarian Dialogue.
- Little, P. D. (2003). *Somalia: Economy Without State*. Bloomington: Indiana University Press.
- Notten, van M. (2005). *The Law of the Somalis. A Stable Foundation for Economic Development in the Horn of Africa*. Trenton, NJ: Red Sea Press.
- UN Human Rights Council (2009, 24 February) *Independent expert on the situation of human rights in Somalia. A/HRC/10/85*. New York: UN Human Rights Council. Available from <http://www.unhcr.org/refworld/docid/49c78a822.html> [downloaded 2 June 2009]

### Oral sources

- UNHCR. Interview in Nairobi, June 2008.
- International organisations. Interviews in Nairobi, March 2007, June 2008 and March 2009.

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