

Annotated Bibliography of Selected Texts on Minorities and Clans

Protection Cluster

March 2021

Resource Title: Report of the Special Rapporteur on Minority Issues, 15 July 2019

Online Link: https://ap.ohchr.org/documents/E/GA/report/A_74_160.pdf

Raises the issue that there is no internationally recognized definition of minority and recognizes that “[t]he absence of consistency in understanding who is a minority is a recurring stumbling block to the full and effective realization of the rights of minorities.” The Special Rapporteur on Minority Issues issued the report in 2019 with the intent to clarify the concept of minority according to international law. Human Right Committee Jurisprudence on ICCPR art. 27 produced by 1994 the following criteria in its general comment of who it considered to be a member of a linguistic, religious or ethnic minority:

- (a) The criteria are objective, factually based and not dependent on State recognition;
- (b) There is no subjective restriction, either in terms of desire to maintain one’s identity or of being non-dominant in any particular area;
- (c) All persons belonging to an ethnic, religious or linguistic minority in a given State are included, regardless of their legal status or length of association with a State. Citizenship or temporal association with the state need not be demonstrated;
- (d) Individuals are the holders of rights under article 27, even if the interests that are involved may be collective;
- (e) The existence of an ethnic, religious or linguistic minority is not determined by a State or dependent on some form of recognition. It is established by objective criteria.
- (f) The “territory” to consider in determining whether or not a group is a linguistic, religious or ethnic minority is the entire State, and not one of its subunits;
- (g) One of the objective criteria, if not the main one, for determining whether a group is a minority in a State is a numerical one. A minority in the territory of a State means it is not the majority.

In recognition of the ICCPR and jurisprudence the Special Rapporteur promotes the following concept of a minority:

An ethnic, religious or linguistic minority is any group of persons which constitutes less than half of the population in the entire territory of a State whose members share common characteristics of culture, religion or language, or a combination of any of these. A person can freely belong to an ethnic, religious or linguistic minority without any requirement of citizenship, residence, official recognition or any other status.

This definition is intentionally expansive, and the criteria are objective and not dependent on State recognition. The Special Rapporteur noted that previous uncertainty over the concept frequently resulted in restrictive ad hoc approaches. The 2019 concept of “minority” diverges from previous concepts that contained a criterion that minorities be in a position of non-dominance and have a level of self-identification. The intent of the Special Rapporteur’s definition and the need for an expansive conceptualization of minority internationally, aligned with ICCPR Art. 27 and Human Rights Committee jurisprudence.

Resource Title: “A study on minorities in Somalia,” OCHA, Aug 2002

Online Link: <https://reliefweb.int/report/somalia/study-minorities-somalia>

2002 OCHA report on minority access to services, with brief overview of demographics. Estimates minority groups collectively to constitute approximately 30 percent of the population. Notes economic disparities due to remittances and the disproportion of refugees from major clans resettled to western countries in the 90s. Notes lack of government sharing of information on minority groups, particularly related to health. Includes description of key minority groups and has a useful table of the key minorities, locations, occupations, and affiliations with majority clans in the annex. The following recommendations were detailed:

1. Strengthen relationships between aid agencies and minorities: Decrease communication gap between aid agencies and minorities, consider the situation and needs of minority groups during aid operation planning, increase the capacity of minority organisations to effectively represent minority concerns in both national and international forums.
2. Combat discrimination against minority groups: Conduct minority rights advocacy programme through civil society including elders and media.

Resource Title: Abbink, Jan, “The Total Somali Clan Genealogy,” ASC Working Paper 84, 2009 (2nd Edition)

Online Link: <https://scholarlypublications.universiteitleiden.nl/access/item%3A2916958/view>

The document has genealogical charts of major clans detailing sub-clan family levels. These levels of descent are clan-families, clan moieties or territorial divisions, clans, subclans, lineages, and sublineages. The charts also include groups “outside” of traditional clan lineage, including the Bantu. Though it should be noted that clan structure is an evolving process. On page 41 clan links to different political actors are noted. In describing the evolution of clan, Abbink writes:

[T]he actual lines of the genealogy have thus been determined in the course of history by alliances formed in the process of harsh socio-economic life in conditions of nomadic pastoralism and other politico-economic considerations. However, in the context of the post-Siyad Barre civil war and warlord group violence in Somalia, a select number of these 'clan-identities' have tended to become fairly rigid. The Siyad Barre regime was also notorious - under the facade of a non-clan ideology - for systematically politicizing and playing out the presumed clan identities and differences (especially after 1978, the year of the lost war against Ethiopia, and intensifying after 1988 when the North revolted.

Resource Title: Gundel, Joakim, “Clans in Somalia,” ACCORD, December 2009

Online Link: <https://www.refworld.org/docid/4b29f5e82.html>

Explains the clan structure, customary law (xeer), and provides a brief overview of the clans and minority groups. Describes the structure clan family, clan, mag-paying as well as notes that these can be further divided and reconstructed pointing to the social construction particularly at the mag-paying level, though also noting that lineage claims over 20 are often inaccurate/fabricated. Argues that the stress on the mag-paying group is due to the high level of mortality due to conflict and depletion of resources as a result of conflict and natural disaster. Discuss the role of elders in decision making and overseeing xeer. Argues that the xeer, as a collective form of justice seeking, absolves

individuals of their accountability. Explains the dynamic evolution of clans that results from population growth as follows:

The tendency to split starts when too many quarrels occur, while the moment a split actually takes place is when the group is capable of dividing into two groups who are each able to pay 100 camels. In this natural evolution of the clan system, genealogical reference points of clan groups (i.e. the names being used) change over time, as, following a political split, the old reference point disappears and the new groups subsequently each refer to a new one. However, in political terms these groups use the same system, i.e. in order to demonstrate that “we are together as a big family, we are strong, we are a bloc”

Discusses dynamics of minority—may be majority in area though without larger access to state protection or resources. The Sab always are in small pockets. Majority clan members too when in area of non-dominance. Notes the patron clan system whereby in general nomadic clans have sought to assimilate minority clans; however, Bantu seen as too different for patronage.

Resource Title: *Neither Inevitable nor Accidental: The impact of marginalization in Somalia (The United Nations Impact Project on Somalia), War and Peace in Somalia: National Grievances, Local Conflict and Al-Shabaab, Oxford UP, 2019*

Online Link:

https://www.google.com/books/edition/War_and_Peace_in_Somalia/UxmEDwAAQBAJ?hl=en&gbpv=1&dq=%22Neither+inevitable+nor+Accidental%22&pg=PT46&printsec=frontcover

Argues that while humanitarian, recovery and reconciliation assistance alleviates immediate suffering, in failing to take into account the political economy it has reinforced (reified) patterns of marginalization. Population demographic of persons affected by famine suggest that marginalized communities are most often the most affected, more susceptible to diversion or looting of assistance through review of droughts/famine: 1990-91, 2011-12, and 2016-17. Gatekeepers essentially function to control populations and aid provided through gatekeepers reduces marginalized communities to “owned objects of other citizens” often political elite. Assessments do not look at the structural causes of vulnerability, issues of inequality, discrimination, exclusion. Marginalized group must have full rights to accountability

Recommendations:

- Require that humanitarian assessments require protection risk and political economy analysis: “Include analysis of political power, access and control of resources, and minority or majority status issues, but also an analysis of marginalisation, exclusion, horizontal inequalities and group-based abuse... for instance, include looking at how issues such as land access and control have caused many groups to migrate away from their homes to become IDPs”
- Create a systematic source of in-depth analysis. Strengthen disaggregated data collection and analysis to understand who are the people behind the statistics and what issues of protection, land and power are at play. This should be used to inform the assistance and protection response, understand root causes and provide political oversight.
- “Desist from the established practice in which humanitarian or recovery action goes ahead without adequate attention to the political economy and protection issues outlined here. To contribute to long-term reconciliation, rights and prosperity, the UN needs to identify positive ways to act on issues of marginalisation and exclusion and translate this into the UN’s core activities. This requires different parts of the UN system to work together to bring about coherence in intervention. In this regard, the Global Protection Cluster offers guidance that should be followed.”

Resource Title: *Voices Unheard: Participation of Internally Displaced Persons in Peace and State Building Processes in Somalia,* OHCHR/ UNSOM HRP, Sept 2019

Online Link: https://www.ohchr.org/Documents/Countries/SO/UNSOM_voices_unheard_2019.pdf

Analysis of the findings from an assessment of across Somalia, of the 832 interviews 657 were IDPs and the balance were government officials, civil society members, women groups, youth activists and politicians. Approximately half of the respondents elected not to disclose their clan affiliation, of these over half were in Somaliland. Though there were differences in responses correlated to sex, location, displacement status and other variables, findings indicate a lack of participation of IDPs in state building, lack of representation, limited or no opportunities to participated in decision making, and fear to exercise rights to peaceful assembly or to form associations. Suggests a disconnect between IDPs and authorities from the camp level and higher. Argues that “Their exclusion and marginalization also led to a fear to speak up, let alone to express criticism, with individual IDPs more reliant on traditional, clan-based channels of communications.” Highlights the specific concerns of women and representation with significant limitations to participation due to household obligations.

Resource Title: *Nisar Majid, Khalif Abdirahman and Shamsa Hassan, “Remittances and Vulnerability in Somalia,”* Rift Valley Institute Briefing Paper, September 2018

Online Link: <http://riftvalley.net/publication/remittances-and-vulnerability-somalia>

Details the discrepancies in the average levels of remittances between regions, with northern regions receiving significantly more than the south—“where there is a larger rural population, and where structurally marginalized and ethnic- minority populations are more numerous.” Posits that the reason behind the different rates of remittances are correlated to the temporal dimensions of migration and early refugee flows from the north and associated resettlement. Notes the impact of regional inequality in the dynamics of pervious famine. But recognizes the limited available data on remittances. Also, discusses access to credit, noting different factors but highlighting the role of clan relationship.

Resource Title: *“No Redress: Somalia’s Forgotten Minorities,”* Minority Rights Group, 2010

Online Link: <http://www.minorityrights.org/?lid=10370>

Details the impact of clan structure on minority rights, including exclusion economic and social opportunities, inequality for political representation under the 4.5 formula (allocation of political seats to the Darod, Hawiye, Dir and Rahaweyn equally and a half seat collectively to other groups), and limited access to justice. Minorities are identified as the Bantu, Benadiri, and occupational groups and religious minorities (Ashraf, Shelkal, Christians). Notes the change of occupation with the conflict impacting on the economy and majority clans taking over some of the tradition occupation based work of minority clans. Discusses the prevention of intermarriage between some minorities and majority clans. Notes the multiple forms of discrimination that minority women face. Provides background of abuses across regions. Highlights the problems with gatekeepers predominantly coming from majority clans.

From page 27 there is a review of relevant international and regional instruments: International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention Against Torture (CAT), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and the African Charter on Human and Peoples’ Rights, all of which are legally binding on Somalia.

Resource Title: McCoulough, Aoife and Muhyadin Saed, “Gatekeepers, Elders and Accountability in Somalia,” ODI, December 2017

Online Link: <https://www.odi.org/sites/odi.org.uk/files/resource-documents/11938.pdf>

Outlines the role of elders in the colonial and post-colonial eras, from British and Italian more formalized relations with elders, to the Barre era of non-clan based but de facto clan favoritism, to the civil war importance with elders as the main form of governance, to the 1990s-2000 NGOs predominantly working through elders—progressive increase to their legitimacy. Variance in the selection criteria and process across the country, but women are excluded both from being identified as elders and in the selection process. The increased role and dominance of elders excludes women and youth. Women can only access elders through a male, reliance on husband and sons. Exclusive selection limits downward accountability and there are limited mechanisms to sanction/remove poorly performing elders. Suggests “working with elders from minority clans could mitigate some exclusion at the clan level but if those elders are self-inaugurated projects risk supporting increasing exclusion at the community level.”

In older camps gatekeepers may be elected, but in newer, less formalized sites gatekeepers are often landowners or speculators. Limited accountability downward, but there is often accountability to the host community. IDPs from the same clan as the host community can complain to elders regarding gatekeepers. Gatekeepers “as an institution” are less based in tradition allowing potential for more inclusive representation of women and youth, estimated 30-40% of gatekeepers in Mogadishu are women. Details Tana Project to improve accountability of gatekeepers.

Resource Title: Osman, Abdulahi, “Cultural Diversity and the Somali Conflict: Myth or Reality?” ACCORD, 2007

Online Link: <https://www.accord.org.za/ajcr-issues/cultural-diversity-and-the-somali-conflict/>

Provides a historical analysis of the rise to prominence of majority clans through colonial and post-colonial policy. Argues that the conflict in Somalia is not a result of diversity, but rather largely attributable to social inequality due to economic decline and corruption as well as the widespread availability of weapons. Notes the significant military aid resulted in a dominant military and proliferation of small arms, during the Cold War and then subsequently from Arab States. Under Bare there was increased politicization of the military. Large scale sale of arms by military forces increased private small arms. Argues that poorly administered foreign aid allowed for misappropriation of funds and corruption.

Resource Title: Strelau, Nicole, “Governance Without Government in the Somali Territories,” *Journal of International Affairs*, 9 Jan 2019

Online Link: <https://jia.sipa.columbia.edu/governance-without-government-somali-territories>

Highlights the regime of Barre on the fragmentation of clans, favoritism for agropastoral, and use of divide and conquer tactics that gave rise to intensification of clan inter-fighting. Provides an overview of different structures of varying degrees of governance and security in Somalia. Suggests that no centralized government is not a failed state but rather may be a viable option for Somalia.

Resource Title: Besteman, Catherine, Unravelling Somalia: Race, Violence and the Legacy of Slavery, University of Pennsylvania Press, 1999.

Detailed ethnography of the Bantu community in the Gosha region. Provides historic background of the Bantu and their relationship with geographic area and pastoral populations, in the construction and reconstruction of complex identities. Argues that actual patterns of the violence that disproportionality affect largely Bantu populations in the rural, southern areas of the civil war do not support the narrative of clan conflict as the primary cause of the dissolution of the state.

Resource Title: Ali, Mohamed Fuad, “The Somali Clan System: A road map to political stability in Somalia,” THE SOMALI CLAN SYSTEM: A ROAD MAP TO POLITICAL STABILITY IN SOMALIA,” Graduate Council of Texas State University, May 2016.

Attributes state failure to federal system’s incompatibility with clannism. Argues that the clan should be afforded more power through decentralized confederate and clan-based governance. Does not address the lack of representation and marginalization of women in the clan structure, recognize the presence of minorities in Somalia or address their challenges in lack of representation, discrimination by traditional forms of governance. Largely reliant on Lewis to establish primordial clan structure, notes kinship and social ties. Highlights the importance of inter-marriage to establish “uterine ties” to kinship lineages.

Brief overview of the colonial and Barre eras contribution to the current state of affairs. Notably the lack of education opportunities and limited capacity development during the colonial era resulted in the incapacity of post-colonial Somalia—political fragmentation. Highlights the difference between the British and Italian colonial governance strategies. Notes that post-independence challenges in reconciling the disparities between north and south. Highlights problems with zero-sum political structures compounded by corruption and geographical location of the capital in Mogadishu problematic for clan representation, participation and buy-in to central government.