



## **AMNESTY INTERNATIONAL BRIEFING**

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### **FORCED RETURNS TO SOUTH AND CENTRAL SOMALIA, INCLUDING TO AL-SHABAAB AREAS: A BLATANT VIOLATION OF INTERNATIONAL LAW**

Amnesty International stated in May 2013 that forced returns to south and central Somalia amount to a violation of international law.<sup>1</sup> In October 2014, Amnesty International is gravely concerned about continued attempts by the Dutch government to effect such forced returns. Other states such as Denmark, Norway, Sweden and the United Kingdom (UK) have also attempted forced returns. Of particular concern is the Dutch government's position that, under certain circumstances, Somalis can be returned to areas under the control of al-Shabaab,<sup>2</sup> an Islamist armed group with links to Al-Qaeda.<sup>3</sup> Amnesty International considers it dangerous, irresponsible and in violation of international law for the Minister of Migration in the Netherlands to attempt to return, or compel Somalis to return, to areas under al-Shabaab control in Somalia.

In debates in October and November 2014, the Dutch Parliament will have another opportunity to discuss the policy of returns to Somalia with the Dutch government. In previous debates, the Minister has argued that a Somali person coming from an area controlled by al-Shabaab could not be granted protection if they had recently left an al-Shabaab area and are assumed to know how to live under the rules of al-Shabaab (what has been called "play the game" of al-Shabaab).<sup>4</sup>

#### **Dutch returns policy**

In December 2012, the Dutch government was the first to end a policy of suspension of returns to Mogadishu, because it no longer considered Mogadishu as experiencing a situation of generalised violence that would put the lives of all Somalis at risk if returned there. Under the December 2012 policy, the risk to individuals returning to Mogadishu was to be determined by an individual assessment.<sup>5</sup> A memorandum of understanding (MoU) between the Dutch authorities and the Transitional Federal Government (TFG) was signed in May 2010 envisaging the return of Somalis from the Netherlands to all parts of Somalia. The Somali Federal Government (SFG) confirmed the validity of this MoU in January 2013. Following the December 2012 policy change, two returns took place in September and November 2013. On 5 November 2013, a Somali failed asylum-seeker named Ahmed Said, 26, was forcibly returned to Mogadishu after spending over twenty years outside of the country. Three days later he was wounded with numerous others in a suicide attack which killed at least six people.<sup>6</sup> Amnesty International is not aware of anyone having been returned from

the Netherlands to Somalia since Ahmed Said's forcible return. It appears the Somali authorities refuse to accept any more people forcibly returned from the Netherlands since Ahmed Said's injury.

Amnesty International hears that the Dutch authorities are pursuing a resumption of forced returns to Somalia, despite the risks. Furthermore, the current impossibility of forced returns has not stopped the Dutch government from rejecting the asylum applications of some Somalis and issuing them with return decisions, ostensibly demanding that they return 'voluntarily' even if they cannot be removed by the government.<sup>7</sup>

### **Generalised violence in south and central Somalia**

Somalia remains a country experiencing a non-international armed conflict. In 2013, Somalia had the highest level of conflict events in Africa.<sup>8</sup> Armed clashes take place outside of Mogadishu and in rural areas of south central Somalia. Fragile security gains in Mogadishu are short-lived. Though al-Shabaab no longer controls parts of Mogadishu, it engages in guerrilla warfare, routinely using improvised explosive devices (IEDs) and carrying out grenade and suicide attacks. Despite the ongoing lack of a civilian casualty tracking system, it is widely documented that military operations result in civilian casualties, with civilians killed and wounded in crossfire during armed clashes, through IEDs as well as grenade and suicide attacks.<sup>9</sup>

There has been a reported increase in al-Shabaab's targeting of civilians since the Kenyan incursion to Somalia in 2011, which continues to play out in 2014. Violence against civilians seems to increase during periods when territories are contested – both prior to a change of control of territory when people are accused and punished by al-Shabaab for allegedly spying, as well as following the SFG gaining control of territory. In both instances, retaliatory attacks are carried out by al-Shabaab in which civilians are deliberately targeted.<sup>10</sup>

The joint Somali National Armed Forces (SNAF) and the African Union Mission in Somalia (AMISOM) offensive dubbed 'Operation Eagle' took place in March 2014 with the intention of further flushing out al-Shabaab operatives.<sup>11</sup> Territorial transfer has taken place on numerous occasions since then,<sup>12</sup> with the offensive mainly focusing on the regions of Bay, Bakool, Gedo, Hiraaan and parts of the Shabelle regions.<sup>13</sup> Amnesty International has heard reports of increases in violations of international humanitarian law and human rights abuses by all parties to the conflict as a result of the offensive.

Throughout 2014, al-Shabaab activity has increased, often in the form of conflict against other armed groups, though also in areas without active fighting. The increase in al-Shabaab activity has reportedly seen an increase in violence against civilians and in civilian casualties.<sup>14</sup> Al-Shabaab retains the ability to stage lethal attacks even in the most heavily guarded parts of Mogadishu. Villa Somalia, the seat of the Somali government, experienced two deadly attacks in 2014, the latest in July 2014, when al-Shabaab militants stormed the compound.<sup>15</sup> Attacks continue to take place on government institutions such as parliament, resulting in the deaths of civilians, including women and children. Targeted assassinations also continue to be carried out.<sup>16</sup> Al-Shabaab attacks in Mogadishu increase during Ramadan each year. During Ramadan in July 2014, assassination attempts reached some of the highest levels on record since 2010, when al-Shabaab controlled the majority of Mogadishu.<sup>17</sup>

The partial lifting of the arms embargo on Somalia in 2013 appears to have contributed to abuses against civilians, with reports that arms have been diverted for end use by parallel armed groups who are not part of Somalia's armed forces, including al-Shabaab.<sup>18</sup>

### **Human rights abuses in areas under al-Shabaab control**

Al-Shabaab still controls vast swathes of south and central Somalia.<sup>19</sup> It is widely documented that people who live in al-Shabaab territories face widespread and grave human rights abuses.<sup>20</sup> In areas under its control, al-Shabaab imposes a severe interpretation of Shar'ia law prohibiting the exercise of various freedoms and rights - such as forcing women to wear veils and banning leisure activities such as playing football and listening to music. For example, in January 2014, al-Shabaab burnt a mini-bus after accusing the owner of carrying khat, a mild amphetamine often used in the Horn of Africa. On 24 November 2013, a woman was killed while travelling between Baidoa and Berdaale. She was accused of selling khat to government soldiers. Al-Shabaab gunned down her vehicle before escaping.<sup>21</sup>

Al-Shabaab regularly capture and imprison people suspected of activities against their interpretation of Shar'ia law. For example, in June 2014, one man was alleged to have received lashes for the rape of a woman and another man reportedly had his hand amputated for stealing.<sup>22</sup> It is said that thousands are imprisoned for 'minor offenses' such as smoking, listening to music and engaging in other leisure activities. Torture and other ill-treatment such as stoning, public whipping and amputation are used as 'punishment' if these rules are not adhered to.<sup>23</sup> Reports state there have been increases in beheadings, torture and other ill-treatment and abductions since 2013.<sup>24</sup>

On 27 September 2014, a woman was allegedly stoned to death in Barawe, a town in Lower Shabelle region, on suspicion of marrying more than one husband. It is reported she was buried up to her neck then stoned to death by hooded men in front of a crowd.<sup>25</sup> Al-Shabaab members also carry out rape and other forms of gender-based violence such as forced marriage and continue to recruit and use children in the conflict.<sup>26</sup> Amnesty International interviewed people who had escaped Somalia and arrived in Kenya in 2013 because they had received threats that, unless their children joined al-Shabaab, they would face repercussions.<sup>27</sup> Young people have fled areas under al-Shabaab control for fear of being forcibly recruited by al-Shabaab.<sup>28</sup>

People who are suspected of having links to SNAF, AMISOM or associated militias, or to external governments and international agencies, are at increased risk of being unlawfully killed, tortured and otherwise ill-treated or threatened. Those unfamiliar to al-Shabaab operatives or who have been outside of al-Shabaab held areas can be objects of suspicion. Often, al-Shabaab executes individuals it suspects of spying for the government.<sup>29</sup> It is reported that, throughout 2013 and 2014, an increasing number of people accused of spying have been executed.<sup>30</sup> Such abuses are at times carried out in public, including through beheadings, stoning, amputations and floggings. For example, on 2 June 2014, al-Shabaab executed three men accused of being spies for the SFG, as well as the governments of Kenya and the United States of America (USA). The three were publicly executed by firing squad in a park in Barawe where hundreds of people gathered to witness the execution.<sup>31</sup> This was less than a week after three others were allegedly killed for spying in Lower Shabelle region of south Somalia.<sup>32</sup> In August 2014, ongoing clashes between the SNAF and AMISOM with al-Shabaab in Bay region resulted in the deaths of several civilians. Amnesty International has been informed that in retaliation, al-Shabaab burnt down hundreds of houses and captured people, some of whom were killed, under accusation of being spies. Al-Shabaab has attempted to forcibly recruit children from the community. These abuses have been widely and consistently documented, and are said to be carried out publicly to instil fear among the population.<sup>33</sup>

Ali, 70, from Bay region told Amnesty International: *"The government are chasing al-Shabaab; and al-Shabaab are chasing the government; al-Shabaab is chasing people with a relationship with the government; and the government are chasing people with a relationship with al-Shabaab. We people are caught in the middle. Suspicion is everywhere."*

Amnesty International has heard numerous reports of the use of the high levels of generalized fear and suspicion to settle personal disputes. In February 2014, Amnesty International published a report '*No Place Like Home: Returns and Relocations of Somalia's Displaced*'. While conducting the research, Fatima, 37, from Bay region recounted to Amnesty International: '*My cousin polished shoes for a living in Mogadishu. He wanted to go back to get married. Yesterday [18 August 2013] he was murdered. Some of the men there snitched on him. They told al-Shabaab he used to work for Burundian forces and took deliveries to them. After one night, members of al-Shabaab called him and said they wanted to ask him some questions. He called me and told me that if anything happened to him, it is al-Shabaab. On the third morning, my family told me his body was returned. He had been beheaded. He hadn't ever worked for the Burundians, but it's known people can talk about you like this. If you go from a government to an al-Shabaab area, they can kill you.*'

Fartuun, 25, told Amnesty International she had recently heard news of her uncle's death. '*On the first day of August 2013, my uncle went home to our place in Lower Shabelle. He had been a soldier under Abdullahi Yusuf Ahmed<sup>34</sup> and had recently returned from Yemen. His mother persuaded him to go home, she told him "since you went away and left the forces there will be no problem, you are clear, let us go home."* He was captured the day he returned home. *Al-Shabaab soldiers took him away and held him captive. After five days they brought him in front of the stadium and beheaded him in front of people. After, they left him outside with his head on his stomach. He was there for one week.*'

People on transport routes report being interrogated and treated with suspicion by al-Shabaab. Movements need to be justified, particularly if the movement is between al-Shabaab areas and areas controlled by the SFG and allied forces.<sup>35</sup> An unknown person or a person looking slightly westernized may be at increased risk if al-Shabaab stops the vehicle.<sup>36</sup>

Abdiraman, 38, who had travelled from Dadaab refugee complex in Kenya to Middle Juba, Somalia, to bury his mother spoke to Amnesty International delegates in October 2013 on his return to Dadaab: '*We were coming back from Bu'ale. On the way, we met with an al-Shabaab checkpoint. We were all taken off the bus and told to sit on the ground. A man spoke to us. He said "if you are found with tobacco, if you are found with miraa [khat], if you have documents, it is upon you. I was carrying my alien card, I put it in my sandal without being seen. They were checking everything and everybody. Then we were told to stand aside. After that they interviewed us one by one. They asked us who we were, where we were going. Some of the youths were beaten, because they were not happy with them going back to Dadaab. Al-Shabaab were saying "what are they saying there about us?"*

*When one lady was checked, they found an American ID....they put all her documents on the fire and put her in a separate room. She was crying and crying. They kept us for around two hours, then all of us but her were allowed to go on our way. They said to the driver "if you look back, we will slaughter you." They had started walking with her towards the forest. We never saw her again. Even if my father dies tonight in Somalia, I cannot go back.*

In Mogadishu, Ahmed, 32, spoke of the disappearance of his uncle, who was returning to his home in Diinsoor, Bay region of south Somalia, following his visit to Mogadishu where he had been for three months. Ahmed said: '*my uncle left Diinsoor the day before Ramadan [July 2013] to see his family. He took a public bus with two women, one was his uncle's daughter. When the bus arrived in Hagar Kaac, al-Shabaab took everyone off the bus. They were asked who they were, where they were*

*going, where they were from. After a day, everyone was released, apart from my uncle. I wanted to go to try to help, but people arrested by al-Shabaab are decapitated, so I was too scared. I was told by people on the bus that money had been paid to al-Shabaab which is why they were released.'* Ahmed had been in Mogadishu for one and a half years, when he left because of the drought. He said: *'I can't go back, there is no freedom.'*

Al-Shabaab faced internal divisions and infighting throughout 2013, which resulted in scores of deaths and the execution of key leaders of the movement and allowed Moktar Ali Zubeyr (known as 'Godane') to neutralise his opponents and consolidate his power. Such in-fighting, however, did not diminish the movement's intent and capacity to indiscriminately take the lives of civilians, as demonstrated by the devastating attack in Nairobi on 21 September 2013, lasting four days and killing 67 people, and frequent subsequent attacks in Mogadishu and other parts of Somalia.<sup>37</sup> On 1 September 2014, a US drone strike hit an al-Shabaab convoy. Godane's death was announced by the USA on 5 September 2014,<sup>38</sup> and confirmed by al-Shabaab on 6 September 2014 when it announced a new leader, Abu Umar (known as 'Abu Ubaidah'), while announcing its intention to avenge the death of Godane.<sup>39</sup> Abu Ubaidah was one of Godane's inner circle and is known as a hardliner.<sup>40</sup> The rapid appointment of a successor for al-Shabaab leadership indicates an attempt to ensure continuity. Following the drone strike, Amnesty International was told that al-Shabaab began carrying out mass searches and arrests, with reports that some civilians were killed as retribution for the strike.<sup>41</sup> One week after Godane's death, on 8 September 2014, al-Shabaab claimed responsibility for a suicide attack targeting an AMISOM convoy in Lower Shabelle region. The attack killed at least 12 people, including four Americans, and wounded over 20 others.<sup>42</sup>

Most people Amnesty International have spoken to who have left al-Shabaab areas in recent years as a result of the 2011 food crisis are afraid of returning, or went back to their areas of origin but left again due to fear of al-Shabaab. One woman, 50, from Baidoa, spoke to Amnesty International in August 2013 of the insecurity in both government and al-Shabaab areas, choosing to stay out of al-Shabaab areas because, though she finds both government and al-Shabaab areas insecure, she'd rather die by being shot than of the torturous killings that al-Shabaab carry out. She said: *'instead of slaughtering, better the bullet.'* Habiib, 37, had chosen to return to Bay region in Somalia from Mogadishu in 2013, where she had sought refuge as a result of the 2011 food crisis. She said that, because she had spent two years in Mogadishu, people treated her and her family with suspicion and thought she had a relationship with the government and AMISOM. She was told she was not safe in Bay region and told Amnesty International: *"there, each and everyone owns a gun, you cannot know who is who, you cannot know who is al-Shabaab.'*

Amnesty International has received many reports of people being too afraid to return, including those who had left in recent years, and of people being regularly being accused of spying. This has caused both those who have been recently displaced and those displaced for many years to choose not to return to areas where al-Shabaab not only control, but have a presence – which is true for much of south and central Somalia, including Mogadishu.

### **Humanitarian situation in south and central Somalia**

Human security is also of grave concern in Somalia. Over one million people in Somalia are in a food crisis while an additional 2.1 million people are in need of food assistance.<sup>43</sup> For the first time since the end of the 2011 famine, the food security situation is rapidly deteriorating. On 21 July 2014, the SFG described the humanitarian situation in the country 'as a precursor to the situation in 2011 in its intensity.'<sup>44</sup> Poor rains have contributed to this. However, as has been the case for many years,

the ongoing humanitarian crisis is largely manmade. Over 116,000 people were displaced between January and mid-September 2014.<sup>45</sup> Insecurity is reported to have caused over 60% of the displacement, with around 73,000 people fleeing their homes.<sup>46</sup>

As a result of the military offensive beginning in March 2014, trade routes have been disrupted, while al-Shabaab continues to block supply routes into towns in south and central Somalia. Due to lack of safe and unimpeded access, humanitarian organisations are hindered in accessing towns affected by military operations.<sup>47</sup> This has led to sharp increases in food prices – in some areas prices have quadrupled between January and August 2014.<sup>48</sup> Internally displaced persons (IDPs) are bearing the brunt of the crisis, as they spend proportionately more – up to 75% - of their available income on food, compared to Somalis in rural and urban communities.<sup>49</sup> With the combination of delayed rains, rising food prices and continued conflict, Somalia is at risk of sliding back into a nation-wide emergency.<sup>50</sup> Meanwhile, malnutrition rates are alarming. In a country where malnutrition rates are some of the worst globally, an estimated 218,000 children under the age of five are currently acutely malnourished.<sup>51</sup> The Food Security and Nutrition Analysis Unit (FSNAU) found several indicators observed in 2014 are worse than, or as bad as they were in 2010 - one year before the famine declaration of July 2011.<sup>52</sup> Despite this, Somalia had received only around a third of the 2014 funding requirements to meet its humanitarian needs as of September 2014.<sup>53</sup>

### **The international response**

States have a responsibility under international law to protect people who have a well-founded fear of persecution. They are prohibited from forcibly returning people to a place where there is a risk that their life or freedom would be threatened, including to areas of active armed conflict. This is known as the principle of *non-refoulement*<sup>54</sup> and is considered part of customary international law – that is, it applies to all states regardless of whether they have signed relevant treaties such as the 1951 Refugee Convention - and is an essential component of international protection.<sup>55</sup>

The United Nations High Commission for Refugees (UNHCR) urges that ‘states refrain from forcibly returning any persons to areas of Southern and Central Somalia that are affected by military action and/or ensuing displacement, remain fragile and insecure after recent military action, or remain under control of non-State groups’.<sup>56</sup> This reiterates UNHCR’s position in its January 2014 guidelines on ‘International Protection Considerations with regard to people fleeing southern and central Somalia’. In May 2014, the UN Secretary-General also urged ‘all countries generously providing refuge to Somalis who have fled the conflict to comply with their obligations under international law and not to return them forcefully to Somalia, where their lives could be at risk.’<sup>57</sup>

In a landmark case, *Sufi and Elmi v the United Kingdom*, June 2011, the European Court of Human Rights (ECtHR) considered the risks posed by returning people to Somalia. It considered evidence which indicated areas ‘controlled by al-Shabaab were generally safe for Somalis, provided they were able to “play the game” and avoid the attention of al-Shabaab by obeying its rules.’<sup>58</sup> It also considered other evidence, which indicated human rights were non-existent in al-Shabaab areas due to the organisation’s interpretation of Shar’ia law<sup>59</sup> and that ‘anywhere is volatile and can change at any time.’<sup>60</sup> The court went on to find ‘it is clear that in areas under their control al-Shabaab is enforcing a particularly draconian version of Sharia law which in fact amounts to “a repressive form of social control.”’<sup>61</sup> The court concluded ‘a returnee with no recent experience of living in Somalia would be at real risk of being subjected to treatment proscribed by Article 3<sup>62</sup> [of the European Convention on Human Rights - ECHR] in al-Shabaab controlled areas. Accordingly, if a returnee’s home area is in an al-Shabaab controlled area, or if it could not be reached without travelling through an al-Shabaab controlled area, the court did not consider that person could relocate within Somalia without being exposed to a real risk of Article 3 ill-treatment.’<sup>63</sup>

***Sufi and Elmi v the United Kingdom***

*PARA 275:* In spite of the repressive regime in place, a number of sources told the fact-finding mission that areas controlled by al-Shabaab were generally safe for Somalis provided that they were able to “play the game” and avoid the attention of al-Shabaab by obeying their rules (see paragraph 92, above). However, as al-Shabaab only began seizing parts of southern and central Somalia following the fall of the Union of Islamic Courts in late 2006, the Court considers it unlikely that a Somali with no recent experience of living in Somalia would be adequately equipped to “play the game”, with the risk that he would come to the attention of al-Shabaab, either while travelling through or having settled in an al-Shabaab controlled area. The Court considers that this risk would be even greater for Somalis who have been out of the country long enough to become “westernised” as certain attributes, such as a foreign accent, would be impossible to disguise.

Amnesty International is concerned about the judgment’s implication that a person may not be at real risk of torture or other ill-treatment if they had recent experience of living in al-Shabaab controlled areas, given the wealth of documentation that shows all people living in al-Shabaab controlled areas are at real risk of ill-treatment. In addition, since the *Sufi and Elmi* case, in a disappointing finding in the 2013 case of *K.A.B v Sweden*, the ECtHR ruled there was no longer a situation of generalised violence in Mogadishu that would put all people living there at risk of being killed, tortured or otherwise ill-treated.<sup>64</sup> The court went on to find that the applicant had not demonstrated that he was individually at risk due to his circumstances.<sup>65</sup> Since that time, the ECtHR has not issued interim measures for people in the process of appealing their cases, which would prevent them from being forced to return to Somalia. By no longer issuing interim measures, this change may put people’s lives in danger because people may be forced to return before their potential individual risks have been assessed.

That said, country of origin information seems to have largely followed *Sufi and Elmi*. The Netherlands foreign office guidance of December 2013 found al-Shabaab had been increasingly suspicious towards those returnees from abroad, because of alleged espionage for the SFG or allied troops or for westernization.<sup>66</sup> It stated that Somalis returning from western countries usually try to avoid going back to al-Shabaab controlled areas, even when their clans live in that area.<sup>67</sup> A Danish and Norwegian fact-finding mission found Somalis returning from the diaspora could be at risk of targeted attacks by al-Shabaab, especially those ‘who are visible and do not blend in.’<sup>68</sup>

However, despite documentation of the human rights abuses civilians suffer as a result of al-Shabaab’s actions, protection risks for potential returnees seems to be interpreted contrary to the country guidance in the Netherlands. Amnesty International is concerned the Minister for Migration in the Netherlands is maintaining its returns policy despite the evidence that living under al-Shabaab control results in widespread and grave human rights abuses for all people, and the additional evidence that those returning from elsewhere can be put at a heightened risk of persecution, threat to life, torture and other ill-treatment. The Minister continues to claim people returned to al-Shabaab areas who know how to live under al-Shabaab control, (assuming they have previous experience of living under al-Shabaab rule, have left al-Shabaab-controlled areas recently, and are not yet ‘westernized’ and will thus not attract specific attention of al-Shabaab) will not be at risk of torture or ill-treatment. It seems that the justification for this position is based on one piece of evidence which the ECtHR considered, taken out of context from other evidence presented. The policy is also in contradiction to the findings of the court, international law, and the advice of UNHCR.

There seems to be a disparity between the findings of the *Sufi and Elmi v the UK* case, the state level country of origin information and the interpretation of this guidance for the purposes of asylum

policy. It is of concern that the Dutch government is misinterpreting the court's assessment, by considering only one piece of evidence as opposed to the court's conclusions. One source of information assessed by the court has been selectively focused on, while other, contrary evidence, as well as the findings of the court has been ignored.

Countries should under no circumstances attempt to return individuals to south and central Somalia, as the fragile security conditions have not led to a fundamental, durable and stable change. When members of parliament discuss the policy of forced returns with the Dutch government, Amnesty International calls on the Netherlands and all states to cease any attempt to return people to south and central Somalia, including al-Shabaab areas, in line with their *non-refoulement* obligations under international law.

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<sup>1</sup> Amnesty International, Returns to south and central Somalia: a Violation of International Law, 15 May 2013.

<sup>2</sup> Letter of the Minister of Migration to the Dutch House of Representatives, 3 July 2014 (Tweede Kamer, vergaderjaar 2 2013-2014, 19637, nr. 1869).

<sup>3</sup> Al-Shabaab is an armed opposition group responsible for a wide range of human rights abuses. For more information, please see Amnesty International, Somalia: Somalia's children under attack, July 2011 (Index: AFR 52/002/2011); Amnesty International, Somalia: In the line of fire: Somalia's children under attack, July 2011 (Index: AFR 52/001/2011); Amnesty International, Somalia: Violations of human rights and international humanitarian law in central and southern Somalia: Amnesty International submission to the UN Universal Periodic Review, May 2011 (Index: AFR 52/014/2010).

<sup>4</sup> The policy can be found in the Decree of the Minister of Migration of 27 February 2014, WBV 2014/6. 3 July 2014.

<sup>5</sup> Letter to Parliament on asylum policy Somalia, 12 December 2012, <http://www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2012/12/15/beleidswijziging-somalie.html>.

<sup>6</sup> Amnesty International, Delivered by the Netherlands into the clutches of a suicide bomber in Somalia, 29 November 2013.

<sup>7</sup> Under the European Union (EU) Returns Directive, as implemented in Dutch law, rejected asylum seekers are issued a return decision and, in principle, given a period for 'voluntary departure.' This does not imply willingness of the person involved to return, simply compliance with the legal obligation to return. This obligation would normally be enforced by the government (by resorting to forced removal) if the individual does not comply, although in the case of Somalia this seems to be a practical impossibility at present. Amnesty International are aware of Somalis in the Netherlands who have had their asylum claims rejected and are put in detention with a view to expelling them.

<sup>8</sup> Armed Conflict Location and Event Data Project (ACLED), Conflict Trends (No. 29), Real-time analysis of African Political Violence, January 2014, p 11, can be accessed at <http://www.acleddata.com/wp-content/uploads/2014/01/ACLED-Conflict-Trends-Report-No-22-January-2014.pdf> [accessed 16.09.14].

<sup>9</sup> United Nations High Commission for Refugees (UNHCR), International Protection Considerations with Regard to People fleeing Southern and Central Somalia, 17 January 2014, p 4 can be accessed at <http://www.refworld.org/docid/52d7fc5f4.html> [accessed 16.09.14].

<sup>10</sup> Armed Conflict Location and Event Data Project (ACLED), Conflict Trends (No. 29), Real-time analysis of African Political Violence, January 2014, p 11, can be accessed at <http://www.acleddata.com/wp-content/uploads/2014/01/ACLED-Conflict-Trends-Report-No-22-January-2014.pdf> [accessed 16.09.14].

<sup>11</sup> International Crisis Group (ICG), Somalia: Al-Shabaab – It Will Be a Long War, 26 June 2014, can be accessed at [http://www.crisisgroup.org/~media/Files/africa/horn-of-africa/somalia/b099-somalia-al-shabaab-it-will-be-a-long-war](http://www.crisisgroup.org/~/media/Files/africa/horn-of-africa/somalia/b099-somalia-al-shabaab-it-will-be-a-long-war) [accessed 30.09.14].

<sup>12</sup> Armed Conflict Location and Event Data Project (ACLED), Conflict Trends (No. 29), Real-time analysis of African Political Violence, August 2014, can be accessed at <http://www.acleddata.com/wp-content/uploads/2014/08/ACLED-Conflict-Trends-Report-No.-29-August-2014.pdf> [accessed 16.09.14].

<sup>13</sup> United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), Humanitarian Bulletin – Somalia, August 2014 (released 19 September 2014), can be accessed at <http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20Somalia%20Humanitarian%20Bulletin%20August%202014.pdf> [accessed 22.09.14]. See also United Nations Security Council (UNSC), Report of the Secretary General on Somalia, 12 May 2014, paras 11-12.

<sup>14</sup> ACLED, Conflict Trends (No. 24), Real Time Analysis of African Political Violence, March 2014, p 8, can be accessed at <http://www.acleddata.com/wp-content/uploads/2014/03/ACLED-Conflict-Trends-Report-No-24->

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[March-2014\\_final.pdf](#) [accessed 16.09.14].

<sup>15</sup> UNSC, Somalia: Security Council strongly condemns more recent terrorist attacks in Mogadishu, 12 July 2014, can be accessed at <http://www.un.org/apps/news/story.asp?NewsID=48258#.VCrF8fmSyog> [accessed 30.09.14].

<sup>16</sup> Human Rights Council (HRC), Report of the Independent Expert on the situation of human rights in Somalia, Bahame Tom Nyanduga, 4 September 2014, para 5.

<sup>17</sup> Interview, International non-governmental organisation (NGO), 06.08.14, on record with author.

<sup>18</sup> UN, Security Council Committee pursuant to Resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea, Note by the Chair, S/AC.29/2014/NOTE.15, 6 February 2014, can be accessed at <http://somalianewsroom.com/2014/02/19/full-text-un-somaliaeritrea-monitoring-group-memo-on-arms-diversion/> [accessed 17.09.14].

<sup>19</sup> HRC, Report of the Independent Expert on the situation of human rights in Somalia, Bahame Tom Nyanduga, 4 September 2014, para 10.

<sup>20</sup> For example, see Amnesty International, The state of the world's human rights 2013, Somalia; also see Amnesty International, Somalia: a humanitarian and human rights catastrophe, 26 September 2011; Amnesty International: In the line of fire: Somalia's children under attack, 20 July 2011; Human Rights Watch (HRW), Harsh War, Harsh Peace: Abuses by al-Shabaab, the Transitional Federal Government, and the African Union Mission to Somalia (AMISOM) in Somalia, April 19, 2010, can be accessed at <http://www.hrw.org/node/89646> [accessed 30.09.14].

<sup>21</sup> Interview, Somali NGO, 02.12.13.

<sup>22</sup> Daily Nation, Man's hand chopped for theft while rapist gets 100 lashes, can be accessed at <http://mobile.nation.co.ke/news/hand-chopped-theft-rapist-100-lashes-/1950946/2334354/-/format/xhtml/-/7no5ffz/-/index.html> [accessed 17.09.14].

<sup>23</sup> UNHCR, International Protection Considerations with Regard to people fleeing Southern and Central Somalia, 17 January 2014, p4 can be accessed at <http://www.refworld.org/docid/52d7fc5f4.html> [accessed 16.09.14].

<sup>24</sup> European Asylum Support Office (EASO), Country of Origin Information Report South and Central Somalia Country Overview, August 2014, p 107, can be accessed at [file://kenb0-vs-dc1ro/users\\$/gdavies/Downloads/easo-2014-08-coi-report-somalia%20\(1\).pdf](file://kenb0-vs-dc1ro/users$/gdavies/Downloads/easo-2014-08-coi-report-somalia%20(1).pdf) [accessed 08.10.14].

<sup>25</sup> Death Penalty News, Somalia: Woman stoned to death for polyandry, 27 September 2014, can be accessed at [http://deathpenaltynews.blogspot.com/2014/09/somalia-woman-stoned-to-death-for.html?sm\\_au=iVVLrstP7NHdTFKH](http://deathpenaltynews.blogspot.com/2014/09/somalia-woman-stoned-to-death-for.html?sm_au=iVVLrstP7NHdTFKH) [accessed 30.09.14].

<sup>26</sup> For example, see Amnesty International, Annual Report: The State of the World's Human Rights, 2013, Somalia.

<sup>27</sup> See Amnesty International, No Place Like Home: Returns and Relocations of Somalia's Displaced, 19 February 2014.

<sup>28</sup> Landinfo - Country of Origin Information Centre, *Security and protection in Mogadishu and South-Central Somalia*, May 2013, p 35, available at: <http://www.refworld.org/docid/519c9c0b4.html> [accessed 22.09.14].

<sup>29</sup> UN, *Report of the Monitoring Group on Somalia and Eritrea pursuant to Security Council resolution 2060 (2012): Somalia*, 12 July 2013, S/2013/413, Annex 8.1, para 11. See also Amnesty International, No Place Like Home: Returns and relocations of Somalia's displaced, 19 February 2014, p 46.

<sup>30</sup> EASO, Country of Origin Information Report South and Central Somalia Country Overview, August 2014, p 107, can be accessed at [file://kenb0-vs-dc1ro/users\\$/gdavies/Downloads/easo-2014-08-coi-report-somalia%20\(1\).pdf](file://kenb0-vs-dc1ro/users$/gdavies/Downloads/easo-2014-08-coi-report-somalia%20(1).pdf) [accessed 08.10.14].

<sup>31</sup> For more information, see Sabahi, Somalis condemn al-Shabaab's public execution of 'spies', 11 June 2014, can be accessed at [http://sabahionline.com/en\\_GB/articles/hoa/articles/features/2014/06/11/feature-02](http://sabahionline.com/en_GB/articles/hoa/articles/features/2014/06/11/feature-02) [accessed 17.09.14].

<sup>32</sup> Critical Threats, Gulf of Aden Security Review, June 3, 2014, can be accessed at <http://www.criticalthreats.org/gulf-aden-security-review/gulf-aden-security-review-june-3-2014> [accessed 17.09.14].

<sup>33</sup> For example, see Amnesty International, Annual Report: The State of the World's Human Rights, 2013, Somalia; UNHCR, International Protection Considerations with Regard to people fleeing Southern and Central Somalia, 17 January 2014, p5 can be accessed at <http://www.refworld.org/docid/52d7fc5f4.html> [accessed 16.09.14].

<sup>34</sup> Abdullahi Yusuf Ahmed helped establish the Transitional Federal Government (TFG), which he led as President of Somalia from 2004 until 2008.

<sup>35</sup> EASO, Country of Origin Information Report South and Central Somalia Country Overview, August 2014, p 107, can be accessed at [file://kenb0-vs-dc1ro/users\\$/gdavies/Downloads/easo-2014-08-coi-report-somalia%20\(1\).pdf](file://kenb0-vs-dc1ro/users$/gdavies/Downloads/easo-2014-08-coi-report-somalia%20(1).pdf) [accessed 08.10.14].

<sup>36</sup> Landinfo - Country of Origin Information Centre, *Security and protection in Mogadishu and South-Central Somalia*, May 2013, p 35, can be accessed at: <http://www.refworld.org/docid/519c9c0b4.html> [accessed

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<sup>37</sup> For example, see Amnesty International, Mogadishu cannot qualify as an Internal Flight Alternative, 26 September 2013; UNHCR, International Protection Considerations with Regard to people fleeing Southern and Central Somalia, 17 January 2014, p 4 can be accessed at <http://www.refworld.org/docid/52d7fc5f4.html> [accessed 16.09.14].

<sup>38</sup> See Pentagon statement, can be accessed at <http://www.defense.gov/releases/release.aspx?releaseid=16924> [accessed 19.09.14].

<sup>39</sup> See al-Shabaab statement, can be accessed at [http://www.halgan.net/kutub/Abu\\_Zuber\\_En.pdf](http://www.halgan.net/kutub/Abu_Zuber_En.pdf) [accessed 19.09.14].

<sup>40</sup> UNSOM, Morning Headlines, 8 September 2014, can be accessed at <http://www.unsom.org/2014/09/08/september-8-2014-morning-headlines/> [accessed 30.09.14].

<sup>41</sup> Amnesty International Interview, Somali NGO, 03.09.14.

<sup>42</sup> See Al-Jazeera, Al-Shabaab claims deadly Somalia bombing, can be accessed at <http://www.aljazeera.com/news/africa/2014/09/al-shabab-somalia-bombings-20149813135892361.html> [accessed 22.09.14].

<sup>43</sup> FSNAU Somalia and FAO, No Famine in Somalia but Trajectory Remains a Major Concern, 5 September 2014, can be accessed at <http://reliefweb.int/sites/reliefweb.int/files/resources/No-Famine-in-Somalia-Now-but-Trajectory-Remains-a-Major-Concern.pdf> [accessed 19.09.14].

<sup>44</sup> OCHA, Somalia Humanitarian Bulletin, Jun 2014 (issued 24 July 2014), can be accessed at <http://reliefweb.int/report/somalia/humanitarian-bulletin-somalia-june-2014-issued-24-july-2014> [accessed 19.09.14].

<sup>45</sup> UNHCR, Somalia Populations Movement Trends, can be accessed at <http://data.unhcr.org/horn-of-africa/country.php?id=197> [accessed 19.09.14].

<sup>46</sup> OCHA, Humanitarian Bulletin – Somalia, August 2014 (released 19 September 2014), can be accessed at <http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20Somalia%20Humanitarian%20Bulletin%20August%202014.pdf> [accessed 22.09.14].

<sup>47</sup> UNSC, Report of the Secretary General on Somalia, 12 May 2014, para 58.

<sup>48</sup> FSNAU, Over One Million People in Somalia Face Acute Food Insecurity as Food Crisis Worsens, 2 September 2014, can be accessed at <http://www.fsnau.org/in-focus/over-one-million-people-somalia-face-acute-food-insecurity-food-crisis-worsens> [accessed 19.09.14].

<sup>49</sup> UNHCR, Over 100,000 people displaced in Somalia so far this year as IDPs bear brunt of food insecurity crisis, 6 September 2014, can be accessed at <http://www.unhcr.org/541810559.html> [accessed 19.09.14].

<sup>50</sup> Briefing to the Security Council by SRSG Nicholas Kay, 22 May 2014, can be accessed at <http://unsom.unmissions.org/Default.aspx?tabid=6254&ctl=Details&mid=9770&ItemID=27666&language=en-US> [accessed 19.09.14].

<sup>51</sup> OCHA, Humanitarian Bulletin – Somalia, August 2014 (released 19 September 2014), can be accessed at <http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20Somalia%20Humanitarian%20Bulletin%20August%202014.pdf> [accessed 22.09.14].

<sup>52</sup> FSNAU Somalia and FAO, No Famine in Somalia but Trajectory Remains a Major Concern, 5 September 2014, can be accessed at <http://reliefweb.int/sites/reliefweb.int/files/resources/No-Famine-in-Somalia-Now-but-Trajectory-Remains-a-Major-Concern.pdf> [accessed 19.09.14].

<sup>53</sup> OCHA, Humanitarian Bulletin – Somalia, August 2014 (released 19 September 2014), can be accessed at <http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20Somalia%20Humanitarian%20Bulletin%20August%202014.pdf> [accessed 22.09.14].

<sup>54</sup> Convention Relating to the Status of Refugees (Refugee Convention), 1951, Art 33(1); Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Convention), 1969, Art 2(3).

<sup>55</sup> See, for instance, Elihu Lauterpacht and Daniel Bethlehem, The Scope and Content of the Principle of Non-Refoulement: Opinion (June 2003), Cambridge University Press, available at: <http://www.refworld.org/docid/470a33af0.html>.

<sup>56</sup> UNHCR, UNHCR Position on Returns to Southern and Central Somalia, 17 June 2014, can be accessed at <http://www.refworld.org/docid/53a04d044.html> [accessed 19 September 2014].

<sup>57</sup> UNSC, Report of the Secretary General on Somalia, 12 May 2014, para 100.

<sup>58</sup> *Sufi and Elmi v The United Kingdom*, Applications nos. 8319/07 and 11449/07, European Court of Human Rights, judgment, 28 June 2011, para 275.

<sup>59</sup> *Sufi and Elmi v The United Kingdom*, Applications nos. 8319/07 and 11449/07, European Court of Human Rights, judgment, 28 June 2011, para 94.

<sup>60</sup> *Sufi and Elmi v The United Kingdom*, Applications nos. 8319/07 and 11449/07, European Court of Human Rights, judgment, 28 June 2011, para 92.

<sup>61</sup> *Sufi and Elmi v The United Kingdom*, Applications nos. 8319/07 and 11449/07, European Court of Human

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Rights, judgment, 28 June 2011, para 94.

<sup>62</sup> Article 3 of the European Convention on Human Rights prohibits torture and 'inhuman or degrading treatment or punishment'. There are no exceptions or limitations on this right.

<sup>63</sup> *Sufi and Elmi v The United Kingdom*, Applications nos. 8319/07 and 11449/07, European Court of Human Rights, judgment, 28 June 2011, para 277.

<sup>64</sup> European Court of Human Rights (ECtHR), *K.A.B v Sweden*, Application number 886/11, 5 September 2013, para 91; can be accessed at [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-126027#{"itemid":\["001-126027"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-126027#{) [accessed 22.09.14].

<sup>65</sup> ECtHR, *K.A.B v Sweden*, Application number 886/11, 5 September 2013, para 97; can be accessed at [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-126027#{"itemid":\["001-126027"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-126027#{) [accessed 22.09.14].

<sup>66</sup> Dutch Ministry of Foreign Affairs, general country report (algemeen ambtsbericht) Somalia, 19 December 2013, can be accessed at <http://www.rijksoverheid.nl/documenten-en-publicaties/ambtsberichten/2013/12/19/algemeen-ambtsbericht-somalie-2013-12-19.html>. [accessed 19.09.14].

<sup>67</sup> Dutch Ministry of Foreign Affairs, general country report (algemeen ambtsbericht) Somalia, 19 December 2013, p 19, can be accessed at <http://www.rijksoverheid.nl/documenten-en-publicaties/ambtsberichten/2013/12/19/algemeen-ambtsbericht-somalie-2013-12-19.html>. [accessed 19.09.14].

<sup>68</sup> Landinfo - Country of Origin Information Centre, *Security and protection in Mogadishu and South-Central Somalia*, May 2013, p 31, available at: <http://www.refworld.org/docid/519c9c0b4.html> [accessed 22.09.14].