



NOWHERE ELSE TO GO

FORCED RETURNS OF SOMALI REFUGEES FROM DADAAB REFUGEE CAMP, KENYA



I WELCOME

AMNESTY
INTERNATIONAL



Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

© Amnesty International 2016

Except where otherwise noted, content in this document is licensed under a Creative Commons (attribution, non-commercial, no derivatives, international 4.0) licence.

<https://creativecommons.org/licenses/by-nc-nd/4.0/legalcode>

For more information please visit the permissions page on our website: www.amnesty.org

Where material is attributed to a copyright owner other than Amnesty International this material is not subject to the Creative Commons licence.

First published in 2016

by Amnesty International Ltd

Peter Benenson House, 1 Easton Street

London WC1X 0DW, UK

Index: AFR 32/5118/2016

Original language: English

amnesty.org



Cover photo: Somali refugees waiting for their return flight from Kenya to Mogadishu, August 2016 © Amnesty International

**AMNESTY
INTERNATIONAL**



CONTENTS

1. EXECUTIVE SUMMARY	4
2. METHODOLOGY	8
3. BACKGROUND	10
KENYA'S REFUGEE POLICY UNTIL 2016	10
A MARKED SHIFT IN KENYA'S RESPONSE TO SOMALI REFUGEES IN 2016	12
KENYA'S JUSTIFICATION FOR THE 2016 POLICY CHANGES	14
4. RETURNS: NOT VOLUNTARY	16
STATEMENTS BY GOVERNMENT OFFICIALS	16
NO ALTERNATIVES	18
MAJORITY OF REFUGEES DO NOT WANT TO RETURN	19
LIMITED INFORMATION PROVIDED ON AREAS OF RETURN	19
5. SOMALIA: NOT SAFE TO RETURN	21
INTERVIEWS WITH REFUGEES WHO RETURNED TO SOMALIA	21
LACK OF SUFFICIENT SUPPORT FOR THE RETURN PROCESS	22
6. LACK OF SAFEGUARDS FOR VULNERABLE GROUPS	24
PEOPLE WITH DISABILITIES AND THEIR CARERS	24
DISCRIMINATION AGAINST MINORITY GROUPS	26
7. COMPROMISED ROLE OF UNHCR AND DONORS	27
8. CONCLUSION AND RECOMMENDATIONS	30
TO THE GOVERNMENT OF KENYA:	31
TO UNHCR AND ITS IMPLEMENTING PARTNERS:	31
TO THE INTERNATIONAL COMMUNITY, INCLUDING THE US, EU AND UK:	31

1. EXECUTIVE SUMMARY

“My wish is to stay. This is my home and where I’ve spent my adult life. This is where my sisters are. There is nowhere else to go. There is no peace. It is not possible to return. I can only make a different decision if I can be assured of good security back in Somalia. But my preference is for the Kenyan government to change its mind, to accept us.”

Aisha, a Somali woman aged 21, who lives in Dadaab refugee camp

In May 2016 the Kenyan government announced its intention to close Dadaab refugee camp by 30 November 2016. Dadaab is the world’s largest refugee camp and home to over 280,000 refugees, 260,000 of whom are Somalis. Most have lived there for years and, in some cases, two decades. In making the announcement, the government made clear that it intended Somali refugees to return to Somalia. While Kenya has said, for a number of years, that it wants to see the repatriation of Somalis, statements and policy actions since April 2016 have reflected a hardening of the government’s position.

The extremely tight timeframe and the lack of any alternative options for Somali refugees has left open the prospect of large-scale forced returns to Somalia, a country still riven by armed conflict. Such returns would violate international law including the principle of *non-refoulement*, and would constitute a serious violation of the human rights of the refugees.

Amnesty International visited Dadaab in August 2016 and spoke to 56 Somali refugees about the future and their circumstances. Researchers met people planning to return to Somalia, refugees who do not want to go back, and refugees who had returned to Somalia only to flee again back to Kenya because of violence and insecurity. The organization also met with humanitarian organizations, the UN refugee agency, UNHCR, donors involved in Dadaab, and attempted to meet the Kenyan authorities who were unavailable. Researchers reviewed public statements made by a range of Kenyan authorities about the closure of Dadaab and the future of the Somali refugee population, and examined the mandate of new institutions established to give effect to the May announcement.

Since May the Kenyan government has put increased pressure on refugees to return to Somalia, through a ‘voluntary’ repatriation process. Voluntary repatriation had previously been agreed under a Tripartite Agreement between the governments of Kenya and Somalia and UNHCR, signed in 2013. While the UN and some government statements still speak of “voluntary” returns, this is not possible under the current circumstances. In June the Tripartite Commission announced that the Dadaab camp population size would be reduced by 150,000 people by the end of 2016; these different parameters have caused confusion but not lessened the risk of forced returns.

The clearest obstacle to voluntary return is that the majority of refugees do not want to go to Somalia. During a population verification exercise carried out between July and August 2016, UNHCR found that only 25% of the refugees in Dadaab were willing to return. In a survey by the medical NGO, Médecins Sans Frontières (MSF), 86% of refugees stated that neither they nor their family wanted to return to Somalia due to security concerns, including fear of forced recruitment by armed groups, and the lack of health care and other services available.

The government of Kenya has offered no alternatives for refugees living in Dadaab who do not want to go to Somalia. If the camp closes they will have nowhere to go. The government's intentions are clear. The announcement that Dadaab would close was swiftly followed by the disbandment of the Department of Refugee Affairs and the appointment of a taskforce to lead the repatriation process. The taskforce includes a National Multi-Agency Repatriation Team and the Operational Refugee Repatriation Team, based in Dadaab, with reporting lines leading to the National Security Council. Government officials have explicitly stated that people must go back to Somalia, and these statements do not suggest that such returns will be voluntary; on the contrary some statements make clear that the government will forcibly return people to Somalia.

In an effort to coerce people to make what could be passed off as a voluntary return, government officials have told refugees in Dadaab that if they do not go back before the 30 November deadline they risk not getting the financial support package of US\$400.

As of mid-October only 27,000 people had returned to Somalia in 2016, nominally voluntarily. Amnesty International and other organizations have questioned whether these returns are truly voluntary in light of the pressure being brought to bear in Dadaab, but also because of insufficient and misleading information about the returns process and the security situation in Somalia. Amnesty researchers reviewed the literature and information available to refugees and found that it lacked detailed data on the security issues.

The security situation in Somalia has improved to some degree, in some areas. However, ongoing armed conflict and human rights violations persist. Amnesty International interviewed refugees who had gone back to Somalia in 2015 and early 2016 and have since returned to Dadaab refugee camp. They told the organization of the horrors they faced in Somalia, describing attacks, killings and the loss of their livelihoods. Aisha, a 21 year old single mother with three young children, told Amnesty International about the situation she faced upon returning to Somalia in August 2015:

After being back in Abdidor [in Lower Juba] for a brief amount of time Al-Shabaab entered the neighbourhood. The man I was staying with was immediately killed and I was beaten. I had been given US\$660 by UNHCR and had invested some money in a market business. They took what was left of the money and destroyed my market.

Aisha had originally come to Dadaab aged 12 with her two sisters after their parents were killed in Somalia. She added: *"I have already done it [returned to Somalia] once and look at what happened... My shop was burned down, my friend killed and my baby and I left without anything. It took me months to get back [to Kenya] as I didn't have the money and relied on help from others."*

Two brothers spoke to the organization about their experiences of being forcibly recruited by the armed group Al-Shabaab. Although they escaped, others are not so lucky. The abduction and recruitment of children is widespread in Somalia, with the majority of cases attributed to Al-Shabaab. Child recruitment is also carried out by the Somali National Army and clan militias.

In addition to the safety risks which people face on return to Somalia, the country is not equipped to cope with any large influx of returnees. More than 1.1 million people are internally displaced in Somalia, many living in Internally Displaced Person (IDP) camps. The authorities and aid organizations have had insufficient time to prepare for increased returns, and the international humanitarian response been weak. In August 2016, authorities in Somalia's Lower Juba State halted the return of 1,100 Somalis from Kenya due to lack of humanitarian assistance. Among the concerns raised by the authorities were the unplanned nature of the returns threatening to exacerbate an already volatile security situation, in addition to the return package being insufficient to allow returnees to fully integrate, and the likelihood of most returnees going to already overstretched and under-resourced IDP camps.

Some groups are particularly vulnerable and would undoubtedly face life-threatening risks if forced to return to Somalia. Amnesty International met people with disabilities who made clear that they do not want to return to Somalia and fear for their lives if made to do so. During research carried out in Somalia in 2013 and 2014 Amnesty International found that people with disabilities face a heightened risk of abuse, including sexual and gender-based violence. Minority groups including the Somali Bantu also face marginalization and are targets for forced recruitment by the armed group Al-Shabaab.

Although some individuals and groups clearly face particular risks and vulnerabilities, no specific action has been taken, as far as Amnesty International could discover, to assure these people that they will not have to return to Somalia or to provide them with alternatives if Dadaab is closed down. The lack of proper planning for any returns process adds to the risks faced by Somali refugees.

As the deadline of 30 November nears, fears and uncertainties mount. Neither the full closure of the camp, nor a reduction in population by 150,000 people, by the end of 2016 appears likely, but the resolve of the Kenyan authorities to end the hosting of Somali refugees is undiminished. This has left questions, amongst refugees and aid agencies, about what will happen at the end of November and thereafter.

In addition to examining the impact of the government of Kenya's policy statements on the situation of Somali refugees in Dadaab, this report considers why Kenya's policy has undergone a marked shift in 2016. The government has linked the closure of the camp to national security concerns, the long-term failure of the international community to share responsibility and support Kenya in hosting the refugees, and the slow pace of support for returns to Somalia. Kenya's complaints about lack of international support are well founded, although that can never be a justification for forced returns. The international community has consistently underfunded appeals for refugees in Kenya. As of the end of October 2016 UNHCR's funding appeal for Kenya was only 38% funded. At the World Humanitarian Summit in Istanbul in May 2016, Deputy President William Ruto pointed out that the international community pledged US\$500 million to Kenya of which less than 1% was delivered. Offers to resettle vulnerable refugees from Kenya under a UNHCR scheme have also remained consistently low.

Kenya's frustration over the lack of shared responsibility occurs against a backdrop of increasing tensions between States about this issue. Just ten countries host half of the world's 21 million refugees – Kenya is one of that ten. It also occurs in a context where the EU and its member states – key donors to Kenya – have offered Turkey €6 billion (around US\$6.6 billion) to host refugees and keep them out of Europe. Foreign policy analysts have pointed to how the EU's handling of the refugee crisis has given leverage to the Kenyan government in furthering its domestic policy to close Dadaab.

The government's statements about security have received insufficient interrogation. Kenya has repeatedly linked Somali refugees to the armed group Al-Shabaab. However, there is little evidence to support such claims. Rather, Somali refugees have been used as scapegoats in the aftermath of terror attacks, something previously documented by Amnesty International. While the government undoubtedly has legitimate security concerns, the response to those concerns cannot be to make broad and unsubstantiated associations between a refugee community and armed groups or to send more than 200,000 people back into an armed conflict.

Kenya is not alone in the conflation of security and refugees, a position that has seen refugees globally pay the price for terrorism-related crimes that rarely have any connection with refugee populations. Kenya appears to be responding to or using the wider trend. For example, on 9 May, Dr Karanja Kibicho, the Principle Secretary of the Ministry of Interior and Coordination of National Government stated that *"Our action is taken at a time when a growing number of countries – rich and poor alike – globally are limiting refugee entry on the grounds of national security."*

The situation in which Somali refugees in Kenya now find themselves, and the serious risks to their human rights, reflect the combined failures of Kenya and the international community. But while both are deeply implicated, neither can point to the other to absolve themselves of responsibility. Kenya has chosen to pursue forced returns and has failed to adequately consider alternatives, such as a process to integrate refugees into Kenyan society.

UNHCR has continued to support the 'voluntary' repatriation process, although some staff concede that the statements made by Kenyan government officials do not reflect a voluntary approach.

Some of Kenya's key partners on refugees issues are now deeply implicated in abusive refugee policies of their own, particularly European Union (EU) Member States, which have spent the last 18 months making clear that they will violate international law and make financial deals to keep refugees out. Moreover the EU is enmeshed in regional efforts across the East and Horn of Africa to keep migrants and refugees from reaching North Africa and the sea route to Europe. The failure to support refugees in Kenya and the willingness to abuse refugees at home, combined with a seeming willingness to spend money if it keeps refugees out of Europe has, as predicted, catalysed a race to the bottom when it comes to refugee protection globally.

The international community, including the US, UK and EU, are funding programmes for the repatriation of refugees from Dadaab to Somalia – a country where they know many will be faced with the hardships and human rights abuses they initially fled from. The May announcements and the tight timeframe have left

donors with little time to reflect and many donors and UNHCR are now presenting their involvement as necessary to ensure the returns are voluntary while knowing that they cannot be.

This report calls for the government of Kenya to immediately halt the return process and for UNHCR and the international community to stop facilitating it. Rather than continue to pursue short-sighted deals aimed at curbing migration flows in Africa, the international community should support longer-term sustainable solutions for Somali and other refugees in Kenya, including opportunities to integrate into host communities and significantly increased resettlement places to meaningfully share responsibility with Kenya. Effective support to Kenya should also include moving away from a purely humanitarian response to refugees in host countries, a framework which means services are always limited, towards one that ensures that refugees have more autonomy. Such an approach involves the inclusion of development actors from the early stages of refugee response efforts, in order to provide longer-term inclusive opportunities for refugees together with host communities. It also crucially involves the dissolution of the encampment policy which only serves to isolate and take away autonomy from refugees.

2. METHODOLOGY

This briefing is based on desk and field research carried out by Amnesty International in Kenya in August and September 2016. Researchers visited Dadaab refugee camp from 15 to 19 August 2016, where they interviewed 56 Somali refugees. This involved 21 in-depth one-to-one interviews and eight focus group discussions with 35 people. The Somali refugees interviewed in Dadaab were from the five different camps¹ and include block leaders, representatives of youth groups, members of community-based rehabilitation support groups and people from the Somali Bantu community. Twenty four people were interviewed in Somali by a Somali speaking researcher. Another 32 interviews were carried out by English speaking researchers using a Somali interpreter. Interviews were arranged through contacts made by Amnesty International with the refugee community in Dadaab through a fixer, in addition to cases referred to the organization by NGOs working in the camp. The names of all refugees interviewed by Amnesty International have been changed in order to protect their identities.

Amnesty International also met NGOs providing humanitarian assistance to refugees in Kenya and people in Somalia; donors; and representatives of the UN Refugee Agency, UNHCR in Nairobi and Dadaab. Some of the organizations that work with the refugee population in Kenya did not wish to have their names disclosed. They have therefore been described using generic terms such as “agency” or “non-governmental source”.

Information provided by individual refugees about systemic issues was cross checked with governmental and non-governmental sources working in Dadaab and/or on Kenyan refugee policy. Researchers also reviewed the main body of existing quantitative and qualitative research on the situation of refugees in Kenya, as well the relevant national laws and policy documents including Kenya’s 2006 Refugee Act and 2009 Refugee Regulations, the Report of the National Taskforce on Repatriation of Refugees from Dadaab Refugee Complex, the Tripartite Agreement between the Government of Kenya, the Government of Somalia and UNHCR, and UNHCR’s Handbook on Voluntary Repatriation: International Protection, among others.

Amnesty International requested meetings with several Kenyan government officials including Kodeck Makori, the Head of the Refugee Affairs Secretariat; Engineer Karanja Kibicho, Principle Secretary of the Ministry of Interior and Coordination of National Government; and Dr Amina Mohammed, Cabinet Secretary of the Ministry of Foreign Affairs and International Trade. However, Kodeck Makori did not respond and Dr Karanja Kibicho and Dr Amina Mohamed were unable to meet with Amnesty International. Amnesty International delegates were able to ask questions to Dr Amina Mohammed at an event on Kenya’s foreign policy at Chatham House in London on 15 September 2016.

¹ Dadaab is made up of five refugee camps: Dagahaley, IFO, IFO2, Kamboos and Hagadera. They vary in population size and were opened in different years. For more information see: UNHCR, *Refugees in the Horn of Africa: Somali Displacement Crisis, Information Sharing Portal*, available at: <http://data.unhcr.org/horn-of-africa/region.php?id=3&country=110> (accessed 26 September 2016)



→ (Above) Somali refugees in Dadaab wait to board a plane to Somalia's capital, Mogadishu; (below) a bus transporting Somali refugees from Dadaab to Somalia as part of the 'voluntary' returns process. © Amnesty International



3. BACKGROUND

Kenya hosts over 500,000 refugees, the majority of whom are Somali (334,728), with smaller numbers coming from South Sudan, Sudan, Eritrea, Ethiopia and the Democratic Republic of Congo (DRC), among others.² Some of the refugees hosted by Kenya have lived there for decades, and most of those registered with the UN Refugee Agency, UNHCR, live in refugee camps. Dadaab and Kakuma are the two main refugee camps in the country with Dadaab being the largest refugee camp in the world. An estimated 62,000 refugees live in urban areas, mainly around Nairobi and Mombasa.³

Kenya is signatory to the 1951 UN Refugee Convention Relating to the Status of Refugees and its 1967 Protocol (the 1951 Refugee Convention) and the 1969 African Union Convention Governing the Specific Aspects of Refugee Problems in Africa (the 1969 AU Convention). Kenya's 2006 Refugee Act and 2009 Refugee Regulations set a framework to manage and register refugees under the auspices of the Department for Refugee Affairs (DRA) which works with UNHCR.⁴ Under the 2006 Refugee Act⁵, Kenya recognizes two kinds of refugees: *prima facie* and statutory refugees. *Prima facie* status applies to groups and is usually based on the circumstances in the country of origin. It means people are accorded refugee status based often, on their nationality, and do not have their claim for refugee status determined individually.⁶ Until April 2016 Kenya considered Somalis as *prima facie* refugees.⁷

Kenya has made periodic attempts to limit the number of refugees entering and living in the country. Some of these measures have been successfully challenged in the Kenyan courts. Despite this, Kenya's refugee policy has become more restrictive over time, particularly towards Somali refugees.⁸

KENYA'S REFUGEE POLICY UNTIL 2016

Since 2012, an improvement in the security situation in some parts of Somalia and public and political concern in Kenya over the threat posed by Al-Shabaab have resulted in mounting pressure for the repatriation of Somali refugees.⁹ The conflation, by Kenyan politicians, of refugees with the security threat posed by Al-Shabaab has largely gone unchallenged.

2 For a breakdown of countries of origin and people of concern under UNHCR's mandate in Kenya see: UNHCR, *Kenya Factsheet*, August 2016, available at: <http://www.unhcr.org/ke/wp-content/uploads/sites/2/2016/09/August-2016-Kenya-Operation-Factsheet.pdf> (accessed 12 October 2016)

3 UNHCR, *Refugees and Asylum-seekers in Kenya*, September 2016, available at: <http://www.unhcr.org/ke/wp-content/uploads/sites/2/2016/10/Infographics-Refugees-in-Kenya-31-September-2016.pdf> (accessed 24 October 2016)

4 Refworld, *The Refugees Act [Kenya]*, 2006, available at: <http://www.refworld.org/docid/467654c52.html>; and *Refugees (Reception, Registration and Adjudication) Regulations*, 2009, available at: <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=4a1c0d782> (both accessed 29 September 2016)

5 In 2016 through a Private Member Bill, the National Assembly published a draft Refugee Bill 2016, which in its current form contains some provision which would hinder the right of asylum seekers to have their asylum applications effectively determined and their rights protected. The bill is yet to be passed.

6 For more information see: Refworld, *The Refugees Act [Kenya]*, 2006, Section 3, available at: <http://www.refworld.org/docid/467654c52.html> (accessed 29 September 2016)

7 The other group of refugees with *prima facie* status in Kenya are South Sudanese refugees. For the revocation of Somali refugees' *prima facie* status see: The Kenya Gazette, Published by the Authority of the Republic of Kenya, Vol. CXVIII- No. 46, Nairobi, 29 April 2016.

8 For example, in 2007 Kenya temporarily closed its border with Somalia and forcibly returned over 400 refugees to Somalia. Amnesty International, *Kenya: Thousands of Somali refugees and asylum-seekers denied refuge*, 2 May 2007, Index AFR 32/0004/2007, available at: <https://www.amnesty.org/download/Documents/60000/afr320042007en.pdf>; and Human Rights Watch, *From Horror to Hopelessness: Kenya's Forgotten Somali Refugee Crisis*, 30 March 2009, available at: <https://www.hrw.org/report/2009/03/30/horror-hopelessness/kenyas-forgotten-somali-refugee-crisis> (both accessed on 2 October 2016)

9 See: Amnesty International, *No place like home: Returns and relocations of Somalis displaced*, February 2014, Index AFR 52/001/2014, Chapter 4, available at: <https://www.amnesty.org/en/documents/AFR52/001/2014/en/> (accessed 2 October 2016)

Kenya's national army, the Kenya Defence Forces went into Somalia as part of the African Union Mission to Somalia, AMISOM, in March 2012. Following this intervention there has been an increase in attacks in Kenya attributed to Al-Shabaab, including the September 2013 attack on the Westgate Shopping Mall in which 62 civilians died when armed men stormed the premises, and the attack on Garissa University in April 2015 which left 147 people, mostly students, dead.¹⁰ While there has been no evidence to suggest refugees were responsible for the attacks or that the attacks were planned in Dadaab refugee camp, government officials in Kenya have publicly linked refugees living in camps to the attacks.¹¹

At the end of 2012 the DRA announced a policy requiring all refugees and asylum-seekers in urban areas to relocate to camps as part of a plan to repatriate them to their own countries. This decision was later overturned by the High Court of Kenya.¹² Also in December 2012 the DRA announced that registration of asylum-seekers and refugees in urban areas would be suspended.¹³ Registration has largely been closed since then, with the exception of one-off registrations for limited periods of time. For example, in late 2016, as this briefing was being prepared, registration was taking place in Kenya's capital Nairobi and second largest city, Mombasa.¹⁴ The last registration in urban areas took place in August 2015. Similar limitations on registration have been imposed in the camps, where the last registration process was also August 2015. This has left new arrivals unable to register as refugees, and those with expired documents unable to renew their status, putting them at risk of human rights violations. Kenyan police regularly stop refugees and ask for their papers; if refugees do not have the right documents they can be arrested, and in some cases deported.¹⁵

THE REGISTRATION PROCESS IN KENYA

Asylum-seekers arriving in Kenya must first register with the DRA to get an asylum seeker pass and then a Refugee Status Determination (RSD) appointment slip from UNHCR, which gives them access to services in urban areas and in the refugee camps. In the camps they are issued with a ration card which gives them access to food and basic services. Following this, asylum-seekers undergo an RSD process which, until April 2016 (see below), was carried out jointly by UNHCR and DRA. Once they are recognised, they receive a refugee recognition letter from the Kenyan government, which allows them to apply for a refugee identity card from the government and a mandate from UNHCR, which allows them full access to services. The full range of services includes the possibility to be considered for resettlement to a third country.¹⁶

For *prima facie* refugees the RSD process is automatic: asylum-seekers are recognised as refugees and receive relevant documents within months of arrival. For those not considered *prima facie*, the average waiting period between registration and RSD is three years, with appointments for new arrivals currently being scheduled in 2019.¹⁷

In 2013, the government of Kenya, the Somali government and UNHCR signed a Tripartite Agreement paving the way for the "voluntary" repatriation of Somali refugees in "safety and dignity".¹⁸ The Agreement established a Commission that meets regularly. The agreement provides a three year time-frame for

10 For more information about the attacks see: BBC, *Kenya Westgate Mall attack: What we know*, 21 October 2013, available at: <http://www.bbc.co.uk/news/world-africa-24617763>; and BBC, *Kenya attack: 147 dead in Garissa University assault*, 3 April 2015, available at: <http://www.bbc.co.uk/news/world-africa-32169080> (both accessed on 27 October 2016)

11 See: Amnesty International, *No place like home: Returns and relocations of Somalia's displaced*, February 2014, Index AFR 52/001/2014, Chapter 4, available at: <https://www.amnesty.org/en/documents/AFR52/001/2014/en/>; and Amnesty International, *Somalis are scapegoats in Kenya's counter-terror crackdown*, 27 May 2014, Index AFR 52/003/2014, available at: <https://www.amnesty.org/en/documents/AFR52/003/2014/en/> (both accessed 27 October 2016)

12 The High Court held the government announcement as unconstitutional and a violation of the right to freedom of movement and the principle of *non-refoulement*, in accordance with Kenya's 2006 Refugee Act and the Kenyan Constitution. For more information see: High Court of Kenya, *Kituo Cha Sheria & 8 Others v. Attorney General* [2013] para. 96, eKLR, available at: <http://kenyalaw.org/caselaw/cases/view/84157> (accessed 27 October 2016)

13 Department of Refugee Affairs, Press Statement, 13 December 2012, on file with Amnesty International.

14 Minutes of the URPN Meeting held at UNHCR Branch Office Nairobi, 11 October 2016, on file with Amnesty International.

15 For more information see: Amnesty International, *No place like home: Returns and relocations of Somalia's displaced*, February 2014, Index AFR 52/001/2014, available at: <https://www.amnesty.org/en/documents/AFR52/001/2014/en/>; Amnesty International, *Somalis are scapegoats in Kenya's counter-terror crackdown*, 27 May 2014, Index AFR 52/003/2014, available at: <https://www.amnesty.org/en/documents/AFR52/003/2014/en/> (both accessed 27 October 2016)

16 For the process as carried out by the Kenyan authorities see: Refworld, *Refugees (Reception, Registration and Adjudication) Regulations, 2009*, available at: <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=4a1c0d782> (accessed 29 September 2016)

17 Information received by Amnesty International through case work with refugees in Kenya and UNHCR documents, October 2016.

18 Tripartite Agreement between the Government of the Republic of Kenya; the Government of the Federal Republic of Somalia; and the United Nations High Commissioner for Refugees Governing the Voluntary Repatriation of Somali Refugees Living in Kenya, 2013, available at: <http://www.refworld.org/pdfid/5285e0294.pdf> (accessed 3 October 2016)

voluntary returns. It came to an end on 10 November 2016, but at the time of writing, could still be renewed with the agreement of all parties.¹⁹

Despite the commitments made under the Tripartite Agreement, Kenya has forcibly returned refugees to Somalia and Somali refugees have faced increasing harassment from the security forces in Kenya. For example, in early April 2014, during 'Usalama Watch', a counter-terrorism operation, Amnesty International documented cases of harassment, ill-treatment, arbitrary arrest and the forced relocation to camps of over a thousand Somali refugees by the Kenyan authorities. In addition, hundreds of Somalis were deported back to Somalia, in violation of the principle of *non-refoulement*.²⁰

Following the attack on Garissa University in April 2015, Deputy President William Ruto announced that the Kenyan government had told UNHCR that Dadaab refugee camp must close within three months and its residents returned to Somalia, failing which Kenya would 'relocate them ourselves.'²¹ UNHCR urged Kenya at the time not to force refugees back to Somalia as this would have "extreme humanitarian and practical consequences and would be a breach of Kenya's international obligations."²² The government subsequently softened its stance. However, in May 2016 the government announced that Dadaab refugee camp would be closed by the end of November 2016.²³

A MARKED SHIFT IN KENYA'S RESPONSE TO SOMALI REFUGEES IN 2016

Since April 2016 there has been a marked shift in the Kenyan government's approach to Somali refugees. While restrictions on refugees and policy moves towards repatriation of Somalis have been mounting since 2012, beginning in April 2016 the Kenyan authorities took a number of decisive steps to discourage Somali refugees from living in the country. The first step was taken at a regional level when, on 14 April 2016²⁴, the African Union Peace and Security Council declared that the Dadaab camps were a "legitimate security concern" and had been "deprived of their humanitarian nature and function by the Al-Shabaab terrorist group."²⁵ Following this, on 29 April 2016, the government revoked *prima facie* status for Somali refugees.²⁶

Following the announcement that Dadaab would close the government disbanded the DRA²⁷ and appointed a taskforce to lead the repatriation process²⁸ operating on two levels: the National Multi-Agency Repatriation Team (NMARRT) in Nairobi and the Operational Refugee Repatriation team (ORRT) in Dadaab, with reporting lines leading to the National Security Council.²⁹ A new body replacing the DRA known as the Refugee Affairs Secretariat (RAS) was also formed, though at the time of writing their mandate had not been made public.

On 31 May, the Kenyan authorities issued the "Report of the National Taskforce on Repatriation of Refugees from Dadaab Refugee Complex" (Taskforce report).³⁰ The report states that the Tripartite Agreement "has not achieved its intended purpose having recorded dismal progress due to lack of full commitment of

19 Tripartite Agreement between the Government of the Republic of Kenya; the Government of the Federal Republic of Somalia; and the United Nations High Commissioner for Refugees Governing the Voluntary Repatriation of Somali Refugees Living in Kenya, 2013, available at: <http://www.refworld.org/pdfid/5285e0294.pdf> (accessed 3 October 2016)

20 For more information see: Amnesty International, *No place like home: Returns and relocations of Somalis displaced*, February 2014, Index AFR 52/001/2014, p.35, available at: <https://www.amnesty.org/en/documents/AFR52/001/2014/en/> (accessed 3 October 2016)

21 See: Duncan Miriri, 'Kenya demands U.N. removes massive Somali refugee camp', *Reuters*, 11 April 2015, available at: <http://www.reuters.com/article/us-kenya-attacks-idUSKBN0N20DQ20150411>; Amnesty International, *Kenya: Crisis Looms for Somali Refugees as Kenya Orders Closure of Dadaab Refugee Camp*, 16 April 2015, available at: <https://www.amnesty.org/en/press-releases/2015/04/kenya-crisis-looms-for-somali-refugees-as-kenya-orders-closure-of-dadaab-refugee-camp/> (both accessed 3 October 2016)

22 UNHCR, *UNHCR's statement on the future of Kenya's Dadaab refugee camps*, 14 April 2015, available at: <http://www.unhcr.org/552d0a8a9.html> (accessed 20 October 2016)

23 Aggrey Mutambo, 'Decision to close Dadaab refugee camp final, Ruto tells UN boss', *Daily Nation*, 23 May 2016, available at: <http://www.nation.co.ke/news/1056-3215622-6lnkuz/index.htm>; Patrick Kingsley, 'Kenya tells UK to resettle Somali refugees living in Dadaab', *The Guardian*, 25 May 2016, available at: <https://www.theguardian.com/global-development/2016/may/25/kenya-william-ruto-tells-uk-to-resettle-somali-refugees-living-in-dadaab> (both accessed 3 October 2016)

24 This followed a request made in 2014 by Kenya at an AU Heads of State Summit in South Africa that they should consider Dadaab refugee camp a security risk. This matter was then referred to the AU Peace and Security Council.

25 African Union Commission, *590th PSC meeting decision on the situation of refugees in the Dadaab Refugee camps in Kenya*, 22 April 2016, available at: <http://www.african-union.africa-newsroom.com/press/590th-psc-meeting-decision-on-the-situation-of-refugees-in-the-dadaab-refugee-camps-in-kenya?lang=en> (accessed 3 October 2016)

26 See: The Kenya Gazette, Published by the Authority of the Republic of Kenya, Vol. CXVIII- No. 46, Nairobi, 29 April 2016.

27 Authority of the Republic of Kenya, *Special Issue: The Kenya Gazette, Vol. CXV-No. 51*, Nairobi, 11 May 2016.

28 Stella Cheroni and Jacqueline Kubania, 'Nkaissery forms team to handle repatriation of refugees', *Daily Nation*, 14 May 2016, available at: <http://www.nation.co.ke/news/Nkaissery-forms-team-to-handle-repatriation-of-refugees/1056-3202214-yywku3/index.html> (accessed 3 October 2016)

29 Republic of Kenya, *Report of the National Taskforce on Repatriation of Refugees from Dadaab Refugee Complex*, 31 May 2016, p.18. On file with Amnesty International.

30 Republic of Kenya, *Report of the National Taskforce on Repatriation of Refugees from Dadaab Refugee Complex*, 31 May 2016. On file with Amnesty International.

parities” and that “due to the slow pace of repatriation... a decisive measure [has been made] to hasten the repatriation and subsequent closure of Dadaab Refugee Complex... under Article 238 of the Constitution.”³¹ However, nowhere in the Tripartite Agreement is it stated that all Somali refugees have to return to their country. Nor does the Agreement include any target numbers; any targets would run contrary to the voluntary nature of returns.

NATIONAL TASKFORCE REPORT: STEPS FOR THE REPATRIATION OF SOMALI REFUGEES

A number of steps for the repatriation of Somali refugees are outlined in the National Taskforce report, including the need for a population verification exercise to ensure accurate data and to “serve as a reference in detecting those who may want to return back illegally into the country.” This exercise was carried out by the government of Kenya jointly with UNHCR from 4 July to 10 August and involved cross checking information provided by refugees registered in Dadaab with the information available to the government and UNHCR in addition to de-registering individuals who did not present themselves during process.³²

The population verification exercise identified 283,558 people as currently living in Dadaab out of 341,571 who were registered as living in the camp.³³ However, organizations working in the Dadaab refugee camp told Amnesty International that the population living in the camp is likely to be higher than the number recorded in the verification exercise. One reason for the discrepancy in figures is that the verification exercise excluded new arrivals to the camp; refugees who went back to Somalia and have since returned to Dadaab but who have been unable to register since August 2015; and refugees who were not in Dadaab during the verification period (including people that were in Nairobi for health or education purposes during that time).³⁴ Only those that are part of the verification exercise however will continue to be considered as living in the camp and therefore continue to receive services.

The Taskforce report makes reference to the decision made by the Government of Kenya to repatriate refugees and close Dadaab citing Gazette Notice No. 3334 of 11 May 2016 which appoints a National Taskforce to carry this process out.³⁵

On 25 June the Tripartite Commission, which consists of the Somali Minister of Foreign Affairs, the Kenyan Cabinet Secretary for Foreign Affairs, and the UNHCR High Commissioner, announced that the Dadaab camp population size would be reduced by 150,000 people by the end of 2016³⁶; these different parameters have caused confusion about what exactly will happen in November and December 2016, which the Kenyan authorities had not clarified at the time of writing. Meanwhile activity intended to return refugees living in Dadaab to Somalia has proceeded.

THE RETURN PROCESS FROM KENYA TO SOMALIA

Once a refugee expresses the wish to return to Somalia from Kenya, the return process takes on average 14 days. The first step of the process involves a refugee going to a ‘Return Help Desk’. These desks were set up in mid-2014 by UNHCR and since early 2015 have been run jointly by UNHCR and its NGO implementing partners in Dadaab. At these desks people receive information about the areas and conditions of return. If a refugee decides they want to return, they are referred for a medical screening and to register for a ‘SCOPE card’³⁷ from the World Food Programme, which provides a cash grant to those returning to allow them to pick up food items upon return to Somalia for six months.³⁸ If the person passes

31 Republic of Kenya, *Report of the National Taskforce on Repatriation of Refugees from Dadaab Refugee Complex*, 31 May 2016, pp.1-3. On file with Amnesty International.

32 UNHCR, *Dadaab Refugee Camps, Kenya: UNHCR Dadaab Bi-Weekly Update*, 01-15 September 2016, available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/15%20September%20UNHCR%20Dadaab%20bi-weekly%20Update.pdf> ; UNHCR, *Refugees in the Horn of Africa: Somali Displacement Crisis Information Sharing Portal*, available at: <http://data.unhcr.org/horn-of-africa/country.php?id=110> (both accessed 6 October 2016)

33 UNHCR, *Dadaab Refugee Camps, Kenya: UNHCR Dadaab Bi-Weekly Update*, 01-15 September 2016, available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/15%20September%20UNHCR%20Dadaab%20bi-weekly%20Update.pdf> (accessed 6 October 2016)

34 Registration was last carried out in Dadaab refugee camp in August 2015. The precise number of new arrivals to Dadaab is not known, however UNHCR estimates that there have been around 4,000 from August 2015 to July 2016. Information received by Amnesty International from UNHCR in Kenya, August 2016.

35 Republic of Kenya, *Report of the National Taskforce on Repatriation of Refugees from Dadaab Refugee Complex*, 31 May 2016. On file with Amnesty International.

36 UNHCR, *Joint Communique: Ministerial Tripartite Commission for the Voluntary Repatriation of Somali Refugees from Kenya to Somalia*, 25 June 2016, available at: <http://www.unhcr.org/uk/news/press/2016/6/576ea0474/joint-communique-ministerial-tripartite-commission-voluntary-repatriation.html> (accessed 9 November 2016)

37 A biometric registration card that can also track where returnees redeem their cash assistance and when.

38 Information from a non-governmental source. On file with Amnesty International.

their medical check they go on to the third step which is led by the Refugee Affairs Secretariat and UNHCR, whereby exit procedures are carried out and movement passes issued. The person is then moved on to a transit centre in either Dagahaley or Hagadera camps in Dadaab where they are given a hot meal, the SCOPE card and a final check with UNHCR. The final step on the Kenyan side is signing the voluntary repatriation form provided by UNHCR. Each person then receives a cash amount of US\$200 if they are returning by road (US\$230 per person with special needs) to Luuq, Baidoa and Kismayo in Somalia, and US\$150 if they are returning by flight to Somalia's capital Mogadishu (US \$180 per person with special needs).³⁹

Upon arrival in Somalia, returnees arrive at areas known as 'home way stations' in the four main locations, and receive a remaining assistance package of US\$200 per person in addition to some non-food items and accommodation for a maximum of three nights before moving onwards. Returnees are also meant to be provided with a medical check-up and referral, and children with a US\$25 per month cash grant for education for one year, as part of a reintegration package which is subject to funding, which at the time of writing was not available.⁴⁰

KENYA'S JUSTIFICATION FOR THE 2016 POLICY CHANGES

As noted above, Kenya's policy towards Somali refugees and Dadaab camp has undergone a marked shift since April 2016. In statements made since April the government has linked the closure of the Dadaab camp to national security concerns, the long-term failure of the international community to share responsibility and support Kenya in hosting the refugees, and the slow pace of support for returns to Somalia.

On 9 May, Dr Karanja Kibicho, the Principle Secretary of the Ministry of Interior and Coordination of National Government stated that:

"Our action is taken at a time when a growing number of countries – rich and poor alike – globally are limiting refugee entry on the grounds of national security. For much lower populations than Kenya has hosted for decades. We understand their reasoning at a time when the International Community is challenged and, unfortunately, far too paralysed in the face of metastasising terrorist threats."⁴¹

A day later, on 11 May, Joseph Nkaissery, the Minister of Interior and Coordination of National Government, stated:

"Kenya is presently hosting over 600,000 refugees and has been doing so for a quarter of a Century... The hosting of refugees has been costly for Kenya. As a country we have been glad to help our neighbours and all those in need sometimes at the expense of our security. But there comes a time when we must think primarily about the security of our people... The camps are now completely overcrowded. They were built for far less numbers and the International Community has never moved to address this."⁴²

At the World Humanitarian Summit in Istanbul in May 2016, Deputy President William Ruto told world leaders that the Kenyan government had reached a decision to close Dadaab refugee camp and would not change its mind, even with additional funding.⁴³ At the UN Summit in New York to Address Large Movements of Refugees and Migrants in September 2016, the Deputy President co-chaired a roundtable on "international action and co-operation on refugees and migrants and issues related to displacement: the way ahead", where he stated that Kenya had repeatedly informed the international community about the unsustainability of Dadaab refugee camp. According to the Deputy President, in 2012, the international community pledged US\$500 million to Kenya of which less than 1% was met.⁴⁴

39 Information from a non-governmental source. On file with Amnesty International.

40 Information from a non-governmental source. On file with Amnesty International.

41 Karanja Kibicho, 'As the Kenyan minister for national security, here's why I'm shutting the world's biggest refugee camp', *The Independent*, 9 May 2016, available at: <http://www.independent.co.uk/voices/as-the-kenyan-minister-for-national-security-heres-why-im-shutting-the-worlds-biggest-refugee-camp-a7020891.html> (accessed 11 October 2016)

42 Republic of Kenya, Government Statement and Update on the Repatriation of Refugees and Scheduled Closure of Dadaab Government Statement and Update on the Repatriation of Refugees and Scheduled Closure of Dadaab Refugee Camp <http://www.interior.go.ke/?p=3113> (accessed 6 October 2016)

43 Aggrey Mutambo, 'Decision to close Dadaab refugee camp final, Ruto tells UN boss', *Daily Nation*, 23 May 2016, available at: <http://www.nation.co.ke/news/1056-3215622-6lnkuz/index.html>; William Samoei Ruto (Kenya), World Humanitarian Summit (Istanbul, 2016), Member States and Stakeholders Announcements, UN Web TV, available at: <http://webtv.un.org/topics-issues/non-governmental-organizations/france-libert%C3%A9s/watch/william-samoei-ruto-kenya-world-humanitarian-summit-istanbul-2016-member-states-and-stakeholders-announcements/4907847880001> (both accessed 9 October 2016)

44 Address by H.E. Hon. William S. Ruto, E.G.H Deputy President of the Republic of Kenya during the Co-Charing of the Roundtable on: "International Action and Co-operation on refugees and migrants and issues related to displacement: the way ahead" at the High Level

Kenya's complaints about lack of international support are well founded, although that can never be a justification for forced returns. The international community has consistently underfunded appeals made by the UN in Kenya. As of the end of October 2016 UNHCR's financial appeal for Kenya was only 38% funded.⁴⁵

Offers to resettle the most vulnerable from Kenya have also remained consistently low. In 2015, a total of 5,001 individuals were resettled from Kenya, with more than 3,500 of those going to the US. Only 671 vulnerable refugees were resettled in EU countries. So far in 2016 there have been 1,648 departures to the US and 118 departures to the EU.⁴⁶

Kenya's frustration over the lack of shared responsibility occurs against a backdrop of increasing tensions between States about this issue. Just ten countries host half of the world's 21 million refugees – Kenya is one of that ten. It also occurs in a context where the EU and its member states, key donors to Kenya, have offered Turkey €6 billion (around US\$6.6 billion) to host refugees and keep them out of Europe. Foreign policy analysts have pointed to how the EU's handling of the refugee crisis has given leverage to the Kenyan government in furthering its domestic policy to close Dadaab.

The government's statements about security have received insufficient interrogation. Kenya has repeatedly linked Somali refugees to the armed group Al-Shabaab. However, there is little evidence to support such claims. Rather, Somali refugees have been used as scapegoats in the aftermath of terror attacks, something previously documented by Amnesty International.

Meeting of the General Assembly to Address Large Movement of Refugees and Migrants, 19 September 2016, available at <http://refugeesmigrants.un.org/related-events> (accessed 10 October 2016)

45 UNHCR, *Kenya 2016 Funding Update as of 31 October 2016*, available at: <http://www.unhcr.org/ke/wp-content/uploads/sites/2/2016/11/Kenya-Funding-Update-31-October-2016.pdf> (accessed 9 November 2016)

46 UNHCR data on resettlement figures, available at: <https://reports.zoho.com/ZDBDataSheetView.cc?OBJID=88567600000641644&STANDALONE=true&privatelink=675d0a826cbe5d13b2fc053111d5cd69&INTERVAL=-1&REMOOTOLBAR=false&INCLUDETITLE=true&INCLUDEDESC=true> (accessed 24 October 2016)

4. RETURNS: NOT VOLUNTARY

“Information goes very fast. People get it from the media and from other people. Before the government already came and spoke to us they already circulated information. When the government said the November deadline they also added it was voluntary and not forced. These are two contradictory statements from the government. The process is ending in November and at the same time they say it’s a voluntary repatriation process. There are lots of worries about this.”

Samira, a community leader who has lived in Dadaab refugee camp for eight years, interviewed 19 August 2016.

In order for returns to Somalia to be voluntary people must be able to make their decision based on clear and accurate information and without any coercion or pressure. Amnesty International found that statements made by the Kenyan authorities about the camp closure and the options and support available to refugees living in Dadaab have the effect of putting Somali refugees under pressure to return and thereby undermine the principle of voluntary return.

In addition, Somali refugees in Dadaab are being provided with limited information about the security situation, livelihood options and services available in the main towns and cities identified as ‘areas of return’ in Somalia by UNHCR, which is affecting their ability to make informed decisions.

STATEMENTS BY GOVERNMENT OFFICIALS

Since the May announcement about the closure of Dadaab, government of Kenya officials have made clear that their intention is to return people to Somalia. This has been evident in terms of the structures established, such as the National Multi-Agency Repatriation Team and the Operational Refugee Repatriation team, and statements made by government officials.

Following the May announcement Mohamud Ali Saleh, the North Eastern regional coordinator (a government official under the Ministry of Interior and Coordination of National Government who is responsible for coordinating peace and security initiatives in the region) made several statements at the regional level, on radio and to print media telling refugees to leave Dadaab. For example he was quoted in a newspaper in

August saying “Somalia is safe and the refugees should join their brothers and sisters. Kenya has done its part.”⁴⁷ In a video excerpt from August 2016 recorded at a workshop in Garissa town, Mr Saleh said:

“Refugees have stayed with us for 25 years. That is enough. It was temporary, it was six months, one year, one and half years and today it’s 25 years. It is enough. We have provided them with education, we have hosted them. Please go back to your country.”⁴⁸

At the same workshop he also issued a warning to the host community not to host refugees from Dadaab in their homes:

“We have reports of refugees fleeing the camps to escape repatriation. These Somalia refugees have no Identification cards or any other document allowing them to get outside the camps. The government will never hesitate to punish such accomplices of the vice.”⁴⁹

Refugees interviewed by Amnesty International said that they had initially heard about the closure of the camp through the media. Government officials including the District County Commissioner then came to Dadaab and met with community leaders and told them that the Kenyan government’s position is that Dadaab refugee camp would be closed by 30 November. They were also told that if refugees did not return to Somalia before then, they would not have access to the package of support and transport which UNHCR and its implementing partners are currently providing for those who say they are willing to return.⁵⁰ Some refugees also informed Amnesty International that, in June, government officials went around the blocks where they live in the camp in a vehicle with a loud speaker calling on people in the camps to go and register themselves to return to Somalia.⁵¹

Musa, a community leader who has been living in Dadaab for 16 years and was present at a meeting with the District County Commissioner, told Amnesty International:⁵²

“We heard over the radio in May 2016. We heard from the Interior Minister of Kenya that the deadline of closure of the camp is November 2016. I was surprised to hear this. The second person we have heard information from was the regional security coordinator [Mohamud Ali Saleh] in the North-East who spoke on the radio and met with all the leaders in the camp and was serious about the situation. He stressed and emphasised the closure of the camps and said ‘have you not heard the camp is closing? Everyone should prepare for the camp closure.’ People didn’t take the announcement of the closure of the camp seriously but when they heard from Saleh they took it more seriously. The third person we heard from was the District Commissioner who met with us four days ago [on 15 August 2016]. The District Commissioner came to us and told us about Kenya’s decision to close the camps. He said that the decision had not changed and remained the same. ‘Prepare to go back to your country in November’. We challenged him and said there is no security in Somalia. He said there is security so many people there are living a normal life. But if peace is in Somalia why is AMISOM still there? ... So now this is what people are thinking. They are giving us this deadline after November with no package and no transport to our respective country. The Kenyan army will force people back brutally. This is what people think will happen. It makes people think of repatriation.”

Hadi, aged 33 who has lived in Dadaab since 1992 told Amnesty International:⁵³

“They are pushing us to Somalia. They came to our block areas with a microphone and said ‘you have to go register yourself to go to Somalia’... ‘If you don’t go register yourself now you will have to go on foot with your babies on your back.”

Samira, who is also a community leader and also met with government officials in the camp said:⁵⁴

“People believe after November the small return package won’t be there and there won’t be transport. This was understood from the words of the District [County] Commissioner. ‘Anyone who doesn’t hear us now or if this falls on deaf ears the government will make him/her regain their consciousness. They will make him/her understand things.’ That’s how people interpreted it. So now people say it’s the right time for them. People

47 Stephen Astariko, ‘House refugees at your risk, says Saleh’, *Qaranimo Online*, 18 August 2016, available at: <http://www.qaranimo.com/news/2016/08/18/house-refugees-at-your-risk-says-saleh/> (accessed 23 October 2016)

48 KTN News, *Mohamud Saleh has warned Garissa residents against harbouring the refugees*, 13 August 2016, available at: https://www.youtube.com/watch?v=XYG_4nGFxUJ (accessed 7 October 2016)

49 Carson Jnr, ‘Garissa residents warned against housing Somali refugees’, *hivisasa*, 18 October 2016, available at: <http://www.hivisasa.com/garissa/news/163229> (accessed 9 October 2016)

50 Amnesty International interviews with community leaders, UNHCR and NGOs in Dadaab refugee camp, 15-19 August 2016.

51 Amnesty International interviews in Dadaab refugee camp, 15-19 August 2016.

52 Amnesty International interview with a community leader in Dadaab refugee camp, 19 August 2016. His name and any other identifying details including the camp he is from have been withheld in order to protect his identity.

53 Amnesty International interview with refugees from Dadaab refugee camp, 11 September 2016.

54 Amnesty International interview with community leaders in Dadaab, 19 August 2016.

are moving before they miss the transport and money. [The message is] Now is the right time to leave at your leisure and at your own will!"

While Amnesty International's interviews were with a limited number of refugees, UNHCR and non-governmental actors working with refugees in Kenya stated they were aware of such statements by government officials and of the visits being made to community leaders and expressed concern that the statements by the government are leading to pressure on Somali refugees.

When Amnesty International raised concerns about the government's statements with UNHCR officials in Nairobi, they said that they were aware of the announcements and were planning to go to Dadaab to discuss the issue with the authorities there.⁵⁵

On 25 August a UNHCR officer in Dadaab stated in a media interview that Somali refugees are leaving Kenya because of "threatening rhetoric by Kenyan security officials who recently visited the camp."⁵⁶ UNHCR in Nairobi later issued a statement saying that the claim made by the officer in Dadaab was inaccurate and that the government was working closely with UNHCR.⁵⁷

The pressure which refugees in Dadaab feel as a result of the statements made by the government is occurring against a backdrop of increased hardship for refugees in the camp. In August 2015, the World Food Programme reduced the amount of food available to refugees by 30%.⁵⁸ Several of the refugees interviewed by Amnesty International spoke about the impact of these cuts combined with the uncertainty about the future.

An elderly man in Dadaab refugee camp told Amnesty International:

"Life here isn't normal. Rations have been reduced. Each family gets half of what it used to be. We don't get sugar or milk. We get a little bit of oil but it's not like it used to be... Before it used to work out as 67kg for 15 days (130kg for 30 days). Now we get 50kg for 30 days, less than half of what it used to be."⁵⁹

Meanwhile the return package offered, which is on average US\$400⁶⁰ per person - and which is meant to support each individual returning for six months - far exceeds the support provided for refugees living in Dadaab. Several refugees interviewed by Amnesty International cited the struggle to access adequate amounts of food in the camp as a reason to return to Somalia.⁶¹ This was corroborated by NGOs working in Dadaab.⁶²

NO ALTERNATIVES

The position that Somalis have to return to Somalia is reinforced by the lack of any alternative proposal for those currently living in Dadaab. If Dadaab is to be closed, but returns to Somalia are voluntary, then Somali refugees living in Dadaab should have an alternative. Kenya has historically resisted any suggestion to integrate refugees and has instead pursued an encampment policy.⁶³ In 2012 the DRA announced the policy requiring all refugees and asylum-seekers to relocate to camps or return to their home countries. While this policy was overturned by the Kenyan High Court as unconstitutional, in practice it continued to be

55 Amnesty International meeting with UNHCR Deputy Representative in Nairobi, 19 August 2016.

56 Mohamed Olad Hassan, 'UN: Somali refugees leaving Kenya due to threats, pressure', VOA, 25 August 2016, available at: <http://www.voanews.com/a/somali-refugees-leaving-kenya-due-to-threats-and-pressure-un-says/3480706.html> (accessed 9 October 2016)

57 Kevin J. Kelley, 'UN Defends Kenya over claim of forceful repatriation in Dadaab', Daily Nation, 27 August 2016, available at: <http://www.nation.co.ke/news/UN-defends-Kenya-over-claim-forceful-repatriation-Dadaab/1056-3359452-88318e/> (accessed 9 October 2016)

58 WFP, *Lack of Funds Forces WFP to Reduce Food Rations Again for Refugees in Kenya*, 11 June 2015, available at: <https://www.wfp.org/news/news-release/lack-funds-forces-wfp-reduce-food-rations-again-refugees-kenya> (accessed 9 October 2016)

59 Amnesty International interview in Dadaab refugee camp, 17 August 2016.

60 Somalis returning by road receive US\$200 (per returnee), US\$230 (per returnee with special needs). Those opting to fly to Mogadishu receive US\$150 (per returnee), US\$180 (per returnee with special needs). UNHCR's supplementary budget appeal (July - December 2016) proposes to issue US\$ 275 per returnee with special needs and travelling by road. Returnees are also provided with a US\$200 re-installation cash grant once they have arrived in Somalia. Information shared by a non-governmental source. On file with Amnesty International.

61 Amnesty International interviews with refugees in Dadaab refugee camp, 15-19 August 2016.

62 Amnesty International interviews with NGOs working in Dadaab refugee camp, 15-19 August 2016. See also, HRW, *Kenya: Involuntary Refugee Returns to Somalia*, 14 September 2016, available at: <https://www.hrw.org/news/2016/09/14/kenya-involuntary-refugee-returns-somalia> (accessed 26 October 2016)

63 An encampment policy was in place prior to 2012. In 2003 the government was looking to review the policy. See: Irin News, *The Kenyan government is reviewing its policy of keeping the country's refugee population in camps in the north of the country*, 4 February 2003, available at: <http://www.irinnews.org/report/41411/kenya-government-reconsidering-encampment-policy-refugees> (accessed 9 November 2016)

carried out by the Kenyan authorities on the premise of national security. In 2014, the authorities sought to amend the 2006 Refugee Act to make the encampment policy permanent.⁶⁴

MAJORITY OF REFUGEES DO NOT WANT TO RETURN

Since the announcement of the planned closure of Dadaab by the Kenyan government and the Tripartite Commission's Communique stating the number of refugees in Dadaab would be reduced by 150,000 people, the number of refugees returning to Somalia has increased. As of 14 October, 33,178 individuals had returned to Somalia in 2016 alone, including nearly 10,000 people between June and mid-August 2016 – a significant increase in comparison to returns between December 2014 and December 2015, when just over 6,100 people returned to Somalia.⁶⁵ The number of refugees signing up to return has also increased as the end of November nears.

However, despite the increase in returns, during the population verification exercise carried out in July and August 2016, UNHCR found that only 25% of the refugees in Dadaab were willing to return.⁶⁶ In a survey by the medical NGO, Médecins Sans Frontières (MSF), 86% of refugees interviewed stated that neither they nor their family wanted to return to Somalia due to security concerns, including fear of forced recruitment by armed groups, and the lack of health care and other services available.⁶⁷ According to UNHCR, since it launched a Return Help Desk in August 2014 64,660 individuals, approximately 20% of the Somali refugee population, expressed an interest in returning to Somalia. While there is some variability across this data, all three information sources (the verification exercise, the MSF survey and the Returns Desk) point to the vast majority of people not wanting to return.

The pressure being exerted on Somali refugees by the Kenyan authorities and lack of alternative options is in contravention to the Tripartite Agreement which clearly states that the returns process should be voluntary and conform with international law, and that “the decision of refugees to repatriate shall be based on their freely expressed wish” (Article 10.2).⁶⁸ It is also in contravention to the AU Refugee Convention (Article V) which states that “The essentially voluntary character of repatriation shall be respected in all cases and no refugee shall be repatriated against his will”,⁶⁹ and the 1951 Refugee Convention including the principle of *non-refoulement* whereby “no one shall expel or return (“refouler”) a refugee against his or her will, in any manner whatsoever, to a territory where he or she fears threats to life or freedom.”⁷⁰

LIMITED INFORMATION PROVIDED ON AREAS OF RETURN

Kenya has made clear people have to go, and provided no alternative. Nonetheless some people are returning apparently by choice. However, Amnesty International has significant concerns about the extent to which the returns are truly voluntary, in light of what appears to be limited information about the situation in Somalia.

Of particular concern is the time taken to provide up-to-date and detailed information on the security situation in Somalia to those returning, despite the volatile and ever changing nature of the conflict. In August, when large numbers of people were returning to Somalia, Amnesty International found that the information provided on areas of return at the Return Help Desks had not been updated since December 2015.⁷¹ The country information provided at Return Help Desks was eventually updated in October 2016 by

64 Republic of Kenya, *Kenya Gazette Supplement, Acts, 2014*, 22 December 2014, available at: http://kenyalaw.org/kl/fileadmin/pdfdownloads/AmendmentActs/2014/SecurityLaws_Amendment_Act_2014.pdf (accessed 9 November 2016)

65 UNHCR, *Dadaab Refugee Camps, Kenya: UNHCR Dadaab Bi-Weekly Update*, 01-15 September 2016, available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/15%20September%20UNHCR%20Dadaab%20bi-weekly%20Update.pdf> (accessed 6 October 2016)

66 UNHCR, *Dadaab Refugee Camps, Kenya: UNHCR Dadaab Bi-Weekly Update*, 01-15 September 2016, available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/15%20September%20UNHCR%20Dadaab%20bi-weekly%20Update.pdf> (accessed 6 October 2016)

67 Médecins Sans Frontières, *Dadaab to Somalia: Pushed Back Into Peril*, October 2016, available at: http://www.msf.org/sites/msf.org/files/dadaab_to_somalia_pushed_back_into_peril-0.pdf (accessed 9 November 2016)

68 Tripartite Agreement between the Government of the Republic of Kenya; the Government of the Federal Republic of Somalia; and the United Nations High Commissioner for Refugees Governing the Voluntary Repatriation of Somali Refugees Living in Kenya, 2013, available at: <http://www.refworld.org/pdfid/5285e0294.pdf> (accessed 3 October 2016)

69 AU Convention available at: http://www.achpr.org/files/instruments/refugee-convention/achpr_instr_conv_refug_eng.pdf (accessed 9 October 2016)

70 UN convention and protocol relating to the status of refugees, available at: <http://www.unhcr.org/uk/3b66c2aa10> (accessed 9 October 2016)

71 According to UNHCR as of October the country of origin information has been updated and include the 12 designated areas of return in Somalia and the information has been disseminated to the Return Help Desks. It is not clear however, how much additional information is provided or how regularly the information will be updated. See: UNHCR, *Dadaab Refugee Camps, Kenya: UNHCR Dadaab Bi-weekly*

UNHCR and NGOs to included information on a total of 12 areas have been deemed by UNHCR as 'areas of return' for Somalis from Dadaab.⁷² UNHCR only has presence in five of the 12 areas.⁷³ However, Amnesty International was told by a non-governmental source working with UNHCR that the information on security and services available in the areas continued to be a work in progress and therefore not all the information required to make an informed decision about returning had been provided.⁷⁴

In August, the information provided for Kismayo for example, was a few lines as explanation: "*The area is more secure with effective police force in place providing police patrols. However, Al-Shabaab are in control of the rural areas and mounted at least three road blocks on Doble-Kismayo route hindering humanitarian services and personnel in the delivery of the supplies in the region. AMISOM troops man the security at sea port and the airport and occasionally conduct operation in the outskirts of the town to flush out Al-Shabaab.*"⁷⁵

Similarly for Somalia's capital Mogadishu, only two sentences were provided on the security situation stating: "*The town is secured with established administration and with uniformed police force conducting regular patrols. Eight districts have community based security system in place which is known as "neighbourhood watches".*"⁷⁶

The booklets provided in August, which assume everyone receiving them is able to read, are limited in the information they provide and do not reflect the security situation to the extent that it is mentioned in UNHCR's "Position on Returns to Southern and Central Somalia" from May 2016.⁷⁷ For example, the UNHCR position on returns document states that: "The police and security forces are reported to lack capacity. Civilian authorities do not maintain effective control over the security forces. Police officers and members of the military are reported to be responsible for serious human rights violations, including killings, rape and extortion of civilians."⁷⁸

The document makes reference to violations and abuses carried out by all parties to the conflict including government forces, AMISOM, clan militia and Al-Shabaab. This includes unlawful killings and indiscriminate attacks due to conflict-related violence, "sexual and gender-based violence against women and children, forced recruitment of children, and large-scale displacement."⁷⁹

UNHCR with its NGO partners produces regular post-return monitoring reports, based on data provided from Somalia. This information on the risks faced during the journey to Somalia are also not shared with refugees expressing an interest in returning. The report from June and July 2016 notes a number of security incidents *en route* to the way stations (a place with UN and/or NGO presence where returnees receive further information, a hot meal, water and emergency health care being continuing their journey) in Somalia. This includes a security incident on 21 March in which returnees from Dadaab refugee camp on their way to Baidoa by bus were caught in an airstrike likely to have been conducted by the Kenyan Defence Force.⁸⁰ Passengers on the bus had to hide in the bushes overnight before proceeding with travel the following day. Other security incidents include buses of returnees having to pass through checkpoints manned by Al-Shabaab. In August flights to Mogadishu had also been temporarily stopped due to a bomb attack in Somalia's capital which killed a UNHCR staff member.⁸¹

The limited information available does not give an accurate sense of the security risks, which remain significant, an issue taken up in the next Chapter.

update, 1-15 October 2016, available at: <http://reliefweb.int/report/kenya/dadaab-refugee-camps-kenya-unhcr-bi-weekly-update-1-15-october-2016> (accessed 22 October 2016)

72 UNHCR, *Dadaab Refugee Camps, Kenya: UNHCR Dadaab Bi-weekly update*, 1-15 October 2016, available at: <http://reliefweb.int/report/kenya/dadaab-refugee-camps-kenya-unhcr-bi-weekly-update-1-15-october-2016> (accessed 22 October 2016)

73 For more information on areas of return as identified by UNHCR and their presence see: UNHCR, *UNHCR offices and areas of refugee return*, available at: <https://data.unhcr.org/horn-of-africa/download.php?id=1913>. Three additional areas were mentioned in UNHCR, *Somalia Situation: Supplementary appeal, July-December 2016*, available at: <http://www.unhcr.org/partners/donors/57977a197/unhcr-somalia-situation-supplementary-appeal-july-december-2016-july-2016.html> (both accessed on 20 October 2016)

74 Amnesty International Skype call with a non-governmental source, 26 October 2016.

75 Return area information for Afgoye, Luuq, Baidoa, Mogadish and Kismayo available on file with Amnesty International.

76 Return area information for Afgoye, Luuq, Baidoa, Mogadish and Kismayo available on file with Amnesty International.

77 UNHCR, *UNHCR Position on Returns to Southern and Central Somalia (Update I)*, May 2016, available at: <http://www.refworld.org/docid/573de9fe4.html> (accessed 20 October 2016)

78 UNHCR, *UNHCR Position on Returns to Southern and Central Somalia (Update I)*, May 2016, available at: <http://www.refworld.org/docid/573de9fe4.html> (accessed 20 October 2016)

79 UNHCR, *UNHCR Position on Returns to Southern and Central Somalia (Update I)*, May 2016, available at: <http://www.refworld.org/docid/573de9fe4.html> (accessed 20 October 2016)

80 UNHCR, *Post Return Monitoring, June/July 2016*, on file with Amnesty International.

81 UNHCR, *UNHCR Statement on the murder of a colleague in Mogadishu, Somalia*, available at:

<http://www.unhcr.org/uk/news/press/2016/8/57a0b4674/unhcr-statement-murder-colleague-mogadishu-somalia.html> (accessed 9 October 2016)

5. SOMALIA: NOT SAFE TO RETURN

Somalia is a country in which there is ongoing conflict, instability and limited access to basic services. Fighting between government forces supported by AMISOM, and clan-militias and Al-Shabaab has resulted in gross human rights violations carried out against the civilian population.⁸² Consequently Somalia remains a place from which people flee violence and persecution.⁸³ There is an estimated 1.1 million internally displaced people (IDPS) in Somalia.⁸⁴ Many parts of the country lack basic services, including health care and education, due to the prolonged conflict and lack of adequate infrastructure.⁸⁵ According to the UN's early warning famine system, as of August 2016 more than 40% of the population (or five million people) is food insecure and more than 1.1 million people are unable to meet daily food requirements.⁸⁶ Somalia has faced further political instability in 2016 as parliamentary and presidential elections which were due to be held in August and September were delayed. At the time of writing parliamentary elections were expected to end on 10 November and a federal president chosen on 30 November. According to Inform, an index for risk management site, Somalia is ranked as high risk for vulnerability, hazard and coping capacity.⁸⁷

Many refugees interviewed by Amnesty International stated that they had security concerns with regard to returning to Somalia, including the possibility that their children would be forcibly recruited by Al-Shabaab and other armed groups, and the violence they had initially fled from.

INTERVIEWS WITH REFUGEES WHO RETURNED TO SOMALIA

Amnesty International interviewed a number of Somali refugees who had returned to Somalia in 2015 and 2016 as part of the voluntary repatriation programme under the Tripartite Agreement, and had since come back to Dadaab due to security incidents they faced in Somalia. No assessment has been carried out to understand the reasons for their return to Dadaab nor have they been registered again in the camp.⁸⁸

Amnesty International interviewed two boys aged 15 and 18 years old respectively who initially arrived in Dadaab with the rest of their family in 2011. They went back to Somalia in January 2016 with their parents and five other siblings. The boys told Amnesty International about the horrific four months they faced in

82 For example see: Amnesty International, *No place like home: Returns and relocations of Somalis displaced*, February 2014, Index AFR 52/001/2014, available at: <https://www.amnesty.org/en/documents/AFR52/001/2014/en/>; HRW, *Civilians at Serious Risk*, 27 January 2016, available at: <https://www.hrw.org/news/2016/01/27/somalia-civilians-serious-risk>; UNHCR, *UNHCR Position on Returns to Southern and Central Somalia (Update I)*, May 2016, available at: <http://www.refworld.org/docid/573de9fe4.html> (all accessed 26 October 2016)

83 UNHCR, *UNHCR Position on Returns to Southern and Central Somalia (Update I)*, May 2016, available at: <http://www.refworld.org/docid/573de9fe4.html> (accessed 26 October 2016)

84 UNHCR, *Somalia: Overview Situation Report (as of 30 April 2016)*, issued 29 May 2016, available at: <http://data.unhcr.org/horn-of-africa/country.php?id=197> (accessed 10 October 2016)

85 OCHA, *Somalia: Humanitarian Dashboard – August 2016*, issued 29 September 2016, available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/Somalia%20Humanitarian%20Dashboard%20-%20August2016.pdf> (accessed 10 October 2016)

86 OCHA, *Somalia: Humanitarian Dashboard – August 2016*, issued 29 September 2016, available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/Somalia%20Humanitarian%20Dashboard%20-%20August2016.pdf> (accessed 10 October 2016)

87 Inform Index for Risk Management, *Country Profile: Somalia*, available at: <http://www.inform-index.org/Countries/Country-Profile-Map> (accessed 26 October 2016)

88 Information obtained at a joint Amnesty International and Rift Valley Institute panel event in Nairobi on 8 September 2016. A question was asked to UNHCR who were on the panel at the event by an Amnesty International researcher.

Somalia after they were forcibly recruited by Al-Shabaab and saw their father killed in front of them. They eventually managed to escape and make their way back to Dadaab; however, they do not know where the rest of their family is.

The 18 year old told Amnesty International:

“Soon after we returned Al-Shabaab entered the neighbourhood and raided livestock and people’s homes. They took children our age, including us. Our parents couldn’t do anything or they would threaten to kill them. It was both of us. We were together the whole time. We were always in a vulnerable situation. They first came and knocked on the doors and asked if there was a family living there. They asked people’s names and asked for me and my brother. My parents protested but they killed my father and threw everything in the house. We came back [to Dadaab] on our own, we only have each other. We are still trying to find out what happened to the rest of our family. Al-Shabaab is in control in Somalia and they know us. They know our faces. If we go back we will be killed. Kenya is our home and this is where we will stay. The security situation in Somalia is all the same. It’s a war torn region. There is no way people can go back there or live there.”⁸⁹

The boys said they had spoken to UNHCR about their situation and had received some support for food and water from an NGO. They were not registered as refugees in the camp however and did not receive regular food rations or other services. The older boy said that he did heavy lifting in the market for 100 Kenyan shillings a day (approximately US\$1) in order to get food for himself and his brother.

Another man, Abdullahi, aged 34 first came to Dadaab refugee camp in 2010. He told Amnesty International about how he returned to Mogadishu in September 2015 with seven other family members. Shortly after he arrived there was an explosion at the hotel he was staying at. He moved with his family to his home area in the Bardere Gedo region, where his children contracted measles and there was no health care. He returned with his family to Dadaab in March 2016, but has received no support because he is unable to register and reactivate his ration card.

Abdullahi said:

I went on 19 September 2015. I went from Dadaab to Mogadishu. I was told the government would provide everything and I would get a job. It is better than being a refugee. Going there would be good.

But unfortunately after immediately landing in the country it did not meet expectations... When I landed we were taken to a hotel and stayed there for two days and after they told us we can go and integrate. But we experienced a lot of explosions and insecurity. We were told to go and integrate with the people but we were too afraid. There was an explosion of a vehicle and it has given me an unforgettable experience... It happened outside the hotel. It was the second day I arrived.⁹⁰

I have been a refugee for a long period of time. I have never been exposed to such a thing. My children and everyone was scared. We came back in March 2016 and up to now we have suffered a lot because we have not been supported. Now all we rely on is peace, water and free movement within the refugee premises.”

Other men and women who had returned to Somalia described how similar attacks and insecurity in addition to threats by Al-Shabaab, and lack of access to livelihood opportunities and services had led them to return back to Dadaab refugee camp.⁹¹

LACK OF SUFFICIENT SUPPORT FOR THE RETURN PROCESS

Even if refugees voluntarily return to Somalia the support provided is limited. The authorities in Somalia and aid organizations have had insufficient time to prepare for any increased returns.⁹² The international humanitarian response in Somalia is limited with the UN humanitarian appeal 34% funded as of August 2016.⁹³ At a pledging conference in Brussels in September 2015, US\$500m was requested however only

89 Interview by Amnesty International in Dadaab refugee camp, 15 August 2016.

90 An explosion occurred in Mogadishu on 21 September 2015 as the man describes. For more information see: BBC, *Somali car bomb kills six near presidential palace*, 21 September 2015, available at: <http://www.bbc.co.uk/news/world-africa-34317796> (accessed 9 October 2016)

91 Interviews carried out by Amnesty International with Somali refugees in Dadaab refugee camp, 15-19 August 2016.

92 NRC, *Dadaab’s broken promise: A call to reinstate voluntary, safe and dignified returns for Dadaab refugee community*, 10 October 2016, available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/dadaabs-broken-promise-an-nrc-report-10.10.16.pdf> (accessed 10 October 2016)

93 OCHA, *Somalia: Humanitarian Dashboard, August 2016*, issued 29 September 2016, available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/Somalia%20Humanitarian%20Dashboard%20-%20August2016.pdf> (accessed 10 October 2016)

US\$105 million was pledged by countries to fund sustainable returns.⁹⁴ As of October 2016, only US\$7.2 million has been received.⁹⁵

According to a report issued in October by the Norwegian Refugee Council (NRC), one of UNHCR's main implementing partners, the number of people returning to Somalia outweighs the amount of humanitarian support available.⁹⁶ The NRC report states that with limited absorption capacity in Somalia, the refugees returning will increase pressure on services that are already insufficient which in turn could fuel tensions with existing communities if not carefully managed.⁹⁷

In August 2016, authorities in Somalia's Lower Juba State halted the return of 1,100 Somalis due to lack of humanitarian assistance.⁹⁸ Among the concerns raised by the authorities were the unplanned nature of the returns threatening to exacerbate an already volatile security situation, in addition to the return package being insufficient to allow returnees to fully integrate, and the likelihood of most returnees going to already overstretched and under-resourced IDP camps.⁹⁹ At the time of writing, the Jubaland administration were still not receiving road convoys of returnees. In order to get around this and continue the return process to other areas, UNHCR organized bi-weekly flights to Baidoa until further notice.¹⁰⁰ Closed door meetings between Ahmed Madobe, the president of Jubaland state, and a UNHCR delegation took place on 16 October, where the president said repatriation would resume, however a timeframe was not provided for this. In his address the president of Jubaland also reiterated his concern about refugees returning without a proper plan to sustain themselves.¹⁰¹

94 UNHCR, *Ministerial Pledging Conference on Somali Refugees*, available at: <http://www.unhcr.org/uk/ministerial-pledging-conference-somali-refugees.html> (accessed 22 October 2016)

95 UNHCR, *In Kenya, UNHCR chief assured refugee return will not contravene international obligations*, 12 June 2016, available at: <http://www.unhcr.org/uk/news/latest/2016/6/575d90084/kenya-unhcr-chief-assured-refugee-return-contravene-international-obligations.html> (accessed 10 October 2016)

96 NRC, *Dadaab's broken promise: A call to reinstate voluntary, safe and dignified returns for Dadaab refugee community*, 10 October 2016, available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/dadaabs-broken-promise-an-nrc-report-10.10.16.pdf> (accessed 10 October 2016)

97 NRC, *Dadaab's broken promise: A call to reinstate voluntary, safe and dignified returns for Dadaab refugee community*, 10 October 2016, available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/dadaabs-broken-promise-an-nrc-report-10.10.16.pdf> (accessed 10 October 2016)

98 Somalia Newsroom, *Analysis: Dadaab Refugees Stopped on Return to Somalia, Raising Repatriation Questions*, 30 August 2016, available at: <https://somalianewsroom.com/2016/08/30/analysis-dadaab-refugees-stopped-on-return-to-somalia-raising-repatriation-questions/> (accessed 10 October 2016)

99 Somalia Newsroom, *Analysis: Dadaab Refugees Stopped on Return to Somalia, Raising Repatriation Questions*, 30 August 2016, available at: <https://somalianewsroom.com/2016/08/30/analysis-dadaab-refugees-stopped-on-return-to-somalia-raising-repatriation-questions/> (accessed 10 October 2016)

100 UNHCR, *Dadaab Refugee Camps, Kenya: UNHCR Dadaab Bi-weekly update*, 1-15 October 2016, available at: <http://reliefweb.int/report/kenya/dadaab-refugee-camps-kenya-unhcr-bi-weekly-update-1-15-october-2016> (accessed 22 October 2016)

101 For example see: Al Jazeera, *Thousands of Somalis return home from Kenya*, 16 October 2016, available at: <https://www.youtube.com/watch?v=tf5dq41hVwE> (accessed 25 October 2016)

6. LACK OF SAFEGUARDS FOR VULNERABLE GROUPS

While all Somali refugees in Dadaab camp are at risk of serious human rights violations if forcibly returned to Somalia, there are some individuals and groups who are particularly vulnerable. Amnesty International spoke to two groups with specific needs or vulnerabilities: people with disabilities and/or their carers; and the Somali Bantu minority group.

PEOPLE WITH DISABILITIES AND THEIR CARERS

“I would like to inform the Government of Kenya and UNHCR that if disabled people go back to Somalia they will be throwing people to the fire.”

Man aged 28 who has lived in Dadaab for 10 years and has a physical disability which has left him wheelchair bound.¹⁰²

The Tripartite Agreement calls for special measures to be taken by all parties “to ensure that...vulnerable groups receive adequate protection, assistance and care throughout the repatriation and reintegration process.”¹⁰³ However it is unclear which special measures, other than enhanced financial support for those returning (US\$30 extra), are being provided for people with disabilities and their families upon returning to Somalia.¹⁰⁴

People with disabilities face additional challenges and risks upon return to Somalia. Amnesty International’s 2015 report “Somalia: Prioritise Protection for People with Disabilities” documents human rights abuses faced by people with disabilities living in Mogadishu and other areas of south and central Somalia. These violations, included forced evictions, sexual and gender based violence, and lack of access to adequate health care, housing, water and other forms of assistance.¹⁰⁵ The report also documents the social stigma people with disabilities in Somalia face, including in some cases total rejection and abandonment by their families.¹⁰⁶ The UN Independent Expert on Somalia raised concerns in his latest report about people with

102 Amnesty International interviews with persons with disabilities and their carers, Dadaab refugee camp, 18 August 2016.

103 Tripartite Agreement between the Government of the Republic of Kenya; the Government of the Federal Republic of Somalia; and the United Nations High Commissioner for Refugees Governing the Voluntary Repatriation of Somali Refugees Living in Kenya, 2013, Article 26, available at: <http://www.refworld.org/pdfid/5285e0294.pdf> (accessed 3 October 2016)

104 Information provided to Amnesty International by a non-governmental source, September 2015.

105 Amnesty International, *Somalia: Prioritise protection for people with disabilities*, 12 March 2016, Index AFR 52/1166/2015, available at: <https://www.amnesty.org/en/documents/afr52/1166/2015/en/> (accessed 3 October 2016)

106 Amnesty International, *Somalia: Prioritise protection for people with disabilities*, 12 March 2016, Index AFR 52/1166/2015, available at: <https://www.amnesty.org/en/documents/afr52/1166/2015/en/> (accessed 3 October 2016)

disabilities being marginalized in Somalia and the lack of support provided to them by the government and international community.¹⁰⁷ Somalia has not ratified the Convention on Rights of People with disabilities.¹⁰⁸

Amnesty International interviewed a number of refugees with disabilities as well as carers of people with disabilities, some of whom have formed their own community based support groups. Everyone that Amnesty International spoke with expressed concern about returning to Somalia due to the ongoing armed conflict, the discrimination they may face, and the lack of services available. Those caring for people with disabilities also raised concerns about the lack of livelihood support in Somalia. They all stated that the returns process had not been discussed with them directly by the government of Kenya or UNHCR.¹⁰⁹

Amnesty International spoke to a group of seven women living in Dadaab refugee camp whose children have disabilities. One woman, Bilal told Amnesty International:¹¹⁰

“We came with our kids and as you can see we have a challenge. Where do the disabled go? Although Somalia is our country what can you do if something happens? We are a vulnerable group. It is not an option to leave your kids and for that reason you will be the first to be killed. No one will help. Here we get support. We have organisations ready to help us. We have healthcare, we have security. There is a community here. Us mothers, we have nowhere else to go. Our job is to look after our children 24/7. If we go to Somalia we won't have security and we will be isolated. Of course some people are going back without a second thought. But their situation is different. They are able...they can work...they can get away if they need to. We can't.” She added: *“Disability is still not a well understood subject in our culture. Children are teased, bullied and victimised. If your child can't defend themselves due to their disability they are just considered weak.”*

Another woman from the group, Muna, added:¹¹¹

“There are no facilities for disabled people in Somalia. As refugees we are already considered last in everything. With children with disabilities we will be right at the back of the queue when it comes to receiving help.”

Muna and several others interviewed appealed to Kenya to relocate them within the country, or for resettlement to a third country.

Amnesty International also spoke to Mohamed, a man in his 50's who arrived in Dadaab in 2008 with his wife and two sons, one of whom he says is epileptic and has a learning disability. His eldest son was killed in 2011 after he decided to go back to Somalia. He told Amnesty International:¹¹²

“I came in 2008. I have a mentally ill son – he was affected by the war in Somalia. When he hears thunder he thinks its gunshots or bombs. My main reason for leaving was to get him away from all of that. Since we've been here we've gotten help...He now has medication and has been able to talk his issues through. He feels safe. I am very nervous about this closure [of Dadaab]. No such facilities exist in Somalia. There is no law, no healthcare...I am grateful [for UN and NGO assistance]...but ask the international community to take us somewhere better if we can't stay here. Somewhere we have security.” He added: *“There are other concerns here inside the camp. Rations have been reduced. But I don't complain. When you see the bigger picture our lives here are good. My biggest concern is my only living son now. He has suffered a lot. A lot of stress. That can all come back if the Kenyan government goes through with its promise.”*

Amina, a woman in her late 20's also expressed concern about returning to Somalia. Her son who is six years old is living with albinism and she is worried he will face discrimination in Somalia and also not have access to the sunscreen he needs. She said:¹¹³

“Another big part of the reason why I don't want to go back is that people don't understand albinism. Already some people here say he is illegitimate, he is a foreigner. He has been picked on by the other kids for being different. In Somalia I can see it being much worse. He also won't have access to the cream he gets for his skin.”

With regards to information she received about the closure she said: *“I've not had anyone give me direct information about the closures only what's been said on the radio – that the camp will close in November. Everyone I know wants to stay but can't handle the uncertainty. I really don't want to go back to Somalia –*

107 UN Human Rights Council Thirty-third session, *Report of the Independent Expert on the situation of human rights in Somalia*, 15 September 2016, available at: <http://www.refworld.org/country,,,SOM,,57e13f654,0.html> (accessed 10 October 2016)

108 UN Human Rights Council Thirty-third session, *Report of the Independent Expert on the situation of human rights in Somalia*, 15 September 2016, available at: <http://www.refworld.org/country,,,SOM,,57e13f654,0.html> (accessed 10 October 2016)

109 Amnesty International interviews with persons with disabilities and their carers, Dadaab refugee camp, 18 August 2016.

110 Amnesty International interview with persons with disabilities and their carers, Dadaab refugee camp, 18 August 2016.

111 Amnesty International interview with persons with disabilities and their carers, Dadaab refugee camp, 18 August 2016.

112 Amnesty International interview with persons with disabilities and their carers, Dadaab refugee camp, 18 August 2016.

113 Amnesty International interview with persons with disabilities and their carers, Dadaab refugee camp, 18 August 2016.

that's not a hope for me. Food comes and goes and most of the time you are left without for days. I can't speak about other parts of Somalia but I know Jilib [the area where I am from] is still in a state of conflict."

DISCRIMINATION AGAINST MINORITY GROUPS

Somalia is home to a number of minority groups including the Bantu, Rerhamar and Baravnese, Bajuni, Gaboye, Tumul, Yibir and Galagala.¹¹⁴ These groups face discrimination in Somalia and are often excluded from accessing land and essential services due to their identity as an ethnic minority in a society with dominant clan structures.¹¹⁵ The UN Independent Expert on Somalia stated that many Somali Bantu, which is the largest minority group, have fled areas where they are from due to drought, inter-clan fighting and attacks by Al-Shabaab.¹¹⁶ The UN Independent Expert on Somalia's report also states that child recruitment by "Al-Shabaab targets Somali Bantu youth and children as young as 10 years of age."¹¹⁷

Amnesty International spoke to several refugees from the Somali Bantu community who are living in Dadaab, including community leaders, who expressed concern about returning due to fear of discrimination based on their ethnicity. One man, Issa, went back to Somalia twice in 2014 and 2015 as part of the official UN organized "go and see" visits.¹¹⁸ He told Amnesty International that he went to Baidoa, Kismayo and Mogadishu, and saw no representation of minority groups in local NGOs, youth leagues, social community services or other aspects of community programmes available for returnees. He also visited 13 IDP camps where he said the majority of people living there were from minority groups; however, the camps were managed by the Somali majority group and therefore minority groups did not get assistance.¹¹⁹

Amnesty International is concerned that the Tripartite Agreement does not specifically provide for the issues facing people with disabilities or those from ethnic minorities. The refugees Amnesty International spoke to clearly said that they did not want to return and that there is no question of a voluntary return. However, they have no information on what happens to them if the camp closes. Based on interviews carried out by Amnesty International in Dadaab, and information from NGOs and the UN Independent Expert's report, the risks they face are real, and return to Somalia is not a viable option. People with disabilities and ethnic minorities are not the only vulnerable groups of Somalia refugees in Dadaab. However, the lack of any appropriate plan that takes account of such groups underscores the serious human rights risks associated with the plan to close Dadaab or significantly reduce the population, and to return people to Somalia.

114 OCHA, *A study on minorities in Somalia*, 1 August 2002, available at: <http://reliefweb.int/report/somalia/study-minorities-somalia> (accessed 10 October 2016)

115 OCHA, *A study on minorities in Somalia*, 1 August 2002, available at: <http://reliefweb.int/report/somalia/study-minorities-somalia> (accessed 10 October 2016)

116 UN Human Rights Council Thirty-third session, *Report of the Independent Expert on the situation of human rights in Somalia*, 15 September 2016, available at: <http://www.refworld.org/country,,,SOM,,57e13f654,0.html> (accessed 10 October 2016)

117 UN Human Rights Council Thirty-third session, *Report of the Independent Expert on the situation of human rights in Somalia*, 15 September 2016, available at: <http://www.refworld.org/country,,,SOM,,57e13f654,0.html> (accessed 10 October 2016)

118 In accordance with the Tripartite Agreement, Article 15.2 parties facilitate "go and see" by refugees and "come and tell" visits by returnees and local authorities from Somalia. Tripartite Agreement between the Government of the Republic of Kenya; the Government of the Federal Republic of Somalia; and the United Nations High Commissioner for Refugees Governing the Voluntary Repatriation of Somali Refugees Living in Kenya, 2013, Article 26, available at: <http://www.refworld.org/pdfid/5285e0294.pdf> (accessed 3 October 2016)

119 Amnesty International interview with Somali Bantu community, 11 September 2016.

7. COMPROMISED ROLE OF UNHCR AND DONORS

The closure of Dadaab and the return of refugees to Somalia within a defined time period is Kenyan government policy but the execution of this policy involves UNHCR and a number of donor countries which have been involved in supporting the Dadaab camp for years.

As a party to the 2013 Tripartite Agreement, UNHCR (both directly and through its NGO implementing partners) is responsible for facilitating and coordinating the voluntary repatriation of Somali refugees. In line with this, UNHCR is supposed to “verify and assure the voluntary nature of the decisions made by the refugees to repatriate” and “facilitate the safe and dignified character of the repatriation by ensuring that it is carried out in accordance with national and international law.”¹²⁰ UNHCR has clear standards for voluntary repatriation of refugees. Its voluntary repatriation handbook states that:

“As a general rule, UNHCR should be convinced that the positive pull-factors in the country of origin are an overriding element in the refugees’ decision to return rather than possible push-factors in the host country or negative pull-factors, such as threats to property, in the home country.”¹²¹

The handbook also sets out conditions in order for returns to be considered voluntary, including that the decision is based on objective and accurate information about the return; and that refugees know what will happen if they choose not to repatriate.¹²² Based on Amnesty International’s findings, these conditions have not been met. Statements made by government have not been consistent with the principle of voluntary returns, and UNHCR is aware of these statements.¹²³ Moreover, as detailed in Chapter 4 the deadlines given and intimations that financial support is being withdrawn after 30 November are likely to act as push factors. In addition the limited information provided to people does not enable informed decision making.

Despite being aware that the Kenyan authorities are putting pressure on refugees to return to Somalia, UNHCR is actively supporting the process, including financially. The Kenyan government’s Taskforce Report, referred to in Chapter 3, states that the Government of Kenya will bear the “administrative and security costs during the repatriation exercise” while “UNHCR will finance the Budget for Repatriation.”¹²⁴ On 26 July, UNHCR appealed for an additional US\$115 million for the “voluntary return, reintegration of Somali refugees from Dadaab camp”, to carry out activities, including the verification exercise, and to

120 Tripartite Agreement between the Government of the Republic of Kenya; the Government of the Federal Republic of Somalia; and the United Nations High Commissioner for Refugees Governing the Voluntary Repatriation of Somali Refugees Living in Kenya, 2013, Article 26, available at: <http://www.refworld.org/pdfid/5285e0294.pdf> (accessed 3 October 2016)

121 UNHCR, *Handbook Voluntary Repatriation: International Protection*, 1996, p.10, available at: <http://www.unhcr.org/publ/PUBL/3bfe68d32.pdf> (accessed 3 October 2016)

122 UNHCR, *Handbook Voluntary Repatriation: International Protection*, 1996, p.10, available at: <http://www.unhcr.org/publ/PUBL/3bfe68d32.pdf> (accessed 3 October 2016)

123 Amnesty International meeting with UNHCR Deputy Representative in Nairobi, 19 August 2016.

124 A budget of US\$200 million for carrying out the repatriation exercise, with a US\$10 million commitment from the Government of Kenya is stated as the required amount in the document. See: Republic of Kenya, *Report of the National Taskforce on Repatriation of Refugees from Dadaab Refugee Complex*, 31 May 2016.

support “50,000 voluntary Somali refugee returns from Dadaab to Somalia” by the end of 2016.¹²⁵ UNHCR’s figure correlates with the Tripartite Commission’s Communique of reducing the population of Dadaab by 150,000¹²⁶, however it is not clear how UNHCR’s figure was established, nor how it relates to the government of Kenya’s stated intention to close Dadaab.

UNHCR maintains that the process is voluntary. In a meeting with Amnesty International in Nairobi, officials stated that “as long as UNHCR is here we will not support forced return. We have a communication campaign to articulate the message that as long as we are around we will continue to advocate for free and informed decision.”¹²⁷

Amnesty International recognizes that UNHCR is working in a challenging environment but is concerned that support for the repatriation process, including funding appeals to carrying it out, compromise UNHCR’s protection mandate.

The role of donor governments in the repatriation of Somali refugees is similarly concerning. Several donors are funding the returns process, directly and indirectly. The US has provided US\$265 million to support refugees and returnees in the region, in addition to US\$29 million in support UNHCR’s supplementary appeal on the return of Somalis. In September 2016 the UK announced that it would provide an additional £20 million (approximately US\$24 million) to “accelerate the voluntary return of refugees to Somalia from Kenya” and help ensure that they receive the support needed upon return.¹²⁸ The EU is the third major donor to the repatriation process with both Kenya and Somalia as recipients to funds under the EU Emergency Trust Fund for Africa (EU Trust Fund) programme.¹²⁹

In September 2016 Amnesty International met with the UK, US and EU in Nairobi and shared the organizations concerns that returns to Somalia were not voluntary. The donors defended their involvement in funding the returns process on the basis that additional support was needed in Somalia to provide for those returning. None of the donors viewed the returns as forced, although one donor acknowledged that they were ‘incentivized’.

The current role of donor governments in the return of Somali refugees from Dadaab must be viewed against both their historical failure to adequately support Kenya’s hosting of refugees and the current domestic policy priorities of some of these governments with regard to refugees and migration. As noted in Chapter 3, one of the justifications Kenya has put forward for closing Dadaab and returning people to Somalia is what Kenya views as the long-standing failure of the international community to meaningfully support Kenya’s hosting of a significant refugee population. In Kenya, and elsewhere, donors have largely responded to refugee movements through a humanitarian lens, allocating limited resources to situations treated as temporary or emergency circumstances, even when those situations become protracted, as in the case of Somali refugees. Too often this leaves refugees living in camps for long periods with little or no consideration of the longer-term impacts.

Foreign policy analysts have pointed to how the EU’s handling of the refugee crisis has given leverage to the Kenyan government in furthering its domestic policy to close Dadaab.¹³⁰ Some of Kenya’s key partners on refugee issues are now deeply implicated in abusive refugee policies of their own, particularly EU Member States, which have spent the last 18 months making clear that they will violate international law and make financial deals to keep refugees out of Europe. These abusive policy actions have been justified with reference to counter-terrorism and security, a core element of Kenya’s public rationale for the closure of

125 In addition the appeal supports the relocation of 16,000 non-Somali refugees from Dadaab to Kakuma refugee camp, the relocation and reintegration of around 42,000 Kenyans believed to be registered as refugees and the relocation of 15,000 Somali refugees currently in the resettlement process to Kakuma, making the total number of people leaving Dadaab 150,000 by the end of 2016. This makes the total appeal for the UN response for the ‘Somali situation’ in the region US\$484 million instead of US\$369.4 million. See: *UNHCR appeals for additional \$115 million for voluntary return, reintegration of Somali refugees from Dadaab camp*, 31 July 2016, available at: <http://www.unhcr.org/uk/news/press/2016/7/5797585c4/unhcr-appeals-additional-115-million-voluntary-return-reintegration-somali.html> (accessed 6 October 2016)

126 UNHCR, *Joint Communique: Ministerial Tripartite Commission for the Voluntary Repatriation of Somali Refugees from Kenya to Somalia*, 25 June 2016, available at: <http://www.unhcr.org/uk/news/press/2016/6/576ea0474/joint-communique-ministerial-tripartite-commission-voluntary-repatriation.html> (accessed 9 November 2016)

127 Meeting with UNHCR Deputy Representative to Kenya, 19 August 2016.

128 British High Commission Nairobi, *UK increases support for voluntary returns of Somali refugees from Kenya*, 22 September 2016, available at: <https://www.gov.uk/government/world-location-news/uk-increases-support-for-voluntary-returns-of-somali-refugees-from-kenya> (accessed 10 October 2016)

129 European Commission, *International Cooperation and Building Partnerships for change in developing countries, Kenya*, available at: http://ec.europa.eu/europeaid/countries/kenya_en (accessed 24 October 2016)

130 For example see ODI, *Closing borders: The ripple effects of Australian and European refugee policy: case studies from Indonesia, Kenya and Jordan*, September 2016, available at: <https://www.odi.org/sites/odi.org.uk/files/resource-documents/10862.pdf> (accessed 9 November 2016)

Dadaab and repatriation of Somali refugees. Moreover, the EU is enmeshed in regional efforts across East and Horn of Africa to keep migrants and refugees from reaching North Africa and the sea route to Europe.

EU DEALS ON MIGRATION

The EU and its Member States have invested funds in attempting to curb migration flows from Somalia and other countries in the region. Kenya and Somalia are both part of the EU-Horn of Africa Migration Route Initiative (the Khartoum Process) which brings together EU and African states and regional bodies to tackle irregular migration.¹³¹ This process seeks to prevent people – whether refugees or migrants – from moving north in an attempt to reach Europe. Other countries being funded by the EU as part of the initiative include Eritrea and Sudan.

The EU Trust Fund, formed at the same time as the Khartoum Process in 2014, provided an initial budget of €714 million (approximately US\$777 million) for the Horn of Africa until 2020.¹³² An estimated total of €50 million from the EU Trust Fund will go towards ‘REINTEG: Enhancing Somalia’s responsiveness to the management and reintegration of mixed migration flows’.¹³³ One of the main purposes of the fund is to support Somalia in providing assistance to its IDP population. In addition it will provide assistance to Somalia to increase its capacity support ‘reverse migration flows’ including of Somali refugees from Dadaab refugee camp, returnees from Yemen and “increasingly...readmission of failed asylum-seekers and illegal migrants” from European countries.¹³⁴ In addition, in September 2016, the EU signed an agreement with the International Organization for Migration (IOM) for €5 million, specifically to support the Somali government with providing assistance to those returning, including from Kenya.¹³⁵

The situation in which Somali refugees in Kenya now find themselves, and the serious risks to their human rights, reflect the combined failures of Kenya and the international community. But while both are deeply implicated, neither can point to the other to absolve themselves of responsibility. Kenya has chosen to pursue forced returns, in violation of the Refugee Convention to which it is party, and has failed to even consider alternatives, such as a process to integrate refugees into Kenyan society. Its international partners have not, to date, offered to support meaningful alternatives, which would require them to substantially increase both financial assistance and resettlement offers.

At the time of writing, in early November 2016, the full closure of Dadaab by the end of November 2016 is unlikely, and a reduction of the population by 150,000 by the end of December would require a significant relocation within Kenya and mass returns to Somalia. However, because neither the government nor UNHCR has made any clear announcements about what will happen to those at Dadaab, people are living in a state of considerable anxiety.

131 Declaration of the Ministerial Conference of the Khartoum Process (EU-Horn of Africa Migration Route Initiative), Rome, 28th November 2014.

132 European Commission, *International Cooperation and Building Partnerships for change in developing countries, The EU Emergency Trust Fund for Africa*, available at: https://ec.europa.eu/europeaid/regions/africa/eu-emergency-trust-fund-africa_en (accessed 24 October 2016)

133 The European Union Emergency Trust Fund for Stability and Address the Route Causes of Irregular Migration and Displaced Persons in Africa, *Action Fiche for the implementation of the Horn of Africa*, available at: https://ec.europa.eu/europeaid/sites/devco/files/t05-eutf-hoa-so-03-re-integ_en.pdf (accessed 24 October 2016)

134 The European Union Emergency Trust Fund for Stability and Address the Route Causes of Irregular Migration and Displaced Persons in Africa, *Action Fiche for the implementation of the Horn of Africa*, available at: https://ec.europa.eu/europeaid/sites/devco/files/t05-eutf-hoa-so-03-re-integ_en.pdf (accessed 24 October 2016)

135 IOM, *EU, IOM Facilitating Sustainable Return in Somalia, Horn of Africa*, 30 September 2016, available at: <https://www.iom.int/news/eu-iom-facilitating-sustainable-return-somalia-horn-africa> (accessed 24 October 2016)

8. CONCLUSION AND RECOMMENDATIONS

Kenya has generously hosted large numbers of refugees from the region, including from Somalia, for many years, and in some cases decades. The country has received little support from the international community. The case of Kenya is a clear example of a total failure in responsibility sharing.

At the same time however, the Kenyan government has a responsibility towards the refugees it is hosting. Many of the Somali refugees living in Dadaab refugee camp have fled conflict and persecution in their country. Although there has been some improvement in the security situation in some parts of Somalia, the armed conflict is ongoing and civilians in Somalia face serious risks as a result of the fighting and the recruitment tactics used by Al-Shabaab and others. In addition, Somalia lacks basic services and those returning face significant challenges in terms of accessing support.

While some refugees have said they want to return, the evidence suggests that the majority of Somali refugees do not want to do so. Any returns are supposed to be voluntary. However, the Kenyan government's announcements about the closure of Dadaab and the intention to have all or a significant number of people returned to Somalia has created a context in which voluntary returns are not possible.

Beyond the government's stated position, refugees are facing harassment from security forces in Kenya and restricted humanitarian assistance – both of which increase the pressure to leave Kenya and go to Somalia. In addition, refugees do not have access to adequate information on which to base an informed decision on return.

While the Kenyan government and UNHCR continue to insist that returns are “voluntary” and in “safety and dignity” in line with the Tripartite Agreement signed by the Kenyan and Somali governments and UNHCR, Amnesty International has found the returns are forced and in contravention of international law, including the principle of *non-refoulement*.

With over 1.1 million internally displaced people already in Somalia living with limited support, and because of the way in which Kenya has announced deadlines for the closure of the Dadaab camp, neither governmental or non-government actors in Somalia have had time to properly prepare for returnees.

Moreover, while all Somali refugees face serious human rights risks as a consequence of the government of Kenya's policy, vulnerable groups such as those with disabilities and ethnic minorities at risk of discrimination are in a particularly difficult position. No discernible support is being provided for them to return, and many do not want to do so. But they have not been given any information that says they will be allowed to remain in Kenya.

While the Kenyan government is responsible for the policy it has instituted and the human rights violations that are the inevitable consequence of this decision, UNHCR and donor countries have acquiesced in and are supporting the process. UNHCR and at least some donors are aware that the process is deeply problematic but all continue to say that returns will not be forced and defend their financial and technical support.

Amnesty International does not consider that UNHCR or donor countries can reasonably conclude that the returns are or can be voluntary in the context of the statements made by the government of Kenya and the pressure on refugees.

Donors are responsible for what they support financially. Moreover the EU has gone further than funding a flawed process, it has promoted policies and provided financial support to systems that emphasise control of migration and preventing refugees and migrants from sub-Saharan Africa from reaching the EU. In so doing it has increased the risks for refugees in Kenya and elsewhere and given legitimacy to policies that seek to keep refugees out or return them to places where their rights are at risk.

In light of these findings, Amnesty International is making these recommendations:

TO THE GOVERNMENT OF KENYA:

- Halt all returns that do not meet the definition of voluntary to Somalia and make public assurances to Somali refugees and asylum-seekers still fearing return that they can continue to seek and enjoy refuge in Kenya;
- Reconsider the decision to close Dadaab refugee camp in the short-term and instead work with the international community to explore longer-term solutions for refugees, including abandoning the encampment policy and pursuing local integration;
- Continue to grant asylum to Somalis fleeing conflict and persecution, in line with national and international law;
- Re-establish procedures recognizing Somali refugees on a *prima facie* basis;
- Immediately resume registration of refugees in all camps and urban areas.

TO UNHCR AND ITS IMPLEMENTING PARTNERS:

- Stop facilitating returns to Somalia until the Kenyan government confirms that Somali refugees have a genuinely free choice to stay in Kenya and the refugee population is adequately informed of this change;
- Provide full and accurate information to Somali refugees opting to return to Somalia including services provided in Somalia and security risks faced upon return in line with UNHCR's Position on Returns to Southern and Central Somalia and other assessments provided by the UN, NGOs and independent sources;
- Ensure robust monitoring mechanisms and support to Somalis who return to Somalia, in addition to continued support and services for refugees and asylum-seekers in Kenya including Dadaab refugee camp.

TO THE INTERNATIONAL COMMUNITY, INCLUDING THE US, EU AND UK:

- Call on the Kenyan government to ensure that returns to Somalia fully comply with standards of voluntary repatriation and withdraw funding or other support for forced returns;
- Meaningfully share with Kenya as a main refugee-hosting country the responsibility to both host and assist refugees, including through fully funding humanitarian appeals and providing increased resettlement places and other pathways of admission;
- Provide technical and financial support to the government of Kenya, NGOs, and civil society to come up with sustainable and long-term solutions for integration of refugees in the country;
- Ensure sufficient technical and financial assistance is provided in Somalia for those returning in addition to internationally displaced persons and host communities.

**AMNESTY INTERNATIONAL
IS A GLOBAL MOVEMENT
FOR HUMAN RIGHTS.
WHEN INJUSTICE HAPPENS
TO ONE PERSON, IT
MATTERS TO US ALL.**

CONTACT US



info@amnesty.org



+44 (0)20 7413 5500

JOIN THE CONVERSATION



www.facebook.com/AmnestyGlobal



[@AmnestyOnline](https://twitter.com/AmnestyOnline)

NOWHERE TO GO

FORCED RETURNS OF SOMALI REFUGEES FROM DADAAB REFUGEE CAMP, KENYA

On 6 May 2016, the Kenyan government announced its intention to close Dadaab, the world's largest refugee camp, by 30 November 2016. Dadaab is home to 280,000 refugees, including 260,000 Somali refugees, some of whom have lived there for over two decades. The government's reasons for the closure of Dadaab include claims that the camp is a threat to national security and that Kenya has received inadequate support from the international community.

While the UN and some government statements claim that Somali refugees are being asked to return to Somalia voluntarily, 'voluntary' returns are not possible under the current circumstances. The pressure on refugees to return, including threats by the Kenyan authorities, and lack of sufficient information provided by UNHCR and its implementing partners, has left many feeling deeply anxious about their future. Somali refugees have been offered no alternative; if Dadaab closes they have nowhere to go.

The report concludes that the Kenyan authorities must immediately halt the forced returns of Somali refugees, and instead look at alternative solutions to hosting refugees, with the support of donors. It also calls on the international community to provide significantly more support to Kenya as a major refugee hosting country, including through increasing resettlement places, and providing funding in support for long-term sustainable solutions.