



Memo to The Hague: Somalia is Not Safe ^[1]

by

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Twenty-six-year-old Said Ahmed Said was walking down the street in Mogadishu, Somalia's capital, on November 8 when there was an explosion at a nearby hotel. He was hit by flying debris.

Such attacks are not unusual in Mogadishu. As with Iraq, Afghanistan or other places in which there is an armed conflict, it's easy to become immune to the news that every week civilians in Mogadishu are killed or injured. Many incidents are not even reported in the international news unless the casualties are particularly large—like the April bombing of a Mogadishu courthouse that killed more than 30 people, or aimed at foreign targets—like the June suicide attack on the United Nations compound in Mogadishu.

What makes Said's case special is that until November 5 he lived in the Netherlands. Said, along with his mother and sisters, fled Somalia's terrible conflict in the 1990s, when he was 7 years old. Although Said's mother and sisters eventually received residency in the Netherlands, his application was denied because he had a criminal record. Said got a temporary respite in 2011 when the Dutch government – along with many other European governments – suspended returns to Somalia after judicial rulings that, in general, failed asylum seekers should not be returned to Mogadishu due to the appalling violence in the city.

That position changed in December 2012. Many of Somalia's international donors and partners wanted to support the new government that took office in August 2012, seeing it as Somalia's best hope for re-establishing stability and peace after more than 20 years of conflict. European donors have provided millions of Euros in aid for reconstruction and military support to the Somali and African Union forces pushing back the main armed Islamist group al-Shabaab, which continues to control large swathes of territory in south-central Somalia.

But European governments also saw the political developments as an opportunity to resume sending failed asylum seekers back to Somalia, under the wishful-thinking position that the situation had stabilized. "It's very evident that the general situation in Mogadishu has improved," said Dutch Secretary of State Fred Teeven on December 19, 2012. He continued: "The indiscriminate violence because of which everyone in the city was at risk, has substantially decreased." The UK's Home Office has made similar arguments.

While there has been a reduction in open conflict in Mogadishu, the reality on the ground is that on a daily basis civilians are injured and killed by targeted attacks by gunmen, or attacks by improvised explosive devices and grenades. The Somali government does not even control all of Mogadishu and is failing to provide much of its population with basic security. And large parts of south-central Somalia remain in the throes of ongoing fighting, or even under al-Shabaab control. Al-Shabaab still has the capacity to wreak havoc, and civilians still bear the brunt of its attacks.

People who follow events in Somalia listen to the political rhetoric with disbelief. In 2013, as the Dutch and other European governments began the process of resuming deportations, Human Rights Watch, Amnesty International, Vluchtelingenwerk and other organizations argued that the time was not right to send Somali asylum seekers back to Mogadishu or south-central Somalia.

Sweden is another country eager to send Somalis back, and the European Court of Human Rights gave it a green light in September. The court said the general level of violence in Mogadishu had decreased to the extent that everyone was no longer at a real risk, an assessment based largely on a Norwegian and Danish team that visited Kenya and spent three days in Mogadishu, sleeping in the airport because of the insecurity.

Appeals in Dutch courts held up deportations from the Netherlands for a while. In April I testified in a High Court case in The Hague that would ultimately set a dangerous precedent. I showed maps with large black patches covering most of south-central Somalia: the areas that remained inaccessible to humanitarian agencies because of insecurity.

I had compiled data showing that even though there was less outright fighting in Mogadishu, the toll of injured and dead civilians from grenade attacks and bombings had gone up in 2013. But the judges seemed far more interested in hearing the Dutch government's arguments about how the situation in Mogadishu had improved, again based on questionable information, given the limited access.

The Somali client lost her appeal and after several months the Dutch government prepared to resume deportations.

The Dutch and other European governments should recognize that facts on the ground, not political "wish lists," need to determine their policy on Somali returns. The Dutch government should immediately reverse their decision that the time is ripe for returns. Lives depend on

it.

After the Netherlands resumed deportations to Somalia, Said was the second Somali to be sent back. He was lucky – he was only lightly wounded in the attack. The next Somali returned might not be so lucky.

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