



Dadaab's broken promise

A call to reinstate voluntary, safe and dignified returns for the Dadaab refugee community

The 2013 Tripartite Agreement promised that refugees from Somalia would be assisted to return home in safety and dignity. The sudden announcement in May to close Dadaab camps breaks this promise, and the Tripartite Agreement process now fails to meet international standards for voluntary return. This paper argues why the deadline to close the camps should be lifted, to better protect vulnerable Somalia refugees who remain in need of international protection.

Foreword

The returns process from Dadaab's refugee camps is no longer voluntary, dignified or safe. We are willing and able to enable voluntary return, but the pressure to push out more than 280,000 registered refugees from the camps has led to chaotic and disorganized returns. Many Somali refugees feel trapped following

the Kenyan government's decision to close the camps by the end of November. An overwhelming 74 per cent of Somali refugees in Dadaab said in August that they are not willing to return yet, largely fearing insecurity in their home country. Refugees in Dadaab need international protection. This report highlights the major failures of the current returns process, and provides a roadmap for the way

forward to ensure that refugees' rights are respected.

The initial returns programme under the 2013 Tripartite Agreement was largely a success, as it saw that Somalis would be assisted to reach their return locations in safety and dignity. The sudden announcement by the Kenyan government in May to close the camps by November breaks this promise, and the current returns process fails to meet international standards for voluntary return.

The Kenyan government and the UN refugee agency (UNHCR) should reinstate the organized process of return under the Tripartite Agreement. The unrealistic deadline must be removed before the situation further deteriorates.

Protection of refugees returning to Somalia must be prioritized. The current process of returns does not protect vulnerable Somalis during repatriation. For example, there are reports that woman and children are traveling without male relatives, and orphaned children living with extended family, have been separated from relatives and returned to Somalia alone. Refugees are also reportedly being asked to pay bribes to access repatriation services.

Protection monitoring should be strengthened on both sides of the border, to ensure the safety and dignity of returnees is not compromised at any point of the process. Mechanisms to report protection violations should be set up, so any violation or threat to the safety of refugees is addressed as soon as possible.

Repatriation should provide viable durable solutions to the refugee crisis. The aim should not simply be to facilitate the return of as many refugees as possible. Sustainable return should form a critical component of the programme. It must prevent people returning becoming

internally displaced in Somalia or returning as undocumented refugees to Kenya.

This requires development and recovery assistance as much as humanitarian aid, particularly on issues dealing with establishing social services, and supporting livelihoods and land rights in areas of return.

It necessitates the donor community to expand financial support beyond short term humanitarian funding, and to ensure state authorities and aid organizations have the resources to implement these programmes responsibly.

While some of the issues raised in this report have relatively quick fixes, others will take time to resolve. The November deadline for the closure of the Dadaab camps sets an impossible deadline to address the challenges of the returns process, and sets us up to fail the people in Dadaab. Only by returning to the spirit of the original Tripartite Agreement can we insure the credibility and integrity of the returns process.

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Background

Dadaab's five refugee camps in eastern Kenya are the largest such complex in the world. They were set up in 1991 to provide a temporary safe haven to some 90,000 Somalis fleeing the country's civil war. In 2011, a drought hit east Africa and the camps soon hosted over 440,000 refugees. Today, Dadaab's camps are home to about 280,000 refugees, the majority from Somalia.

In November 2013, UNHCR and the Kenyan and Somali governments signed an agreement for the voluntary return of Somali refugees from Kenya. The Tripartite Agreement was based on international law, and created a framework in which returns were to be organized. The programme started slowly, with 2014 seeing 485 returns, and a further 5,616 in 2015, initially only to 3 areas of Somalia designated as safe. The scale up of the support package generated more interest in return, but faced donor funding shortages.

A ministerial pledging conference on Somali refugees was held in Brussels in October 2015, hosted by UNHCR with the Kenyan and Somali governments. Pledges of US\$105 million were made by donors towards an action plan for future returns. However, most of what was promised was existing funding, and disappointingly, very little additional resources were made available to scale up the process effectively.

In 2016, frustrated by the slow pace of returns, the Kenyan government introduced a timeline for the closure of Dadaab. While this increased the numbers entering the returns process - with about 25,000 to date this year - the pressure created significant protection concerns.

Where we are today

On 6 May, the Kenyan government announced that it intended to close Dadaab's five camps by 30 November, citing economic, security and environmental burdens. Kenyan authorities suggested that it was in the interest of national security to shut down the camps, alleging they provided a haven and source of recruits for the armed group Al Shabaab. Recent terrorist attacks on Kenya's Garissa University and on Nairobi's Westgate Mall are thought to have influenced the urgency for the camps' closure.

A first step in closing the camps was the disbandment of the widely respected Kenyan Department of Refugee Affairs, eventually replaced by the Refugee Affairs Secretariat and a national multi-agency refugee repatriation team. Since then, reports have been received of intimidation and coercion of refugees so that they return to Somalia.

Registration of new refugee arrivals was suspended and camp coordination structures were undermined. Humanitarian assistance, and UN and NGO resilience projects in the camps now face greater barriers to being implemented.

The government's announcement called for the repatriation of all Somali refugees living in Dadaab. Uncertainty and fear spread among the refugee community, calling into question the voluntariness of returns. The sustainability of returns was also put in jeopardy, as many areas in Somalia are still insecure, as evidenced by the recent announcement of a further delay in planned national elections.

Somalia is one of the poorest and least developed countries in the world, owing to the long-term conflict. It suffers from high unemployment and is devoid of basic social services. The country also hosts more than one million internally displaced people. For many refugees, especially those from rural areas, the

prospects of return are dependent on their ability to reclaim their land in a country where the land tenure system is weak and forced evictions are common.

In addition, authorities and aid organizations had insufficient time to prepare the ground in areas where returns were possible. Following the announcement, however, returns increased dramatically despite the ongoing insecurity and fluid political situation. Following the government's decision, UNHCR put in place enhanced return assistance to support repatriation. Today returnees receive financial assistance from UNHCR and in-kind support from aid organizations.

The Norwegian Refugee Council (NRC) has been working with UNHCR to ensure that the overall process remains voluntary. NRC manages helpdesks in Dadaab, where it provides information on areas of return, to enable refugees to make an informed decision about going back. However, given the changing security situation in Somalia, where large parts of country remain cut off from access for NRC and our partners, providing refugees with accurate information about security and available services in return areas challenging.

Some returnees are availing of the return package and going back. One mother of 10 children who left Dadaab in September said: *"Yesterday in the camp I had nothing. Now I have a small [aid] package to help us return. I will make a life for myself and my family in Mogadishu."*

However, the majority of refugees do not echo this sentiment. A UNHCR-led refugee population fixing exercise carried out in August revealed that an overwhelming 74 per cent of Somali refugees did not want to return yet largely fearing ongoing insecurity at home.

Set up to fail

Three key issues are at the forefront of why the current process of returns - under the November deadline - is set up to fail.

1. Returning is no longer voluntary

The returns programme under the Tripartite Agreement was largely successful. It provided that refugees would be assisted to return to Somalia in safety and dignity. The decision to return was only to be made voluntarily, in line with the principles of non-refoulement, and upon the provision of counseling and up-to-date information on return areas.

The current repatriation programme does not meet international standards for voluntary refugee return. The impossible deadline to close the Dadaab camps in November and the disbandment of the key government agency charged with overseeing the process under the Tripartite Agreement has led to fear, panic and chaos among the refugees.

Refugees have voiced that they feel trapped, forced to choose between receiving assistance to return to areas they may not be ready to go back to, or waiting and facing the uncertain consequences of staying put. These voices echo those sentiments:

A Somali refugee (17) told NRC, *"I don't think I'll take the voluntary return package to Somalia. My safety isn't guaranteed there."*

Another Somali refugee (18) stated: *"I don't want to return to Somalia yet. The country is not stable."*

Another refugee (34) said *"The voluntary returns programme has brought a lot of worries to us. I personally don't want to go. If Al Shabaab see you, and you are [returning] from Kenya, they will shoot you."*

Further refugees pointed to a lack of basic infrastructure on return. A female refugee (27) said that, *"Everyone wants to go back to a stable Somalia, but now is not the right time. There is no health or education yet. And we need a stable government before we return."*

Return should be viewed as a process of rehabilitation, restructuring and rebuilding, not as a project with an end date in mind. The Kenyan government should return to the process of organized and planned returns, to ensure a safe, dignified, sustainable and voluntary return process.

Refugees who decided to return to Somalia largely supported the original Tripartite Agreement in 2013, and spoke of being happier after they returned. One refugee who returned stated;

"It is not a bed of roses [Somalia], but I live a normal life. My son has been struggling to get daily work at the marketplace and I have my share of challenges providing for my family. However, it is very fulfilling to know that my children will grow up among their own kin without discrimination and seek to progress in their lives."

2. Protection of refugees not prioritized

Current mechanisms are not strong enough to ensure the protection of refugees being repatriated. While NRC has been conducting cross-border protection monitoring since December 2014, broader systems need to be set up to protect both those being repatriated and spontaneous returnees, that is refugees returning outside of the current voluntary repatriation process.

Refugees being repatriated through the returns programme that were interviewed in Somalia's Luuq town in August reported that orphaned children living with extended family were being separated from their relatives and returned to Somalia alone. Despite the existence of a Best

Interest Determination Committee in Dadaab, extended families are subjected to rigorous and bureaucratic processes to prove their relationship with minors in their custody, which has discouraged them from accessing return desks and forces them to return spontaneously.

One young girl (14) whose parents were dead told us her story: *"I have been living with my grandmother. We waited 6 months to return to Somalia because my grandmother kept being interviewed by several people regarding returning with us. They wanted us to return alone and my grandmother could not leave us behind, neither could she prove her relationship with us. My grandmother kept visiting the office on a regular basis to inquire about the status of our return. After several visits, she was informed that we would return but on separate convoys. We were afraid and almost cancelled our intention to return but finally decided to return, but still travelled separately and were reunited in Luuq."*

Male refugees prefer to travel to Somalia through Garissa and Mandera counties in Kenya, as opposed to using convoys through Dhobley, for fear of being forcefully recruited by Al Shabaab. Several refugees interviewed also mentioned that they feared having their children recruited by extremists if they returned, the very thing that led some of them to Kenya originally. Their greatest fear remains that their children would join the ranks of the insurgency in Somalia, in the absence of social services or security.

A mother (61) of 12 children said that *"as a result of the announcement by the Government of Kenya there was a spike in the number of people who returned unassisted, and they were worried because their children, especially their sons, did not have strong connections in Somalia since they were born in Kenya, and therefore they were fearful that their sons could be recruited by the militants..."*

Returnees interviewed also reported that repatriation staff in Dadaab have solicited bribes prior to agreeing to register a person for return. This has resulted in delays in return, as families are unable or unwilling to pay.

Nineteen repatriated refugees who arrived in Luuq all reported having been asked to pay money prior to being allowed to speak to the repatriation officers. For example, one refugee (45) said;

"While in Dadaab we have no money, no decent jobs and no resources to manage our existence. We are being asked to pay bribes by some officers in Dadaab to enable access repatriation services. Those who pay bribes are put on the manifest immediately..."

Protection monitoring should be enhanced to ensure the safety and dignity of refugees is not compromised at any point of the return process. Mechanisms to report protection violations should be set up, to guarantee that any violation or threat to the safety of refugees is addressed as soon as possible. Protection monitoring should be prioritized in the following areas:

- Dadaab camps: This is the first point of contact with the voluntary return process. Protection monitoring should ensure that refugees approaching aid organizations for repatriation assistance act freely, and are not solicited for bribes to return to Somalia.
- Repatriation assistance points: Protection monitoring should ensure that refugees who have registered for repatriation are not solicited for bribes along the return route to Somalia. Monitoring should also take place that returnees are treated well and travel safely until they reach their destinations.
- Somalia-Kenya border: Protection monitoring on the border should be focused

towards ensuring safe access to territory and monitoring of return movements.

- Spontaneous returns: Over 11,000 people have spontaneously returned to Somalia since the May announcement and are excluded from the return assistance package because they have not registered for voluntary repatriation. As little is known about the root causes of spontaneous return and the specific protection risks while attempting to return and once they reach Somalia, more resources should focus on these areas.

3. Revolving door scenario being created

Somalia is one of the poorest countries in the world. Over 80 per cent of the population live in poverty and one million people are internally displaced. Basic social services and infrastructure are mostly non-existent or at best limited. The security situation is fluid in many places and Al Shabaab still controls many rural areas. The Government of Somalia recently announced a further one-month delay in planned elections in 2016, citing security threats.

The number of vulnerable returnees far outstrips the resources available for post-arrival humanitarian assistance. The pressure to speed up refugee repatriation has led to focus on modalities of return, and unequal attention is being put on sustaining those returns. Sustainable return should form a key component of the returns programme, to prevent those returning becoming internally displaced, or returning as undocumented refugees to Kenya.

Limited absorption capacity

With limited absorption capacity in Somalia, the majority of returnees are unable to reintegrate effectively and remain in need of long-term assistance. This often results in dangerous coping mechanisms such as returnees forced to join displacement camps within Somalia, or subsequent movement to

border towns with Ethiopia, in an attempt to join refugee camps there.

Refugee returns to Somalia will increase pressure to the already insufficient services in existing communities, such as health, water and education. They will also fuel tensions with existing communities if not managed carefully.

Sustainable integration

Once actual movement to Somalia has occurred, the challenge should shift to providing sustainable reintegration. The needs of refugees are most acute immediately after arrival, but also grow over time, as return packages become exhausted and livelihood opportunities are limited. Interventions should focus on promoting self-sufficiency.

In August, the Lower Juba State authorities blocked over 1,100 returnees who arrived in Dholeby from further travel. They suspended all returns to Jubaland until donor funding promised for basic social services materialized.

Concerns raised by the Jubaland administration included the largely unplanned nature of returns threatening to worsen an already volatile security situation in the capital, Kismayo. It was also noted that the return package was insufficient for the returnees to reestablish themselves and fully integrate, so it would expose them to further protection risks. Also, since most returnees could opt to join displacement camps it would create more needs and new unplanned settlements. The Jubaland case exemplifies the dilemmas faced by returnees if the repatriation process continues in its current state.

Building resilience

While state and peace building efforts are ongoing in Somalia, communities are still vulnerable to recurrent stresses and shocks, as a result of conflict, weak infrastructure and climate-induced disasters. In this context, aid agencies have traditionally focused on

providing emergency humanitarian assistance. As a result, communities lack the capacity to face the next crisis. Returns should be linked to resilience programmes in Somalia, to ensure the process is sustainable and successful.

A number of partners are working on the ground in Somalia to support resilience-based programmes. For example, NRC has developed an innovative programme to support Somalis who have returned from Dadaab. The programme has three tiers; integrated return, reintegration and resilience support to returnees. The programme ensures that returnees are supported from the preparation stage of leaving Dadaab, helped to safely reach their destinations in Somalia, and provided with long-term reintegration opportunities so they can build new lives. However, resilience approaches need to be expanded and strengthened by all actors to support sustainable returns. This also requires donors to support through enhanced multi-year funding.

Addressing land issues

Resilience programming must incorporate the issue of land. Land in Somalia is an extremely sensitive issue. No uniform structured land tenure system exists to form a legal framework for land ownership. For most refugees, especially those from rural areas, the prospects of return are predicated on their ability to reclaim their land, or gain access to land.

Forced evictions present a great threat to the returns progress. About 130,000 Somalis were forcefully evicted from their land in Somalia in 2015, and over 90,000 between January and August 2016. Most of the evictions took place with insufficient notice or no notice at all, destroying humanitarian gains and interrupting livelihoods. Unless the issue of land and property rights is addressed, the insecurity of tenure will most likely lead to a steady decline in returns and may eventually result in secondary or internal displacement, or the revolving door phenomenon.

Recommendations

To the Kenyan and Somali governments:

- Return to the process of organized and planned repatriation process as per the Tripartite Agreement, to ensure a safe, dignified, sustainable and voluntary return process.
- Remove the November deadline imposed by the Kenyan government for the closure of the Dadaab camps.

To UN and NGO organizations:

- Strengthen cross-border coordination mechanisms to ensure that the governments of Kenya and Somalia are supported to meet international obligations for voluntary repatriation.
- Enhance protection monitoring on both sides of the Kenyan-Somali border, to resolve complaints related to protection, return assistance and information.
- Ensure that monitoring and follow up is in place to understand the root causes behind Somali refugees are spontaneously returning outside of the repatriation process, and to appropriately support them.
- Establish grievance redress mechanisms to resolve refugee issues related to protection, return assistance and information.
- Re-adjust aid programming in Kenya and Somalia to incorporate the three-tier approach to returns: repatriation, reintegration and resilience.
- Scale up local level coordination in areas of returns supporting the Government of Somalia to meet returnees needs through a resilience lens.

To the donor community:

- Commit and release sufficient funding for reintegration and development programming in areas of return in Somalia.
- Provide technical support to the Government of Somalia and local authorities to manage the returns process.