



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### Decision on admissibility adopted under the Optional Protocol, concerning communication No. 3781/2020\*,\*\*

1. The author of the communication is A.A.H., a national of Somalia born in 1977. He belongs to the Bagadi minority. He is originally from Qoryooley, Province of Shabelle Hoose, where he lived until his departure from Somalia to Denmark. The author submits that he had a small clothing store in Qoryooley and in 2011, Al-Shabaab demanded the monthly payment of a portion of his income and prohibited him from sewing certain types of clothes. In 2013, when the author could no longer afford to pay, he was taken to an office by members of Al-Shabaab, where they hit him on the back and threatened that if he refused to cooperate with them, he would be killed. When the author informed his spouse and his father of the situation, the latter gave him some money to flee the country. The author submits that he could not report the incident to the authorities, as the nearest police station was located 120 kilometres away from his home town and it would have been dangerous for him to travel. He further submits that he has no family in Qoryooley anymore, because his father fled the town and now lives in a refugee camp, while his spouse and children fled to Kenya.

2. The author arrived in Denmark in 2013 and he was granted residence status in Denmark on 26 November 2013 on the basis of the general human rights situation in Somalia rather than on the basis of his individual circumstances. On 14 March 2018, the Danish Immigration Service decided to withdraw the author's residence permit, considering that the general conditions in Qoryooley had improved since the author's departure and that he had failed to show that, due to his individual circumstances, he would be facing a risk of persecution. Referring to the inconsistencies in the author's narrative, the Refugee Appeals Board upheld this decision on 8 July 2019.

3. The author submits that he faces a real risk of torture and other ill-treatment upon his return to Somalia, in breach of articles 6 and 7 of the Covenant. In this regard, he submits that he was persecuted by Al-Shabaab when he was living in Somalia and that his persecution would continue upon his return since his home town belongs to an area currently under the control of Al-Shabaab where he cannot seek protection from the Government of Somalia. He further submits that his situation would be even worse now, as he would be a returnee from a Western country and would thus be considered a spy assisting the Government and its allies in Somalia in their fight against Al-Shabaab. He may also be considered a traitor who, instead of taking up the fight, decided to run away from the ongoing war against the Government. He further argues that even if he were not killed on suspicion of being a spy or a traitor, he would be expected to pay taxes collected by Al-Shabaab or to join the militia. Should he not obey those orders, he would be killed or subjected to torture for his resistance. Accordingly,

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\* Adopted by the Committee at its 131st session (1–26 March 2021).

\*\* The following members of the Committee participated in the examination of the communication: Tania María Abdo Rocholl, Wafaa Ashraf Moharram Bassim, Yadh Ben Achour, Arif Bulkan, Mahjoub El Haiba, Furuya Shuichi, Carlos Gómez Martínez, Marcia V.J. Kran, Duncan Laki Muhumuza, Photini Pazartzis, Hernán Quezada Cabrera, Vasilka Sancin, José Manuel Santos Pais, Soh Changrok, Kobauyah Tchamdja Kpatcha, Hélène Tigroudja, Imeru Tamerat Yigezu and Gentian Zyberi.



the author considers that the Danish authorities failed to give due weight to his individual circumstances and to the real and personal risk of persecution that he would face upon return.

4. On 24 July 2020, the Committee, acting through its Special Rapporteurs on new complaints and interim measures, decided not to request the State party to refrain from deporting the author to Somalia while his complaint was being considered by the Committee.

5. The Committee takes note of the author's claim that he would face a risk of torture and other ill-treatment if he were returned to Somalia, since his home town belongs to an area currently under the control of Al-Shabaab, where he cannot seek protection from the Government of Somalia, and that his situation is aggravated by his status as a failed asylum-seeker. The Committee notes, on the other hand, that the domestic authorities thoroughly examined each of the author's claims and found that the author would not be at a specific and individual risk of persecution in case of his return to Somalia. The Committee observes that the author challenges the assessment of the evidence and the factual conclusions reached by the Refugee Appeals Board, but he does not explain why that assessment would be arbitrary or otherwise amount to a denial of justice. Therefore, without prejudice to the continuing responsibility of the State party to take into account the present situation of the country to which the author would be deported, the Committee considers that the author has failed to sufficiently substantiate the claim that his return to Somalia would expose him to irreparable harm in violation of articles 6 and 7 of the Covenant.

6. The Committee therefore decides:

- (a) That the communication is inadmissible under article 2 of the Optional Protocol;
- (b) That the present decision shall be transmitted to the State party and to the author.

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