

## Appendix I: Letter to NISA

November 7, 2017



*Via email:*

**Re: Children in National Intelligence and Security Agency (NISA) Custody**

Dear forthcoming Director General,

I wanted to share with you the key findings of our research into treatment in government custody of children suspected of association with Al-Shabab, to follow-up on a previous meeting between former NISA director, Abdullahi Mohamed “Sanbaloolshe”, and Human Rights Watch’s senior Researcher, Ms. Laetitia Bader in May 2017 in Mogadishu.

Human Rights Watch is an international human rights organization that conducts research and advocacy on human rights abuses by states and non-state armed groups in over 90 countries worldwide. Human Rights Watch has long documented violations of international human rights and international humanitarian law by all parties to the conflict in Somalia.

In the interest of accurate research, Human Rights Watch strives to reflect all perspectives in our research and publications. We are therefore including the summary of our findings with some final follow-up questions below, to which we hope you or relevant staff within NISA will respond so that your views are accurately reflected in our reporting.

**Research findings:**

Our research is based on over 80 interviews with children alleged to have been associated with Al-Shabab and relatives of children detained by security forces in south-central

Somalia and Puntland. We also spoke with government and military court officials and child protection workers.

As you are aware, on February 2014, the federal government in Somalia signed Standard Operating Procedures (SOPs) for the reception and handover of children separated from armed groups. The procedures stipulate that children, whether having escaped, been captured, or having been otherwise separated from armed groups should be handed over to the United Nations for rehabilitation within 72 hours of having been taken into government custody. The SOPs also spell out, as per international standards, that debriefings with children in government custody should focus on facilitating the prompt return to their families, and should in no way serve to obtain information “under force or threat of force, real or implied.”

However, Human Rights Watch research found that NISA has been detaining different categories of children beyond the stipulated 72 hours. In addition, NISA personnel have also been interrogating children without access to legal counsel or their relatives, and subjecting them to coercion and forced confessions.

We also identified at least nine cases affecting 16 children sentenced by the military court since 2015, all of which had been transferred to the court following NISA detentions. We repeatedly found that the basis of the indictments were confessions extracted under NISA’s custody.

These cases raise grave concerns about NISA’s commitment to the implementation of the SOPs and NISA’s mistreatment of children in custody, as well as serious concerns about treatment of detainees more broadly.

**Inquiries:**

Human Rights Watch would appreciate your response to the following questions by **November 26** to ensure your views are reflected in our reporting.

*Screening Process*

1. What measures are taken by NISA screeners to ensure that children under the age of 18 are identified and separated during the screening process?
2. How do NISA screeners determine the age of a detainee?

3. When and how does NISA inform the UN of child in its custody?
4. Which categories of children are not handed over to the UN for rehabilitation within 72 hours, and why?

#### *Interrogations*

5. What is NISA's policy on access to legal counsel during NISA custody and during interrogations?
6. What measures are in place to ensure that NISA interrogators do not use coercive means during screening and interrogations, including of children, and what measures are taken when allegations of mistreatment arise?

#### *Handover*

7. How are the SOPs for the reception and on handover of children separated from armed groups currently implemented? What measures have been taken, as per the June 2016 inter-ministerial committee report, to speed up transfer of children in NISA detention?

#### *Detention*

8. How does NISA ensure that children under the age of 18 are not held with adults in NISA detention facilities?
9. What measures are taken to ensure that relatives of those in your custody under age 18 are promptly informed of their children's detention?
10. What measures are in place to ensure that children in NISA custody, official or unofficial, are not being used as informants or in other roles in NISA operations?

#### *Accountability*

11. Please describe internal disciplinary and other procedures available to NISA to hold its officials to account for abusing the rights of detainees, particularly children;
12. Please share details of any disciplinary or other actions that have been taken against NISA officials because of a failure to follow procedures during arrests, interrogations and detention of children.

Please do not hesitate to send us any other materials or information that you think would be relevant for our understanding of these issues.

As noted above, we would appreciate receiving your response to this letter by **November 26**. Please send your response to my colleague, Laetitia Bader, our senior Somalia researcher who can be reached at:

Yours Sincerely,

A handwritten signature in purple ink, appearing to read "Mausi Segun".

Mausi Segun (Ms.)  
Executive Director  
Africa Division

## Appendix II: Letter to Federal Minister of Justice

November 2, 2017

*Via email:*

**Re: Children in Detention for Security Offenses**



Dear Minister Hassan Hussein,

I am writing to express appreciation for your team's meeting with Human Rights Watch's senior Researcher, Ms. Laetitia Bader in May 2017 in Mogadishu. In addition, I wanted to share with you the key findings of our research into treatment in government custody of children suspected of association with Al-Shabab.

Human Rights Watch is an international human rights organization that conducts research and advocacy on human rights abuses by states and non-state armed groups in over 90 countries worldwide. Human Rights Watch has long documented violations of international human rights and international humanitarian law by all parties to the conflict in Somalia.

In the interest of accurate research, Human Rights Watch strives to reflect all perspectives in our research and publications. We are therefore including the summary of our findings with some follow-up questions below, to which we hope you or your staff will respond so that your views are accurately reflected in our reporting.

### **Research findings:**

Our research is based on over 80 interviews with children alleged to have been associated with Al-Shabab, relatives of children detained by security forces throughout south-central Somalia and Puntland, as well as with government, military court and custodial corps officials and child protection workers.

In February 2014, the federal government in Somalia signed Standard Operating Procedures (SOPs) for the reception and handover of children separated from armed

groups. These procedures stipulate that children, whether having escaped, been captured, or having been otherwise separated from armed groups should be handed over to the UN for rehabilitation within 72 hours of having been taken into government custody.

However, Human Rights Watch research found that children arrested for security-related offenses are being detained beyond the stipulated 72 hours, interrogated without access to legal counsel or their relatives, and often subjected to coercive interrogations and confessions.

We also identified at least nine cases affecting 16 children, sentenced by the military court since 2015. Positively, Human Rights Watch noted that a number of children in Mogadishu Central Prison were held in a separate juvenile cell. However, children continue to mingle with adults in the common areas, and at the time of our May 2017 visit were not receiving any education.

### **Inquiries:**

Human Rights Watch would appreciate your response in writing to the following questions by **November 26** to ensure your views are reflected in our reporting.

#### *Pre-charge/pretrial detention*

1. Does the Ministry ensure oversight of pretrial detention of children? If yes, how does the Ministry do this?
2. What oversight does the Ministry have over detentions in National Intelligence and Security Agency (NISA) including of cases considered as falling within the military court docket?
3. What measures is the Ministry taking to ensure that relatives of those in government custody under age 18 are promptly informed of their children's detention?

#### *Oversight of children in government custody, prison*

4. What measures is the Ministry taking to ensure that all children are identified and separated from adults in detention?
5. How does the Ministry currently keep track of children in government custody?

6. How many children are currently in government custody on Al-Shabab-related charges in Mogadishu, including children sentenced by the military court and serving sentences in Mogadishu Central Prison?
7. How many people currently serving prison sentences were under 18 at time of sentencing by the military court? Has the Ministry reviewed these cases to ensure that they were handed down in line with international standards concerning the trial and sentencing of child offenders?
8. Does the Ministry have information on juvenile caseloads in other detention facilities including prisons across the country? If so, please share relevant information.

*Accountability*

9. What mechanisms are in place for detainees, including children, to challenge their detention, including in intelligence facilities, or file complaints against security and custodial officials?

Please do not hesitate to send us any other materials or information that you think would be relevant for our understanding of these issues.

As noted above, we would appreciate receiving your response to this letter by **November 26**. Please send your response to my colleague, Laetitia Bader, our senior Somalia researcher who can be reached at:

Yours Sincerely,



Mausi Segun (Ms.)  
Executive Director  
Africa Division

## Appendix III: Letter to Puntland Minister of Justice

November 2, 2017

Honorable Salah Habib  
Cabinet Minister  
Ministry of Justice and Religious Affairs  
Puntland, Somalia  
Via email:



**Re: Children in Government Custody for Suspected Al-Shabab Crimes**

Dear Minister Salah,

I am writing to express appreciation for your team’s meeting with Human Rights Watch’s senior Researcher, Ms. Laetitia Bader in Garowe in December 2016. In addition, I wanted to share with you the key findings of our research into treatment in government custody of children suspected of association with Al-Shabab and during military court processes in Puntland and south-central Somalia.

Human Rights Watch is an international human rights organization that conducts research and advocacy on human rights abuses by state and non-state actors in over 90 countries worldwide. Human Rights Watch has long documented violations of human rights and international humanitarian law by all parties to the conflict in Somalia. The focus of our work prior to 2016 had largely been on south-central Somalia.

In the interest of accurate research, Human Rights Watch strives to reflect all perspectives in our research and publications. We are therefore including the summary of our findings with some final follow-up questions below, to which we hope you or your staff will respond so that your views are accurately reflected in our reporting.

### **Research findings:**

Our research has been conducted since December 2016 and is based on over 80 interviews with children alleged to have been associated with Al-Shabab, relatives of children detained by security forces throughout south-central Somalia and Puntland, as well as with government and military court officials and child protection workers.

In Puntland, we found that at least 40 children age 15 and above have been tried, of whom 39 were sentenced to between 10 years and life imprisonment by the region's military court since 2016. These military court trials violated basic due process standards, most notably the right to present a defense and use of unlawful confessions. Of particular concern is the treatment of detainees, including children, in Puntland Intelligence Service (PIS) detention facilities in Bosasso, including incommunicado detention, coercive interrogations without the presence of a lawyer, and in one case treatment that amounts to torture.

While recognizing efforts made by Puntland to improve the conditions of children within its custody in Garowe prison, Human Rights Watch documented a number of concerns with the treatment of this group, including prolonged detention and harsh prison sentences.

Puntland also currently has on its books several problematic laws that violate basic international legal protections on children's rights, juvenile justice, and due process rights more broadly.

### **Inquiries:**

Human Rights Watch would appreciate your response to the following questions by **November 26** to ensure your views are reflected in our reporting.

#### *Pre-charge detention*

1. Does the Ministry ensure oversight of pretrial detention of children? If yes, how does the Ministry do this?
2. What oversight does the Ministry have over detentions in PIS including of cases considered as falling within the military court docket?
3. What measures is the Ministry taking to ensure that relatives of those in government custody, including PIS detention, under age 18 are promptly informed of their children's detention?

Human Rights Watch is aware that defendants in the cases it investigated had legal counsel during the trials. Please provide more details about this:

4. How were the lawyers selected to represent these defendants?
5. When did the defendants first have access to their lawyers? Did all defendants meet with their lawyers?

#### *Military court trials*

6. What is the legal basis under Somali law for the military court to try civilian defendants?
7. What were the exact charges and sentences handed down by the military court in Garowe of 28 children sentenced on September 17, 2016? Were the sentences determined solely on the basis of age?
8. What procedures are in place to screen the ages of potential child suspects by the military court in Puntland?
9. What measures have been taken by the military court in 2017 to investigate allegations of mistreatment in pre-charge detention?

#### *Handover/ Rehabilitation*

10. What is the Puntland government's policy on which children alleged to have been associated with armed groups are eligible for rehabilitation?
11. What is the legal status of the 38 convicted children currently in rehabilitation in Garowe? Have their military court sentences been overturned by appeals courts?
12. What are the conditions for departure of the 38 children in the center? How does the government plan to prepare them for return to their communities, security permitting?

#### *Accountability*

13. Please describe internal disciplinary and other procedures in place to hold PIS officials to account for abusing the rights of detainees, along with details of any disciplinary or other actions that have been taken against PIS officials because of a failure to follow proper procedures during arrests and detention of children.

*Legislation*

14. What measures are Puntland authorities taking to ensure that the legislation regarding children in government custody is in line with international standards and Somalia's federal constitution?

Please do not hesitate to send us any other materials or information that you think would be relevant for our understanding of these issues.

As noted above, we would appreciate receiving your response to this letter by **November 26**. Please send your response to my colleague, Laetitia Bader, our senior Somalia researcher who can be reached at:

Yours Sincerely,

A handwritten signature in purple ink, appearing to read 'Mausi Segun'.

Mausi Segun (Ms.)  
Executive Director  
Africa Division