

PRESS RELEASE



REFUGEE CONSORTIUM of KENYA

Returning Somali Refugees: Kenya Is Violating International Law

The Refugee Consortium of Kenya joins with the United Nations refugee agency and the international community to protest the forceful return of over 400 Somali asylum seekers fleeing the conflict in Somalia and the absolute closure of the Kenya-Somalia border. We are aware that Kenya is deeply concerned for its security situation following the unrest in Somalia. However, sending away deserving asylum seekers will not solve the security situation along the borders, and only aggravates the suffering of innocent civilians. In this spirit, we urge the Government to demonstrate respect for human rights and not to penalize victims of the Somalia conflict, as it takes measures to improve security along the border.

Kenya has been host to over 150,000 Somali refugees over the last fifteen years of Somalia's unrest; a laudable humanitarian gesture that has been recognized all over the world. However, the Government's forcible expulsion about 400 refugees on 3rd January, to Somalia, and closure of the Kenya-Somalia border, undermines our standing in the international community and renders Kenya a pariah state. The right to seek asylum from persecution and life-threatening situations is an inherent human right, and Kenya's actions directly violates this right.

Not only has Kenya signed the UN and OAU Conventions relating to refugee protection, but also no more than four days ago, the President signed the Refugee Act, making it an operational law. Furthermore, the OAU Convention on Refugees specifically states that "The grant of asylum to refugees is a peaceful and humanitarian act and shall not be regarded as an unfriendly act by any Member State." Meaning it is not an act of diplomacy as between two governments, but a humanitarian act to save lives of people, over and above diplomatic ties.

We are concerned that by expelling genuine asylum seekers under the pretext of preventing Islamic Courts Union militia from crossing the border, is in fact labelling the asylum seekers "dissidents" of the Somalia Transitional Federal Government and therefore denying them the protection they deserve. This

violates the humanitarian character of asylum. The Somalia Transitional Federal Government is not at war with its people, but it has been unable to protect its citizens. Hence, to assert that 400 refugees must be turned back because 11 million nationals left in Somalia are not fleeing is to ignore the function of asylum and the situation on the ground.

While we support the Government in its efforts to enhance security and protect Kenyans, we do not believe that the solution lies in forcing back vulnerable refugee women, men and children to the situation of grievous harm and threat of death from which they fled. UNHCR has mobilized resources from the international community to assist in vetting the asylum seekers at the border before they enter the country in order to retain the civilian nature of asylum. This is a way of allowing the international community to share the financial and technical responsibilities of refugee protection.

Kenya shares a border of well over 600km with Somalia. Refusing to allow asylum seekers entry through the known border points will force people to find alternative and unofficial routes into the country, and the Government will lose out on the opportunity to vet the entrants. Furthermore, closing the border and refusing access to the asylum seekers is likely to escalate the humanitarian situation in Somalia which will spill over into Kenya.

We call on the Government to re-evaluate its position and specifically to:

1. allow refugees from Somalia to enter and seek asylum in Kenya in keeping with the national law and policies found in the Refugee Act and in line with international human rights and humanitarian law;
2. allow UNHCR and other humanitarian agencies access to the asylum seekers, and accept assistance for screening the asylum seekers at the border in order to maintain the civilian character of the refugee situation; and

In the same spirit, we urge the international community led by the United Nations to provide humanitarian assistance to Kenya and share in the responsibility for receiving, vetting and protecting refugees in Kenya.

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