

AMNESTY INTERNATIONAL

Public Statement

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Kenya: Government must respect the rights of refugees under international law

Amnesty International is deeply concerned at the recent closure of the Kenya-Somali border by the government of Kenya on grounds of national security, and the forced return to Somalia of about 400 refugees. Amnesty International is also concerned at reports indicating that as a result of the border closure thousands of internally displaced persons at Dobley on the Kenya-Somali border who would otherwise seek asylum in Kenya are not able to do so and further, do not have access to humanitarian agencies.

Whereas the Kenyan government has the right to control its borders, this right is not absolute and under international refugee law people seeking protection must be allowed entry. Amnesty International is concerned that the protection of refugees is being seriously undermined, and Kenya's international legal obligations breached by the return of refugees to Somalia in the present circumstances of resurgence of armed conflict and the lack of access to humanitarian assistance by asylum seekers.

The Kenyan government should guarantee that all individuals in need of international protection will have access to the Office of the United Nations Commissioner for Refugees (UNHCR) for determination of their refugee claim.

Amnesty International urges the government to cooperate with the UNHCR in strengthening the refugee determination process in order to ensure that those in need of international protection receive refugee status. Amnesty International calls upon the Kenyan authorities to fully comply with obligations under international human rights law when dealing with individuals considered a national security threat. Kenya should uphold the principle of *non-refoulement*, which prohibits the forcible return of anyone to a country where they would be at risk of serious human rights violations.

Amnesty International requests the government of Kenya to urgently review its decision to close the Kenya-Somali border, to prevent the forcible return of refugees to Somalia and allow for the provision of humanitarian assistance to all seeking protection in line with Kenya's obligations under its own recently enacted Refugee Act and international human rights and refugee law, including the 1951 UN Convention relating to the Status of Refugees and its 1967 Protocol and the 1969 OAU Convention Governing the Specific Problems of Refugees in Africa.

Background

The Kenyan government announced the closure of the Kenya-Somali border on 3 January 2007 following the resurgence of armed conflict between the Ethiopian backed Somali Transitional National Government fighters and the Islamic Union Courts' fighters in the beginning of January 2007. The Kenyan government announced that it had closed the border in order to stop the movement of Islamic Union Courts' fighters into Kenya.