

**SOMALIS ARE
SCAPEGOATS IN
KENYA'S
COUNTER-
TERROR
CRACKDOWN**

**AMNESTY
INTERNATIONAL**



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INTRODUCTION

The Somali community in Kenya have become scapegoats in Kenya's counter-terror operation known as 'Usalama Watch'.¹ Thousands of Somalis have been subjected to arbitrary arrest, harassment, extortion and ill-treatment since Operation Usalama Watch began in early April 2014. Over a thousand individuals have been forcibly relocated to overcrowded, insecure refugee camps in the North of Kenya. Hundreds of others have been deported back to Somalia, a country that has been in conflict for 22 years, and where security is again deteriorating. Amnesty International is not aware of any Somali arrested during this counter-terror operation who has been charged with terrorism related offences.

Operation Usalama Watch was implemented following an attack in Mombasa on 23 March and explosions in Eastleigh on 31 March 2014, which killed at least ten people and injured scores of others.² On 4 April, security forces put up road blocks and began sweeps in Eastleigh, a predominantly Somali area of Nairobi, indiscriminately rounding up and arresting thousands of people. The operation initially focused on the Somali community, including refugees and asylum-seekers. In addition to Somali nationals, there have been arrests of Kenyan nationals, refugees of other nationalities, foreign nationals without proper or valid documentation and NGO workers.³ However Amnesty International found that the operation has disproportionately impacted the Somali community.

On 10 November 2013, a tripartite agreement was signed between the governments of Somalia and Kenya, and the United Nations High Commissioner for Refugees (UNHCR). The agreement establishes the framework governing the voluntary repatriation of Somali refugees over a three year timeframe.⁴ Within the framework of the tripartite agreement the Kenyan government committed to ensuring that continued assistance and protection would be guaranteed to Somali refugees in Kenya until durable solutions had been attained within the national and international legal framework.⁵ The actions of the Kenyan government are in blatant violation of this agreement, as well as national and international law.

The Kenyan state has legitimate security concerns. However the current counter-terrorism operation seems a pretext for the blanket targeting of the Somali community in Kenya. The Kenyan government has long viewed refugees as contributing to national security issues. On 26 March 2014, Joseph Ole Lenku, Kenya's Cabinet Secretary for the Ministry of Interior and Coordination of National Government issued a press statement ordering all refugees to the camps, citing 'security challenges' as the key reason.⁶ On 13 December 2012, Kenya's Department of Refugee Affairs (DRA) announced a similar intention to implement a forced encampment policy, stating that "due to this unbearable and uncontrollable threat to national security, the government has decided to put in place a structure[d] encampment policy."⁷ This was later cited by the government as a first step towards the repatriation of all urban refugees 'after the necessary arrangements are put in place.'⁸ The December 2012 directive was quashed in July 2013

following a High Court ruling that the order was unconstitutional and in violation of numerous rights of refugees, and that the Kenyan government had not demonstrated that refugee presence in urban areas resulted in an increased national security threat.⁹

Amnesty International has spoken to people affected by operation Usalama Watch, including by being held in detention centres such as the Moi International Sports Centre, locally referred to as the Kasarani stadium, as well as people who have been forcibly returned to the camps. Amnesty International found that there was a climate of fear within the Somali community, and they were afraid to speak about their experience of operation Usalama Watch.

HUMAN RIGHTS VIOLATIONS DURING OPERATION USALAMA WATCH

Operation Usalama Watch has been carried out in blatant disregard for national and international law, including Kenya's 2010 constitution which reflects key provisions of international human rights instruments and refugee conventions to which Kenya is party.¹⁰ Amnesty International has documented scores of cases where people have suffered human rights violations. Members of the security forces have been going door to door, sometimes in the middle of the night, forcing entry, intimidating, harassing and at times beating people while demanding identification.

Isaac said: "In the first days of the operation there were many police on my street [in Eastleigh]. They split [to different accommodation blocks] and nine or ten came to my [accommodation] block. One put me against the wall, while another beat me – he kicked me in the groin and hit me in the face. They demanded my ID, and then said 'this is not your ID, it is fake'. Speaking to Amnesty International six days after the incident, Isaac reported that he was still in pain from the beating. He has both a valid UNHCR registration certificate, and an alien card issued by the Kenyan authorities.

Isaac, like the majority of people Amnesty International spoke to, faced extortion in order to secure his release. Isaac reported that his neighbour paid 7,500ksh (\$90) for his release as well as of two others. Amnesty International has previously raised concerns that the police and other state security forces regularly use arrests and the threat of arrest to extort money from the Somali community.¹¹ Throughout the current operation, payment has been demanded both from people with documentation and those without or with expired documents in order to secure release before being taken to a police station. Hawo, a widowed mother of six, had remained in her house for weeks fearing arrest. On 12 May, she went to collect some documents from a local organization. As the taxi neared her destination she was stopped by the police who demanded documentation. She showed her valid refugee certificate. She told her family that the police demanded she pay them 50,000ksh (\$600). She begged them not to take money from her but they told her she should go back to Somalia or to the camps, and detained her. On 18 May she was forcibly relocated to the Dadaab refugee camps, leaving her six children in Nairobi.

In the first week of the operation, Kenya's Cabinet Secretary Joseph Ole Lenku stated that over 4,000 people had been arrested.¹² People told Amnesty International how they were arrested, held without charge, often for days at a time – well beyond the 24 hour limit set by Kenyan law.¹³ Most who spoke to Amnesty International were unclear as to the legal basis of their detention.

Ahmed, 26, was taken by the General Service Unit (GSU) from his home to Kasarani football stadium just after midnight on 6 April. He said “they came to my house in the middle of the night and demanded my papers [valid documentation]. My ID had expired. They said ‘this is not real ID’ so they beat and kicked me and then took me to Kasarani.” Ahmed was held for four days without charge, often for extended periods under a netting roof in the stadium with no protection from the heavy rain. On 10 April, some of Ahmed’s friends paid 20,000ksh (\$230) for his release.

Kenyan and international law prohibit arbitrary detention. According to Kenyan law, police officers can only arrest and detain a person if they have reasonable grounds for suspecting them of having committed an offense.¹⁴ International law requires that anyone who is arrested shall be informed, at the time of arrest, of the reasons for their arrest and shall be promptly informed of any charges against them and be brought before a judge.¹⁵ Moreover, Kenyan law provides that a place of detention, such as a police station, must be designated as such through a gazette notice.¹⁶ In contravention of the law, from 2 to 16 April, individuals were held at Kasarani stadium despite the fact that the stadium had not been at the time designated to be a police station. On 17 April, in what seems to be a response to concerns by human rights organizations and other actors, the Inspector General of Police designated Kasarani stadium to be a police station and backdated the designation to 2 April.¹⁷ Arrests have been made on such a wide-scale that it is difficult to establish how many have taken place to date, and how many individuals remain in detention. Screening of individuals held at the Kasarani stadium has entailed interrogation and examination of documents to ascertain their immigration status or authenticity of their documentation. Access by independent organizations such as UNHCR to places of detention has been extremely limited.¹⁸ No lawyer has had access to detainees held at Nairobi’s Jomo Kenyatta International Airport prior to deportation, and UNHCR gained access on only one occasion for a limited period on 11 May.¹⁹ Kasarani stadium is still not accessible to UNHCR or other organizations. There has been no transparency during the operation, and due process rights have been totally disregarded.

Beating, intimidation and at times, sexual harassment, have been a regular part of search operations. Fatima reported to Amnesty International how her children were beaten with a stick (baton) on 13 April by security forces after they had forced entry to her house. Fatima was pushed against a door, beaten on the back and kicked. She had recently undergone a hysterectomy, and the beating tore her stitches, causing her to bleed. Though her refugee certification does not expire until October 2015, Fatima was told that “this is not valid, this is a useless mandate”. The security forces took 500ksh (\$6) and a mobile phone from the house. When she talked to Amnesty International on 15 April, she said the security forces had been back three times. “This is the worst it has been” she said, referring to the many years Somalis have faced harassment and abuse in Kenya.

Hassan, 45, has a medically certified mental health condition. On 7 April, 10 security agents came inside his apartment block and rounded up over 50 people in the building. Hassan refused to go with the police. The police beat him with the

butt of a gun and kicked him multiple times. He lost four of his teeth. Hassan's sister tried to help but the police beat her also causing her to lose a tooth. They took him to Pangani police station. Hassan was later released when his sister took all of his documents proving he had a mental health and physical health condition. Hassan reported to his sister that he was beaten while in detention. She said "we can't stay here anymore. Where can we be safe?"

Mohamud reported how his wife miscarried due to the stress she was under while in detention. When he spoke to Amnesty International on 17 April, his wife, who was two months pregnant when arrested, had been held in detention for eight days, during which time she miscarried. "She is suffering a lot. It is because of stress, frustration and harassment that she miscarried." Mohamud said that she had not told anyone as she is afraid.

At least two people have reportedly died during the operation. On 15 April Amnesty International was told that the mother of a young baby girl had gone out of her home to a shop. On her way back to her house, she was apprehended by the police and detained. The baby was left alone in the house, and after three days, is said to have died. Another woman's son reported to Amnesty International how his mother who suffered from health problems went into shock when security forces tried to forcefully gain entry to their apartment. She later died in hospital.

Other women report having been sexually assaulted. On 8 April, three GSU and one police officer from Pangani police station entered one woman's house. They demanded her ID. When she showed it to them they said it was fake and threw it aside. They put all of her children in one room and demanded that they lie down. Her 17-year-old son reported that "two of them went to her and tried to do bad things to her body. I stood up to try and defend her; they punched me in the head. Before they left they threatened to rape her the next time." Other women told Amnesty International how they have been inappropriately touched during the round-ups. In most cases, the women screamed for attention, causing the security forces to quickly leave.

Throughout the operation people have been kept in unsanitary conditions in overcrowded cells with men, women and children being held in the same cell. One person who gained access to Kasarani Police Station on 6 April said that the stench was unbearable.²⁰ In other cases people reportedly defecated on the floor and, due to lack of room, would later trample on it.²¹

Mohamed was detained on 6 April. He said that during the 48 hours he was detained, he was given no food by the authorities. He said: "After some hours some Somalis gave me food. The police harassed us, as though we were not humans. They would say 'you are refugees, don't talk'. Conditions were terrible. There is no humanity, not in Kenya."

Hassan, who was also held in Kasarani stadium, and whose story is narrated above, said: "I was never given anything by the police there. Friends brought water, food and clothes for me but the police refused. Some Kenyan women who were also

brought there, shared food with me. The Kenyans' whose family came to the stadium were allowed to bring food. Sometimes, Somali business people brought food for everyone."

On Sunday 4 May, 158 Congolese refugees were rounded up and arrested during a church service. They were taken to Kasarani stadium for screening, and later taken to Kasarani police station where they spent the night. On 7 May, the Congolese refugees protested in Kasarani Stadium after they were informed that they would be forcibly relocated to the Dadaab refugee camp. The police quelled the protest by using teargas and physical violence, wounding some of the protestors.²²

Under the Kenyan constitution and international law, all people – including refugees and asylum-seekers – are entitled to protection from torture, cruel, inhuman or degrading treatment or punishment,²³ a right that cannot be derogated from in any circumstances.²⁴ Everybody is entitled to protection from arbitrary interference with their family, home or privacy without discrimination on the grounds of nationality or any other status.²⁵ Kenyan security forces are acting in flagrant violation of these rights. Despite concerns raised by human rights organizations and other actors, Amnesty International is concerned that neither the Cabinet Secretary responsible for internal security nor the Inspector General of Police have issued any orders to cease violations or to investigate allegations of abuse.

FORCED ENCAMPMENT

The Kenyan government is obliged under the Refugee Convention to guarantee refugees the right to move freely within their country.²⁶ However, under Kenyan law this obligation is subject to the 2006 Refugees Act, which gives the minister power to designate camps and transit centres as places of residence,²⁷ and stipulates that refugees must apply for a movement pass to travel outside the camps.²⁸ These provisions violate the Refugee Convention, and have in the past been used by state security forces to restrict the movement of refugees. In particular, on 13 December 2012, Kenya's Department of Refugee Affairs (DRA) announced an intention to implement a forced encampment policy, stating that "due to this unbearable and uncontrollable threat to national security, the government has decided to put in place a structure[d] encampment policy."²⁹ The implementation of this policy was challenged in the High Court and found to be unconstitutional. The High Court found that the relocation plan to send all refugees and asylum-seekers to refugee camps would violate a range of refugee rights, including their right to freedom of movement and dignity.³⁰ The High Court also held that "the state has not demonstrated that the proliferation of the refugees in urban areas is the main source of insecurity."³¹

In a press statement of 26 March, and in total disregard of the High Court judgment regarding the unconstitutionality of a forced encampment policy, Kenya's Cabinet Secretary Joseph Ole Lenku stated that all refugees must return to either Kakuma or Dadaab refugee camps due to 'emerging security challenges in our urban centers and the need to streamline the management of refugees.'³²

During Operation Usalama Watch, the DRA has organised the forcible relocation of refugees and asylum-seekers to the refugee camps. People being held in Kasarani stadium, which is used for the purposes of screening, reported that refugees who had registered in the camps were separated from the others. Over 1,000 people were forcibly returned to the camps as of 9 May.³³ Between 4 and 14 May alone, 500 people had been forcibly relocated back to the camps.³⁴ Refugees who have been forcefully relocated to the camps include many individuals separated from their families, including cases of breastfeeding women separated from their infants, some as young as one month old; people with medical conditions; and students studying in Nairobi. Unaccompanied minors have also been forcibly relocated, including one 15-year-old Kenyan girl who was sent to Dadaab.³⁵ The majority of people moved to the camps have been Somali, however as described above 158 Congolese men, women and children were forcibly relocated to Dadaab on 8 May 2014. In this instance, as in so many other situations of forcible relocation, many families have been separated.

On 13 May, Amnesty International spoke to members of a family who had been separated. Both parents were forcibly relocated to Kakuma refugee camp, leaving behind eight children between the ages of one and 18 years of age, including one-year-old twins. The parents were arrested on separate occasions and detained in Kasarani stadium before being forcibly relocated to Kakuma refugee camp. Ayaan, 18, is now the sole caregiver for her seven siblings all under the age of ten. She told Amnesty International: "now it is only me looking after the children. My neighbours are trying to help, we are just doing what we can. My parents were both working, now we have very little. The children are now out of school. I want my parents to come back. I don't know what else to do." Amnesty International spoke on the phone to Ayaan's father. He said: "we must continue to do what we can. We must be reunited with our children. They have no-one to care for them." Amnesty International met dozens of people at the end of April, who had been recently forcibly transported to Kakuma refugee camp, including 11 people who said that they had been separated from their young families.

The Refugee Act requires the state to formally justify, through publication in the Kenyan gazette, any prohibition on freedom of movement.³⁶ According to the Kenyan constitution, there is no restriction on freedom of movement,³⁷ other than a general restriction applying to all non-derogable rights which states that any limitations to rights must be reasonable, justifiable, and the least restrictive measure 'to achieve the purpose'.³⁸ According to international law, any prohibition on the freedom of movement must be the least restrictive measure necessary to protect national security, public order, or public health.³⁹ Any policy cannot discriminate between Kenya citizens and people of other nationalities.⁴⁰

The Kenyan government gazetted Kakuma and Dadaab refugee camps on 28 March 2014,⁴¹ There has been a significant increase in people requesting to go to the camps in addition to those forcibly relocated, reportedly because of increasing pressures, arrests and harassment of the Somali population. Somalis that Amnesty International has spoken to said that people are running out of money as a result of extortion, and feel they have no option but to go to the camps, as they can no longer

avoid arrest without having any money to bribe the security forces.⁴² According to UNHCR, the number of people requesting assistance to go to the camps has significantly increased compared to average figures of 2013. In the last two weeks of April, the numbers doubled with 400 people requesting support to go to the camps.⁴³

The Somali community, in particular urban refugees and asylum-seekers in Nairobi, have told Amnesty International that their movements are extremely restricted. Some report being stopped and questioned on multiple occasions during a single journey. Having documentation does not offer protection, leading people not to leave their house. One woman said that “I had decided to imprison myself” and had remained in the house for two weeks. Mohamed’s alien card was taken from him during his arrest and not returned. Five weeks later, he was still unable to leave the house for fear of arrest. Many who work feel unable to do so anymore. Hussein runs a tailoring business in Eastleigh. He said: “I can no longer go to work. One of my workers has been arrested and taken to Kakuma. I have had to pay money to police to be freed on many occasions, and cannot go to work for fear of further arrest. I am almost bankrupt.”

EXPULSIONS

The Kenyan government has started the mass expulsion of people to Somalia. Since the beginning of Operation Usalama Watch, a total of 359 people have been expelled from Kenya to Somalia by air. 83 people were expelled on 9 April, 91 people on 17 April, 87 people on 3 May and a further 98 people on 20 May. There is very little information on the profile of these people prior to expulsion, given that they were given no legal access, and that no organization was given access to them prior to departure.⁴⁴

At least three people expelled were documented refugees, while it is reported that others had alien cards, or claimed they had refugee or alien status in Kenya but did not have their documents, or that their documents were confiscated or destroyed following arrest. One 85-year-old man and eight children were among the last to be expelled. On 20 May, the Kenyan government attempted to expel a further 19 people which the Somali government refused to accept because they had refugee status, alien cards or were Kenyan.⁴⁵

The majority of people who have been expelled from Kenya have been Somalis. Amnesty International is aware of 28 expulsions of Ethiopians, as well as 6 Ugandan asylum-seekers who were arrested and returned to Uganda.⁴⁶

Outside of the expulsions, there has been a dramatic increase of people opting to return to Somalia. The number of commercial flights flying from Nairobi to Mogadishu have doubled, and people who have travelled on these flights in late April and early May report they are full.⁴⁷

The Kenyan government is prohibited by both the 2006 Refugee Act and by international law from forcibly returning refugees to a place where there is a risk that their lives or freedoms would be threatened, including to areas of active armed

conflict.⁴⁸ This is known as the principle of *non-refoulement*⁴⁹ and is considered part of customary international law – that is, it applies to all states regardless of whether they have signed relevant treaties such as the 1951 Refugee Convention.⁵⁰ The Kenyan government is in clear violation of this principle.

Non-refoulement applies not only for people who have been deported to Somalia, but could also apply to those who have taken the decision to return. If Kenyan authorities fail to protect refugees' human rights, such that they feel they have no option but to return to their country of origin, this could also violate the principle of *non-refoulement*.⁵¹ The July 2013 Kenya High Court judgment quashed the plan to relocate all refugees to camps as it may lead to forced return. It stated that “the aggressive pursuit of such a policy may have the effect of constructively repatriating urban refugees back to the countries from which they had fled.”⁵² It further stated that “the implementation of the policy may well lead to a situation that forces some of the petitioners to leave the country for fear of proceeding to camps or being exposed to conditions that affect their welfare negatively.”⁵³ In an earlier report published in February 2014, Amnesty International found that negative push factors, such as police abuse and harassment, were resulting in constructive *refoulement* of Somali refugees back to Somalia.⁵⁴

UNHCR has provided further guidance for states returning people to Somalia. In January 2014 UNHCR issued updated guidelines,⁵⁵ and stated that “Somali nationals should not be forcibly returned to Somalia unless the returning state is convinced that the persons involved would not be at risk of persecution.” UNHCR further states that they “consider the options for Somalis to find protection from persecution or serious harm within Southern and Central Somalia to be limited.”⁵⁶ Security conditions within Somalia are volatile, particularly in Mogadishu; and while conflict has declined in Mogadishu, insecurity deteriorated in 2013 compared to previous years,⁵⁷ and is worsening still in 2014.⁵⁸ There is little or no indication that any improvement has resulted in a fundamental, durable and stable change of circumstances in south and central Somalia.

The expulsions that have taken place to date are prohibited under Kenyan and International law⁵⁹ and are also leading to *refoulement*. The Kenyan government is in flagrant violation of the principle of *non-refoulement*, which is the cornerstone of the international refugee protection regime, as well as a fundamental principle of international human rights law.

THE ‘CATCH 22’ LEGAL CONUNDRUM

Many Somalis in Kenya have been left in a legal conundrum. In recent years there have been increasingly restrictive measures on the ability of asylum-seekers to register as refugees, and since 2012 it has been almost impossible.

In October 2011, Kenya's DRA stopped all registration of refugees in Dadaab.⁶⁰ Since that time registration opened on only a few occasions and for short periods. Before the 28 March 2014 gazetting of the camps, and the implementation of Operation Usalama Watch, the last registration that took place in Dadaab was in August 2013, which was open for four days before it was again closed.⁶¹ The DRA

announcement on 13 December 2012 ordered the suspension of all registration for asylum-seekers and refugees in urban centres.⁶² Since that date, urban registration has remained largely closed. It opened for two weeks in March 2014, and was again closed before operation Usalama Watch was implemented.⁶³ This has prevented many who should qualify for refugee status from obtaining documentation.

None of the 359 people expelled by plane to date were given access to a lawyer, and for the most part were not charged in court. In addition no-one was given the opportunity to seek asylum prior to deportation. It is therefore likely that people among those deported had valid refugee claims, but were unable to register as refugees. Thousands of people are in an impossible situation, facing arrest and expulsion because they are not registered, while it is extremely difficult to register.

For people who have appeared in court and who have had access to legal aid organizations, the trend is that they are either charged with being outside of gazetted areas (refugee camps), and are ordered to move to the camps; or they are charged with illegal presence, and following a sentence of either imprisonment or a fine, they face deportation. As of 16 May 2014, 331 such cases had appeared in court since the 26 March statement of Joseph Ole Lenku directing all refugees to the camps. 68% of these were Somalis. Notably, as this operation has been implemented under the pretext of a counter-terror operation, no Somalis who had appeared in front of a court had been charged with terrorism-related charges to Amnesty International's knowledge.⁶⁴ It appears that the Kenyan government is punishing refugees and asylum-seekers for being in a legal limbo that the government itself has created.

CONCLUSION

There is long-standing history of human rights violations by the Kenyan government towards the Somali community in Kenya. Operation Usalama Watch has been carried out in blatant disregard for national and international law, and disproportionately focused on the Somali community, with human rights violations continuing to take place in the name of national security.

In this Brief, Amnesty International has shown that Operation Usalama Watch has disproportionately impacted on the Somali community and that the operation seems to be a pretext for the blanket targeting of the Somali community. The operation has been characterised by arbitrary arrests, police abuse, harassment, extortion, ill-treatment and detention of individuals in inhumane conditions. As part of the operation, the Kenyan government is implementing a forced encampment policy, in total disregard of both domestic and international law and a July 2013 High Court judgment declaring forced encampment policies unconstitutional. Moreover, the operation has resulted in the expulsion of 359 people, the majority of whom have been Somalis. For Somali refugees in Kenya, the operation has worsened what was already a bad situation. In recent years there have been increasingly restrictive measures on the ability of asylum-seekers to register as refugees, and since 2012 it has been almost impossible.

Kenya has legitimate national security concerns. However, targeting a specific community does not serve national security interests, and indeed may cause further insecurity in Kenya. The Kenyan state is in violation of the July 2013 High Court judgment. The actions of the Kenyan state have led to a further class-action petition against it, filed on 5 May 2014. Preliminary orders have been issued restraining the state from removing the petitioners from their residence until the case is heard on 27 May 2014.

RECOMMENDATIONS

Amnesty International calls on the Kenyan government to:

- Immediately halt all discriminatory human rights violations and collective punishments, particularly against Somali refugees and asylum-seekers;
- Immediately halt all forcible relocations to refugee camps;
- Immediately stop all forcible returns to south and central Somalia, in line with *non-refoulement* obligations under international and Kenyan law;
- Give UNHCR, humanitarian and legal aid organizations unhindered access to people in all areas of detention, including Kasarani stadium;

- Guarantee that all people detained are ensured due process rights, are given access to a lawyer, and are promptly brought before a judge, in line with Kenyan and international law;
- Immediately investigate all reports of abuses by the state security forces carried out during Operation Usalama Watch, including harassment, extortion, ill-treatment, arbitrary arrest and detention, and bring to justice any member of security forces reasonably suspected of committing a criminal offense.

Amnesty International calls on UNHCR to:

- Ensure participation in the tripartite agreement is conditional upon the Kenyan government's respect for international human rights, including the prohibition on *refoulement*, arbitrary detention, and collective expulsions.

Amnesty International calls on the African Union Peace and Security Council (PSC) and the Intergovernmental Authority on Development (IGAD) to:

- Demand that the Government of Kenya does not return refugees or undocumented Somalis until cases have been brought before courts and are found to be in accordance with international and national legal standards;
- Urge the Kenyan authorities to stop all violations against refugees and asylum seekers, including harassment, extortion, arbitrary arrest and ill-treatment, which can lead to indirect forced return, and allow freedom of movement of refugees

Amnesty International reiterates its call on the African Commission on Human and Peoples' Rights to:

- Request an invitation from the Kenyan government for the Special Rapporteur on the Rights of Refugees, Asylum Seekers, Internally Displaced Persons and Migrants to assess the extent to which the Government of Kenya is complying with its regional and international human rights obligations regarding the rights of refugees and asylum seekers.

Amnesty International calls on the International Community to:

- Ensure any funding of the tripartite agreement is conditional upon the Kenyan government's respect for international human rights, including the prohibition on *refoulement*, arbitrary detention, and collective expulsions.

ENDNOTES

¹ Usalama is a Kiswahili word meaning security. Rudisha Usalama was the name initially given to the operation, meaning 'restore security'. The operation is widely known as 'Usalama Watch'.

² <http://www.theguardian.com/world/2014/mar/23/kenyan-church-attack-four-worshippers-dead-gunmen> , <http://reliefweb.int/report/kenya/nairobi-blasts-kill-least-six-police>. See also Human Rights Watch, Kenya: End Abusive Round-Ups, 13 May 2014, <http://www.hrw.org/news/2014/05/12/kenya-end-abusive-round-ups>.

³ Interview, NGO, 08.05.14.

⁴ Tripartite Agreement between the Government of the Republic of Kenya, the Government of the Federal Republic of Somalia, and the United Nations High Commissioner for Refugees Governing the Voluntary Repatriation of Somali Refugees living in Kenya, 2013 (Tripartite Agreement), Art 29, can be found at <http://www.unhcr.org/528102b49.html> [accessed 10.05.14].

⁵ Tripartite Agreement, Art 29 (x), can be found at <http://www.unhcr.org/528102b49.html> [accessed 10.05.14].

⁶ Press Statement by Cabinet Secretary and Coordination on Refugees and National Security Issues, 26 March 2014.

⁷ Department of Refugee Affairs, Press Statement, 13.12.12, on file with Amnesty International.

⁸ Letter to Ministry of Special Programmes, from the Office of the President – Provincial Administration and Internal Security, Relocation of urban refugees to officially designated camps, 16 January 2013, on file with Amnesty International.

⁹ Kenya High Court Judgment, Constitutional and Human Rights Division, Petition No 19 of 2013 consolidated with Petition No 115 of 2013, para 88.

¹⁰ Kenya has ratified the Convention and Protocol Relating to the Status of Refugees (Refugee Convention), 1951, and the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, 1974.

¹¹ See Amnesty International, No Place Like Home: Returns and Relocations of Somalia's Displaced, 19 February 2014; See also Amnesty International, From Life Without Peace, to Peace Without Life, 8 December 2010;

¹² <http://www.bbc.com/news/world-africa-26955803>

¹³ The Laws of Kenya, The Criminal Procedure Code, Section 36, can be accessed at <http://www.kenyalaw.org/Downloads/Acts/Criminal%20Procedure%20Code.pdf> (accessed 14.05.14).

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- ¹⁴ The Laws of Kenya, The Criminal Procedure Code, Section 29(a), can be accessed at <http://www.kenyalaw.org/Downloads/Acts/Criminal%20Procedure%20Code.pdf> (accessed 14.05.14).
- ¹⁵ International Covenant on Civil and Political Rights (ICCPR), 1966, Art 9(1, 2); Kenya is a state party to the ICCPR.
- ¹⁶ The Laws of Kenya, National Police Service Act, Section 40(1).
- ¹⁷ The Kenya Gazette, Gazette Notice 2719, 17 April 2014, can be accessed at http://kenyalaw.org/kenya_gazette/gazette/volume/879 (accessed 23 May 2014).
- ¹⁸ Interview, NGO workers, 08.05.14.
- ¹⁹ UNHCR, 14 May 2014
- ²⁰ Interview, 16.04.14.
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