

## **STATEMENT ON THE GOVERNMENT'S PLAN TO RELOCATE REFUGEES BACK TO SOMALIA**

**27 January 2012**

**NAIROBI:** The Refugee Consortium of Kenya (RCK) is deeply concerned by the Government's plan to move over 600,000 refugees based at the Dadaab camps to areas alleged to be "safe havens" in Somalia as reported in the both the Standard and Nation newspapers on January 23, 2012. We fear that these planned relocations may amount to the forced return of refugees, subjecting them to further risk of insecurity.

RCK appreciates the concern that the Government has in restoring security in Kenya and specifically in the refugee camps in the North Eastern region to eliminate any potential terrorist attacks. We commend the efforts and sacrifices that the Kenya security agencies have had to endure for our collective security including that of persons living here as asylum seekers and refugees. We laud the on-going profiling exercise which should enable the Government to distinguish persons living within the refugee population who might be a danger to the security of the country.

We are however concerned that the blanket condemnation of refugees and asylum seekers as a threat to our national security could lead to increased harassment and heightened xenophobic attitudes towards refugees by the Kenyan population. We argue that this is misinformed and urge the Government to put measures in place to address the security problem instead of presuming refugees to be the cause. We have noted an increase in police-round ups, arbitrary arrests and harassment of refugees and people of Somali ethnic origin by security officers in the Dadaab camps, in Nairobi and other major towns in Kenya. These violations have also been documented by other human rights organizations and highlighted by the media.

We strongly remind the Government of its obligation under the Constitution which extends rights to all persons living in Kenya including refugees and asylum seekers. Article 29 of the Bill of Rights of our Constitution provides that every person has the right to freedom and security of person. Article 29(d) includes the right not to be subjected to torture in any manner, whether physical or psychological. Section 18 of the Refugees Act 2006 specifically provides for the non-return of refugees, their families or other persons.

*No person shall be refused entry into Kenya, expelled, extradited from Kenya or returned to any other country or be subjected to any similar measure if as a result of such refusal, expulsion, return or other measure, such person is compelled to return to or remain in a country where –*

- a) the person may be subject to persecution on account of race, religion, nationality, membership of a particular social group or political opinion or*
- b) the person's life, physical integrity or liberty would be threatened on account of external aggression, occupation, foreign domination or events seriously affecting public order in part or the whole of that country.*

Kenya is also obligated under Section 16 of the Refugees Act to protect the rights of refugees and their family members in Kenya in line with the obligations contained in the international Conventions to which Kenya is party.

The article reports that the PS of Internal Security stated that the relocation would be done in liaison with UNHCR and the international community. We question the modalities in relation to this relocation and the process informing this conclusion. We are totally opposed to any relocation of refugees and asylum seekers lawfully living in Kenya without regard to the due processes and without involvement of other stakeholders in the decision making.

Refugees are equally affected by the same threats that the Kenyan Government seeks to eliminate. As a matter of fact, they have fled into Kenya because of dangers to their lives brought about by insecurity in their own countries including elements such as Al-Shabaab. The inability to be protected in their countries of origin causes them to seek asylum in Kenya and in other countries. It is the responsibility of countries of asylum to ensure this protection by not subjecting them to further human rights abuses such as undue harassment, revocation of refugee status and forceful return.

We remind the Government that these interventions should be conducted with an application of human rights and humanitarian principles, and that the interests of national security do not preclude adherence to the law and to due process owed to every individual.

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