



REFUGEE CONSORTIUM of KENYA

Advocacy and Policy Development Centre

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Refugee Protection Situation Report (No.11/2017)

Period: 1st November – 30th November

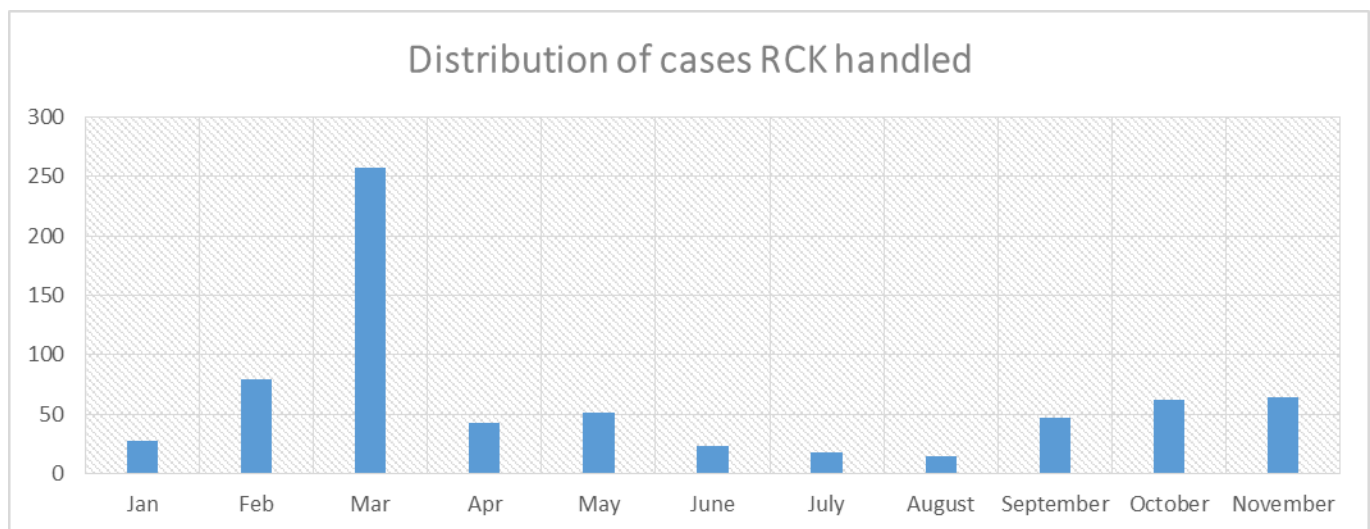
Date: 11th December, 2017

Operational Context

Political temperatures in Kenya are slowly cooling after the swearing in of the President-Elect on [28th of November, 2017](#). The Supreme Court of Kenya [dismissed](#) the petition challenging the validity of the repeat presidential poll held on 26th October, 2017. This decision brought an end to the formal electioneering process and paved the way for the swearing in ceremony. There was no evidence that the general political situation has not had any visible impact on the asylum protection space.

Cases of arrests and arraignment

In the period under review, there were 64 reported cases of arrests and arraignments as depicted in graph 1 below. This is an increase of 2 cases from the number of cases reported in October. The graph shows the distribution of the 685 cases observed by RCK staff since January 2017. Table 1 below provides a breakdown of the types of cases that RCK staff intervened in the month of October.



Graph 1: Number of arrests and court arraignment cases recorded since January 2017



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Reports of arraignment/arrests/harassment

| Place of Incident | Incident | Characteristics of PoCs | Status of Situation |
|-------------------|---|---|--|
| Busia | Arraignment: Unlawful presence | 1 Adult Congolese Male | The PoC claimed to have been registered as a refugee in Uganda. He was convicted and fined. He has since paid the fine. |
| Dadaab | Arraignment: Residing outside a designated area without authorization. | 1 Adult Somali Female | The client was convicted on her own plea of guilt. She was fined Ksh.20,000 or face six month in prison. |
| | Arraignment: Unlawful presence. | 2 Adult Males (a Somali and South Sudanese national) | Both were released after RCK officers provided the court with proof of registration for the pair. |
| Garissa | Arraignment: Residing outside a designated area without authorization. | 9 Somali nationals (5 adult males, 1 male minor & 3 adult females) | 8 of the accused were fined Ksh.20, 000 or face 3 months in prison. The minor was discharged with orders that he be returned to Dadaab refugee camp. |
| | Arraignment: Unlawful presence. | 5 Somali nationals (2 adult males, 1 minor male and 2 females whose age | The cases against the accused are on-going. |



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| | | | |
|--------|-----------------------------------|---|---|
| | | had not been ascertained) | |
| Isiolo | Arraignment: Unlawful Presence | 20 Adult Ethiopian Males and 3 Adult Eritrean males | All the 20 Ethiopian nationals were convicted of the offence and deported. The Eritreans were also convicted of the offence and fined Ksh.20,000 or face 3 months in prison. However RCK officers have applied for a review of the decision because the three had indicated that they were seeking asylum in Kenya. |
| Kitale | Arraignment: Unlawful presence | 21 Somali nationals (4 adult males, 6 adult females, 8 minor males and 3 minor females) | RCK represented them. 12 were released while 9 were fined Ksh.5, 000 or face 30 days in jail. |
| Moyale | Arraignment: Unlawful presence | 2 Adult Ethiopian Males | The two were discharged after RCK officers informed the court that the pair was seeking asylum in Kenya. |

Table 1: Breakdown of arraignment cases

Busia

In the month of November 11 asylum seekers were recorded to have crossed into Kenya. These asylum seekers were from Burundi and the Democratic Republic of Congo (DRC). Five asylum seekers from Burundi were however denied access into Kenyan territory by Immigration Officers at the border. The reasons behind the decision are not clear but RCK officers are following up on the matter to understand the issues



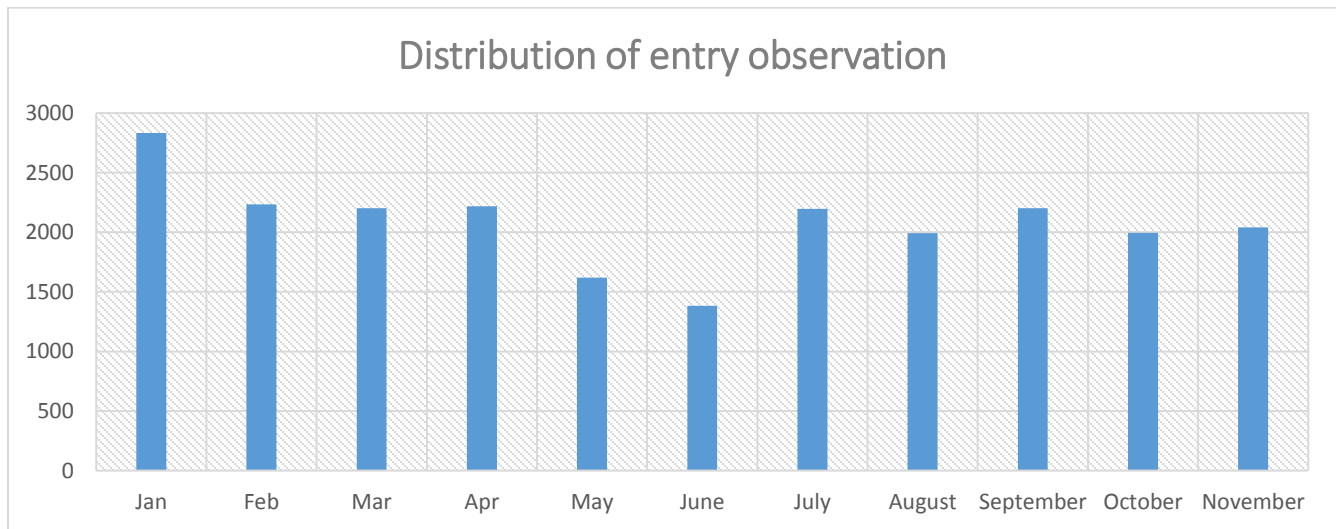
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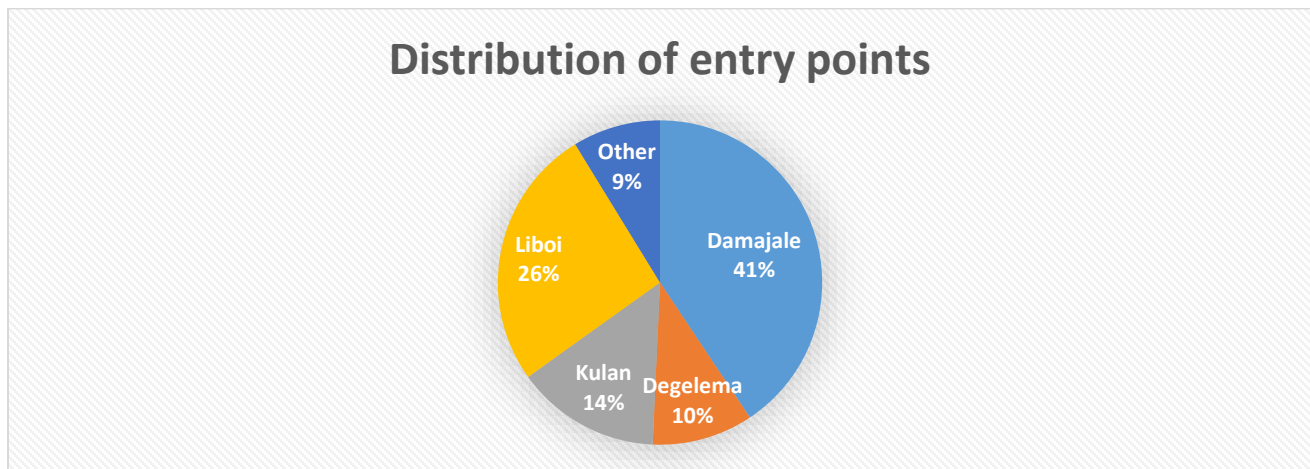
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Dadaab

In the period under review, the number of foreign nationals entering Kenya from Somalia recorded in November was 2,041. This represents a 2% increase compared to the figure of 2,001 recorded in October. Graph 2 below shows the distribution of border entry observations since January, 2017.



Graph 2: Graph depicting the number of foreign nationals crossing into Kenya since January 2017 from different border entry points.



Graph 3: Distribution of observations per point of entry



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Kakuma

There were no major incidences affecting PoCs other than those indicated in the summary findings.

Kitale

The area received 189 asylum seekers in the period under review. The asylum seekers hailed from Burundi and DRC. They included children as young as 9 months to adults as old as 50 years of age. All the asylum seekers were transported to Kakuma refugee camp for registration and assistance. There were no reported cases of denied access to territory.

Malaba

Thirty four asylum seekers were recorded to have crossed into Kenya. The asylum seekers were from Burundi. They were assisted to travel to Kakuma for registration. There were no reported cases of denied access to territory.

Nairobi

The President sent back the Refugees Bill, 2017 back to Parliament for reconsideration. The justification provided for this decision was due to ‘lack of public participation’ in the process. It is not immediately clear what lack of public participation in legislative process means as there are no guiding policy and legal framework guiding the implementation of public participation.

According to the National Assembly Standing Orders, the legislative process has to begin afresh. The Bill was passed by the 11th Parliament before it was dissolved to pave way for the general elections. Therefore the Bill has to be considered afresh by the 12th Parliament. Only [40 percent](#) of the members of Parliament retained their seats. This means that a lot of capacity building and lobbying efforts need to be expended for the Bill to become law as the 12th Parliament has new faces.

There were no major incidences affecting PoCs.

Conclusion



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The protection environment has not changed much from the last date of reporting. Though there has been a minimal increase in the cases of arraignment in court recorded, the individuals had access to effective legal representation. This is evidenced by the number of cases that were concluded in line with the relevant law. This demonstrates the need for enhanced access to legal representation for refugees and asylum seekers accessing Kenyan territory.

Asylum seekers were able to access Kenyan territory in all the areas that RCK has border monitors, with the exception of Busia. There has been an increase in the movement of asylum seekers into the Kenyan territory. These asylum seekers hailed from Burundi, DRC, Eritrea, Somali and South Sudan. However, 5 Burundi nationals were denied entry into Kenyan territory by the Immigration Officer at the Busia border. It is not clear what informed this decision but RCK officers are following up on the matter.

Finally, there needs to be a lot of capacity building and advocacy effort on the asylum space legislative front. The President rejected the Refugees Bill, 2017 forwarded to him by the Speaker of the National Assembly. He cited the lack of public participation as the reason behind his decision. The legislative process would have to start afresh thereby underscoring the urgent need to engage the 12th Parliament, most of whom are new.

For more information kindly contact Ms. Eunice Ndonga Githinji, Refugee Consortium of Kenya Executive Director on refcon@rckkenya.org