



# REFUGEE CONSORTIUM of KENYA

## Advocacy and Policy Development Centre

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### Refugee Protection Situation Report (No.3/2017)

Period: 1<sup>st</sup> March – 31<sup>st</sup> March

Date: 18<sup>th</sup> April, 2017

#### Operational Context

The Refugee Affairs Secretariat is now officially the government agency mandated by law to manage refugee affairs in the country. The President [assented](#) to the Statute Law (Miscellaneous Amendment) Bill 2016. The Bill amends the Refugees Act, 2006 by removing the name Department of Refugee Affairs and inserting the name Refugee Affairs Secretariat (RAS). This paves the way for the appointment of a Commissioner for Refugee Affairs who shall be the head of RAS.

Voluntary repatriation process continued in the period under review. As of 31<sup>st</sup> March, 59,829<sup>1</sup> Somali refugees had been supported by UNHCR to return to Somalia since 8<sup>th</sup> December 2014, when UNHCR and the Government of Kenya started supporting voluntary return of Somali refugees from Kenya back to Somalia. Of these, 20,515 were supported to return in 2017 alone.<sup>2</sup> Contemporaneously, non-Somali refugees have been in the process of being relocated to Kalobeyei in line with the Government plan to shut down Dadaab refugee camp. So far 4,719 have been relocated; 4,508 in 2017 alone.

The number of cases of arrests and/or court arraignment on offences of unlawful presence and residing outside a designated area without authorization in the period under review tripled (333%). In the period under review there have been 263 documented cases of arrest mostly in Dadaab and Garissa areas. According to Refugee Situation Report (No.2/2017) issued by RCK on 15<sup>th</sup> March, 2017, there were 79 recorded cases of arrests and/or court arraignments between 2<sup>nd</sup> February, 2017 and 28<sup>th</sup> February, 2017. The figure has since shot up by 184 cases.

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<sup>1</sup> UNHCR Bi- Weekly update as of 31<sup>st</sup> March 2017

<sup>2</sup> Ibid



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The number of arrests have been on an upward trend since January 2017. In January, RCK recorded 27 cases of arrest. This increased to 79 cases in February; almost three times the figure it was in January. The number of cases has again tripled in March. The total number of recorded arrests since January 2017 is 369.

Table 1 below shows a breakdown of the cases recorded by RCK between 1<sup>st</sup> March, 2017 and 31<sup>st</sup> March, 2017.

### Reports of arraignment/arrests/harassment

Place of Incident	Incident	Characteristics of PoCs	Status of Situation
Dadaab (Garissa County)	Arrest: Unlawful presence	127 Somali nationals (breakdown not available)	28 were arraigned in court on charges of being unlawfully present in the country. RCK in liaison with UNHCR produced Proof of Registration (PoR) documents for persons. The documents were admitted in court as evidence. All 28 refugees were discharged. 74 were confirmed as refugees after undergoing verification at the police station and released. 25 were confirmed as



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			Kenyans after undergoing verification.
	Arrestment: Residing outside a designated area without authorization.	1 adult Ethiopian female.	Released and placed under probation. She was allowed to proceed to Kakuma.
	Arrestment: Unlawful presence.	56 PoCs (38 adult males, 12 adult females, 4 minor males & 2 minor females [all Somali].)	47 of the PoCs pled guilty as charged and were fined. 9 of the cases are still pending in court.
Garissa (Garissa County)	Arrestment: Residing outside a designated area without authorization	2 PoCs (1 adult male & 1 adult female [all Somali])	They pled guilty and were fined.
	Arrestment: Unlawful presence	48 pax (21 adult males, 11 adult females, 7 minor males, 9 minor females. [39 Somali, 6 Kenyans & 3 Ugandans])	28 of them were discharged including 5 Kenyans who were thought to have been Somali nationals. 15 of them were found guilty and fined and 5 cases are still ongoing.



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Mwangi	Arrest: Unlawful presence	29 PoCs (6 adult males, 10 adult females, 5 minor males & 8 minor females)	The court convicted the 6 men and 8 women and ordered that they be presented to the Refugee Affairs Secretariat (RAS) for registration. The other 25 were ordered to go to RAS for registration.
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**Table 1: Breakdown of the cases documented between 01.03.17 and 31.03.17**

### Dadaab

There has been a noted increase in arrest cases in Dadaab in the period under review. Cases from Dadaab account for 70% of the total 263 cases recorded in March. This can be attributed to the operation in the area conducted by the National Police Service and other security organs of the state in Dadaab.

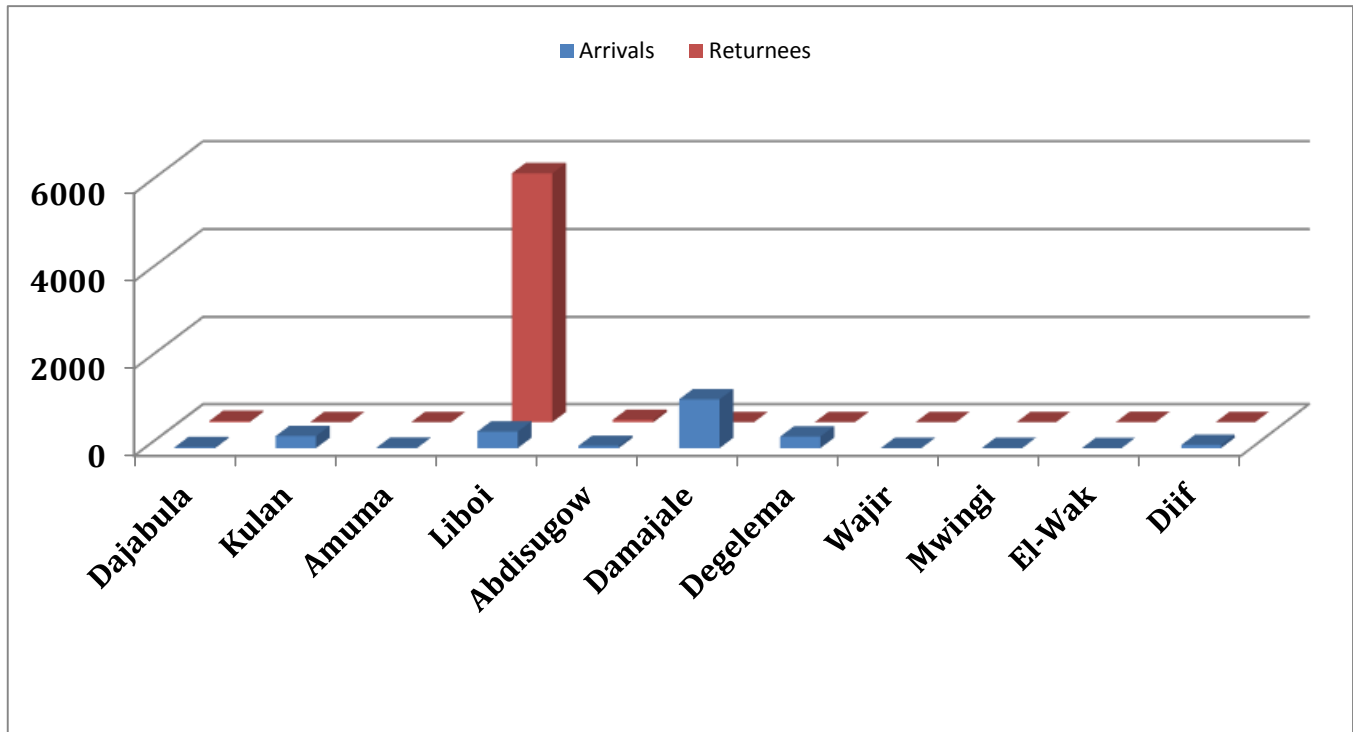
Cross border movements figures collected by RCK border monitors showed a 21% decrease. In March 2017, a total of 7,935 were recorded having crossed into Kenya or to Somalia as compared to 10,123 in February 2017. Arrivals into the country recorded in March were 2,225 against 2,235 recorded in February, which represents 0.4% decrease. Number of Somali nationals recorded going back to Somalia was 5,772 in March, compared to 7,888 in February which represents 27% decrease.



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**Graph 1: Graphical representation of cross border movement numbers between 22nd February, 2017 and 22nd March 2017**

The cases of new arrivals are made up of Ethiopians (7%) and Somali (93%) nationals. Reason given by the Ethiopians to enter the county was persecution from the Ethiopian Government. These are members of the Ogaden clan in Ethiopia. Somali nationals on the other hand stated that they were fleeing insecurity in Somalia. They hailed from lower and middle Juba in Kismayo, Salagle and Buale. All the arrivals were advised to immediately present themselves to RAS for registration.

### Garissa

The situation in Garissa was similar to that in Dadaab. There were 89 PoCs arrested in the period under review which accounts for the remaining 19% of the cases recorded. These PoCs included some minors of tender age, between the ages of 3 and 8 years. Ordinarily they cannot be charged owing to their



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ages and as such were not charged. In all the cases, the PoCs were allowed to proceed to the Dadaab refugee camp to register themselves with RAS.

### **Mwingi**

In one case involving 29 PoCs, RAS declined to register them citing national security. A Magistrate's Court in Mwingi had ordered that the 29 be taken to Dadaab for registration or profiling by RAS only to be sent back to Mwingi by RAS. The court [ordered](#) the RAS Camp manager to appear before it on the 10<sup>th</sup> of April, 2017 to explain this decision. However RAS filed an application through the Director of Public Prosecution at the High Court in Garissa seeking: that the Mwingi Court be stayed from further proceedings of this case until further orders by the High Court; that the Court file be forwarded to the High Court in Garissa. The Garissa High Court granted the order and served the Mwingi DPP with the orders. The matter is currently lodged at the High Court in Garissa after RAS moved the High Court to address this issue. An appearance date of 13<sup>th</sup> April, 2017 in which the PoCs were heard and the court is to issue a ruling on 20<sup>th</sup> April, 2017.

### **Kakuma**

There have been no major incidences in Kakuma.

### **Nairobi**

Relations between the host community and Congolese refugees in Kitengela, Kajiado County soured in the period under review. In Refugee Protection Situation Report No.2/2017, RCK documented the tensions that existed between these two communities. These tensions were based on the perception among the host community that refugees were engaged in unfair business practices and they do not pay taxes or have work permits.

On 26<sup>th</sup> March, 2017, a Congolese refugee is [alleged](#) to have stabbed a Kenyan national. Although the motive behind the attack remains unclear, tensions between the host community and the Congolese



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refugees remain palpable. RCK in conjunction with local administration, UNHCR and RAS organized a community forum in the area on 7<sup>th</sup> April 2017 to address the simmering tensions. The forum was attended by Refugee leaders, host community leaders, religious leaders, other opinion leaders, *Bunge la Mwananchi*, *nyumba kumi* leaders, assistant county commissioner, local chief and his assistants.

There were several issues raised by the host community members from that meeting. Chief among them was the perception among the locals that Congolese refugees are driving down the price of labour. They mentioned that Congolese refugees offer cheap labour to employers making it hard for locals to get a decent wage. They also raised concern of lack of knowledge about Kenyan law among the refugee population there and a lack of knowledge on refugee law on the part of Kenyans in the area. They proposed that more sensitization forums be done.

### **Conclusion**

There appears to be an upward trend in arrests of refugees and asylum seekers on immigration and asylum related charges. The cases have been tripling in number since January 2017 and this trend is likely to continue as the May 2017 voluntary repatriation deadline draws nearer. This calls for vigilant monitoring to ensure that refugees' rights and those of other persons of concern are upheld.

Tensions between the host community and the refugees are another trend that needs to be monitored and addressed. The Kitengela situation serves as an example of integrating host community members and refugees in community forums. This will serve to diffuse any tension that might exist in the community and obviate conflict in the areas refugees reside.

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