



REFUGEE CONSORTIUM of KENYA

Advocacy and Policy Development Centre

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Refugee Protection Situation Report (No.9/2017)

Period: 1st September – 31st September

Date: 11th October, 2017

Operational Context

Kenya is still in an electioneering mode. This is after the Supreme Court of Kenya [ruled](#) that the presidential election must be held afresh within 60 days. Initially the Independent Electoral and Boundary Commission (IEBC) – the body charged with managing elections in Kenya – set the date on 17th of October, 2017 but later pushed it to 26th October, 2017. Despite the heated debates on electoral reform, there is no evidence to suggest that it has a significant impact on the protection of refugees and asylum seekers. The information provided in this document was sourced from the Refugee Consortium of Kenya (RCK) staff and monitors. The data was sourced between 1st September and 30th September, 2017.

The Refugee Bill, 2017 was considered by the President who did not assent to it. The President sent it back to Parliament for further review. The reasons for not assenting have yet to be made public. What is certain now is that Parliament will have to reconsider the bill. The outcome can either be a Bill with amendments or one without. The second scenario would require support of two-thirds of members of the National Assembly (Art.115 (4), Constitution of Kenya, 2010). The Refugee Consortium of Kenya remains hopeful that after the repeat presidential elections are held, Parliament would embark on the task of reviewing the Bill.

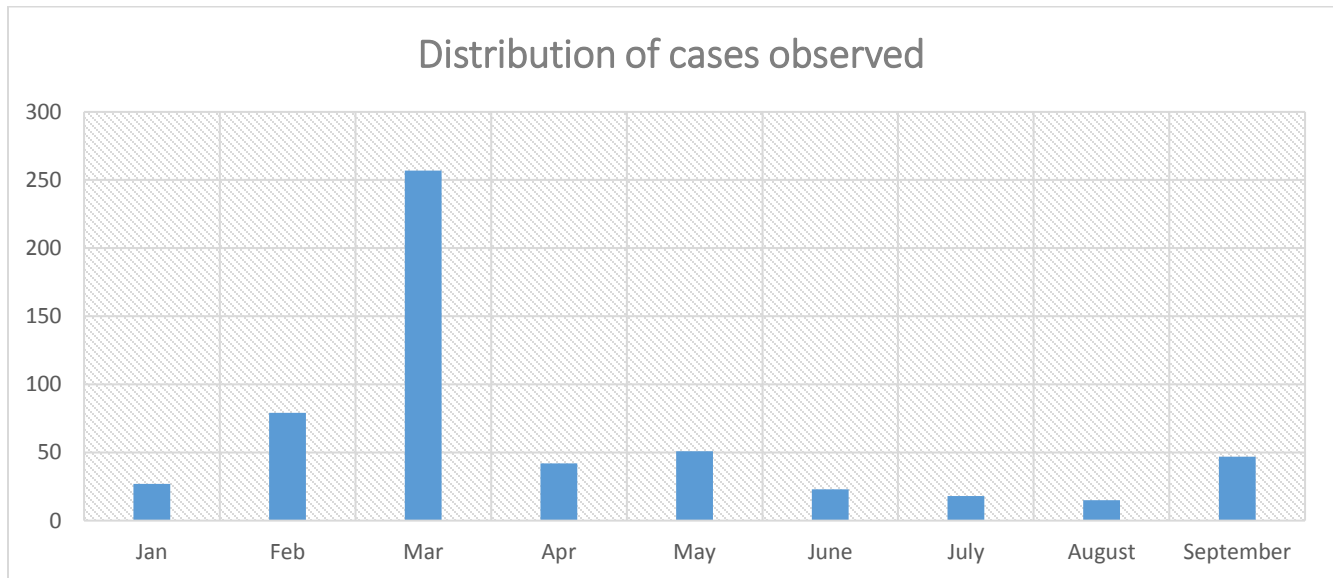


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Cases of arrests and arraignment



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

In the period under review, there were 47 reported cases of arrests and arraignment in courts of law. This is an increase of 32 cases from the number of cases observed in August. This increase can be attributed to the heightened security owing to anticipated repeat presidential polls. Of these 47 cases, seven were released from police custody, 10 were withdrawn from the courts of law, two were discharged by the courts, 20 ended in convictions while eight of the cases are still before the courts. The table below provides a breakdown of the cases that RCK staff intervened in the month of September. Graph 1 above shows the distribution of the 549 cases observed by RCK staff since January 2017.



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Reports of arraignment/arrests/harassment

Place of Incident	Incident	Characteristics of PoCs	Status of Situation
Busia	Arraignment: Residing outside a designated area without authorization.	1 Burundi male adult.	The PoC was discharged and allowed to go to Kakuma refugee camp.
Garissa	Arraignment: Residing outside a designated area without authorization.	6 Somali nationals: 3 male adults, 1 female adult 2 female minors.	3 cases were withdrawn, 2 are still ongoing while one conviction was recorded. The PoC convicted in that case was fined Ksh.20,000 or spend 3 months in prison.
	Arraignment: Unlawful presence.	16 Somali nationals: 6 male adults, 6 male minors, 2 female adults & 2 female minors.	5 cases were withdrawn, 5 cases are still ongoing and 6 cases were concluded in convictions. Those convicted face a fine of Ksh.100,000 or 12 months in prison.
Kisumu	Arraignment: Residing outside a designated area without authorization.	1 Congolese male adult.	The PoC was discharged and ordered to go to Kakuma refugee camp.



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Lodwar	Arraignment: Residing outside a designated area without authorization.	2 Burundi male adults.	Convicted and fined Ksh.5,000 each.
Mandera	Arraignment: Unlawful presence.	7 Somali nationals: 3 male adults & 4 female adults.	They were all convicted and sentenced to between 3 months and 18 months in prison or payment of a fine between Ksh.40,000 and Ksh.100,000.
Mwingi	Arraignment: Unlawful presence.	2 Somali male adults.	They were convicted and sentenced to 12 months in prison or payment of a fine of Ksh.150,000.
Nairobi	Arrest: Unlawful presence.	7 foreign nationals: 1 Burundi male adult, 1 Congolese male adults, 1 Eritrean adult male, 1 Ethiopian adult male & 2 Somali male adults.	All the seven were released upon intervention from RCK officers.
	Arraignment: Unlawful presence	3 foreign nationals: 2 Congolese male adults, 1 Congolese female adult & 2 Somali male adults.	Two cases were withdrawn while one is still going on.



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Wajir	Arrestment: Unlawful presence.	2 Somali male adults	They were convicted and sentenced to 6 months in prison or payment of a fine of Ksh.50,000.
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Kakuma

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

Nairobi

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

Dadaab

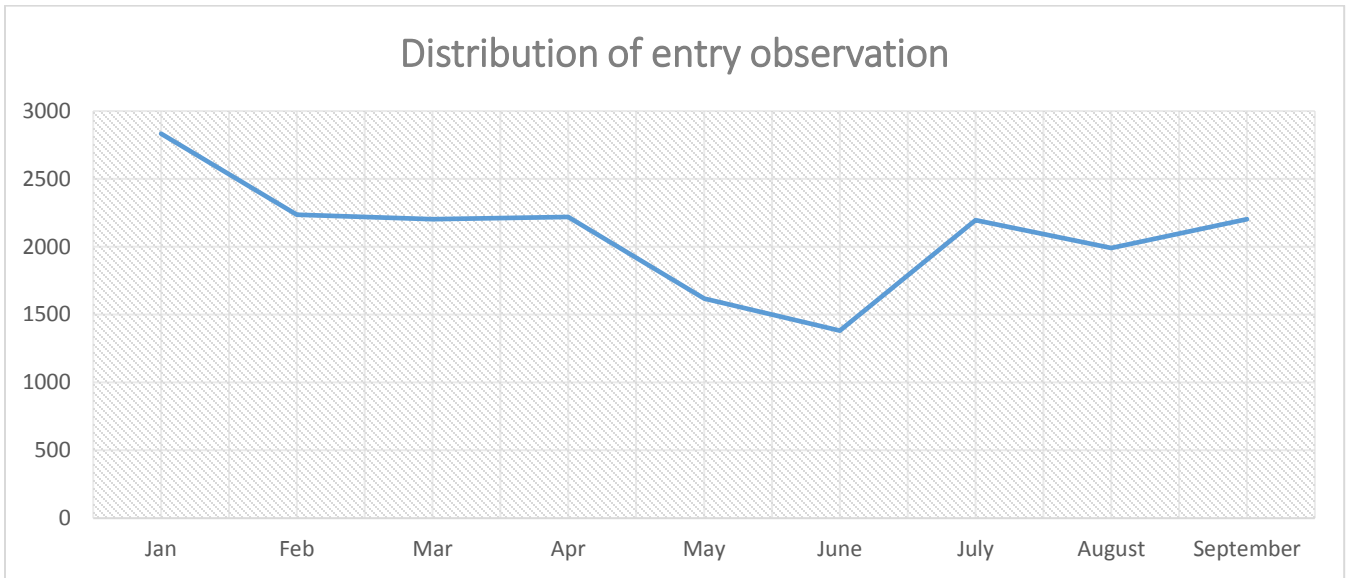
In the period under review, the number of foreign nationals entering Kenya from Somalia recorded in September was 2,203. This represents a 10.6% increase compared to the figure of 1,992 recorded in August. The border points monitored included Liboi, Abdisugow, Damajale, Diif, Degelema, Dajabula, Amuma, Garissa, El-Wak, Wajir, Mandera, and Kulan. Graph 2 below shows the distribution of border entry observations since January, 2017. Some of the inflow from Somalia was occasioned by what the foreign nationals termed as political persecution in some parts of Somalia including Kanjaron and Waraq. Others, especially those from lower and middle Juba, Kismayu, Salagle and Buale cited drought as their primary reason for flight.



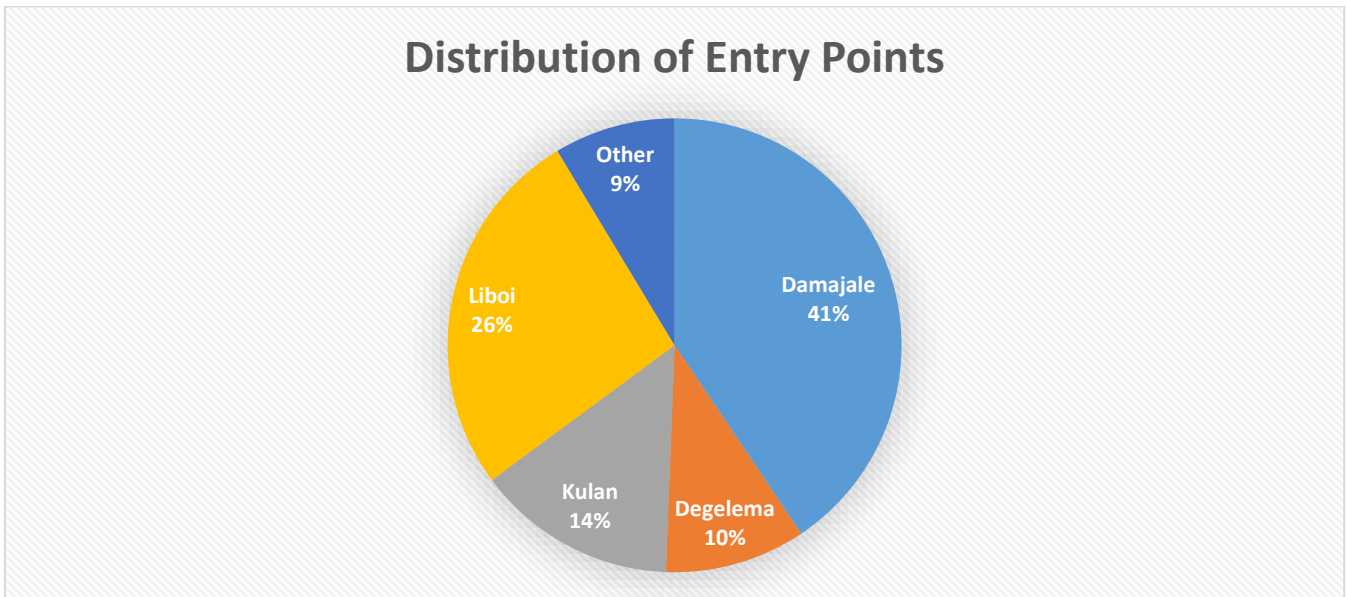
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Graph 2: Graph depicting the number of foreign nationals crossing into Kenya since January 2017 from different border entry points.



Graph 3: Distribution of observations per point of entry



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Conclusion

From the foregoing this reports concludes the following:

1. Kenyan territory is fairly accessible. This is evidenced by the numbers of entry observations which has increased in September as compared to the figures in August;
2. There is an increase in cases of arrests or arraignment. There was an increase of 32 cases in September as compared to those recorded in August. This may be attributed to the heightened security owing to the anticipated repeat presidential polls;
3. The current election environment in Kenya has not had a significant effect on the protection space of asylum seekers and refugees in Kenya. There were no observed spikes in arrests or court arraignment as presented in this report. However it will delay the consideration of the Refugee Bill, 2016 that was sent back to Parliament by the President. This is because Parliament is currently prioritizing legal reforms to the elections legislative framework and would most likely engage in other legislative work after the 26th of October, once the fresh Presidential elections are concluded.

Officers from RCK will continue to monitor the situation in the country especially in the run up to the repeat presidential elections.

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