

HUMAN RIGHTS WATCH

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1-3, Avenue de la Paix
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November 14, 2002

Dear Sirs:

Further to my letter of June 25, 2002 in which I re-transmitted a list of questions originally prepared on April 19, 2002 regarding Kenya's policy on urban refugees for your consideration, I am attaching here some annotations to these questions, which may assist you as you finalize your responses. Please do not feel compelled to answer each sub-question, as I am aware of your time and staffing constraints. I am including the details here to give a clear sense of what issues we will be addressing in the report beneath each major heading.

In order to have the position of the government of Kenya included in this report, I will need to receive your responses no later than July 30, 2002. These responses can be sent via DHL or facsimile to the address / number indicated above. Alternatively, they can be sent via email to parkera@hrw.org.

We are grateful for your assistance in this matter. Please do not hesitate to contact us should you have any questions or concerns.

Sincerely yours,

Alison Parker
Leonard H. Sandler Fellow on Refugee Policy
Human Rights Watch

Enc. [2 pages of annotated questions]

1. What is the position of the government of Kenya on the presence of asylum seekers and refugees in Nairobi?
 - If Nairobi is the first place these individuals arrive to?
 - If these individuals have been living in refugee camps in Kenya previously?
 - If these individuals have passed through Uganda or Tanzania?

2. What protection can the government of Kenya provide to refugees living in Nairobi?
 - Can refugees living in Nairobi seek the protection of the Kenyan police?
 - Are any other protection measures being taken?

3. Are police aware of the various documents that asylum seekers and refugees carry? Are these documents honored?
 - Are police trained in the principles of refugee law and are they trained to respect these documents?
 - Is there an official disciplinary procedure for police who extort money from or arbitrarily detain refugees?

4. What position does the government of Kenya take on instance of sexual violence against refugees in Nairobi and / or attacks against high-profile security cases, such as the April 17, 2002 attack on the Rwandan family housed in a UNHCR-run facility? Is the provision of designated areas in order to ensure the security of refugees in Nairobi or elsewhere in Kenya a priority?
 - Does protection against sexual or other forms of violence fall within the government of Kenya's work with refugees in urban areas?

5. What measures are being taken to prevent the "repatriation" of individuals arrested and charged with "illegal entry" to places where they fear persecution?
 - Are magistrates aware of the government of Kenya's nonrefoulement obligations and do they make adequate inquiries into an individual's fear of persecution prior to ordering their repatriation?
 - On April 18, 2002 Human Rights Watch interviewed a young Somali national at the Langata Police Station. He had served six months imprisonment on "illegal entry" charges and both officers present for the interview said they planned to repatriate him. The man indicated that he was a refugee, and said he did not want to go back because he was afraid and had no family left there. What can you say about cases like this one?
 - Human Rights Watch obtained official statistics from the Nairobi Provincial Police indicating that thirty-nine individuals were "repatriated" to countries known to produce refugees. In addition, UNHCR statistics indicated that one hundred and sixty four individuals were returned through Moyale to Ethiopia. How does the government of Kenya ensure that such people are not being returned to places where they fear persecution?

6. What position does the government of Kenya take on developing legal protections for asylum seekers and refugees within the domestic laws of Kenya?
 - Why is the draft refugee bill still languishing in parliament?
 - Can the government of Kenya estimate when it hopes to pass domestic refugee legislation?

- What is the reason for the delay in issuing new joint government / UNHCR refugee documentation?

7. What position does the government of Kenya take on the current efforts to harmonize refugee policies within Eastern Africa?

- To what extent does the government of Kenya already communicate and coordinate with the governments of Uganda and Tanzania on refugee policy?
- Is the recent revival of the ECA seen as an opportunity for a regional approach to refugee protection?

8. How does the government view the performance of the office of the United Nations High Commissioner for Refugees, and its implementing NGO partners in Kenya?

- How would you describe the communication and working relationship between the government of Kenya and UNHCR?
- Please comment on the capacity and effectiveness of UNHCR and partner NGOs, as well as their working relationship with the government of Kenya.

9. What position does the government of Kenya take on the freedom of movement of refugees and their enjoyment of other human rights, including provision of permission to work?

10. Would the government of Kenya consider becoming directly involved in the refugee status determination process? (i.e. through conducting status determinations by using its own legal officers)

11. What areas of concern to the government of Kenya relating the protection of the human rights of refugees would you like to see Human Rights Watch address?