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# KENYA

## Screening of Ethnic Somalis The Cruel Consequences of Kenya's Passbook System

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## Introduction

**The screening of ethnic Somalis in Kenya is a procedure which requires all Kenyans of Somali origin and Somali nationals living in Kenya aged 18 and above to carry a special identification card. It began in November 1989 and was to last three weeks. Instead, it has become an institutionalized procedure whereby all ethnic Somalis are treated as second-class citizens. (See *News from Africa Watch*, November 17, 1989 and December 6, 1989).** The cards are essential for the purpose of all state services and bureaucracy, including education, trade, financial transactions, land transactions and for internal and external travel.

The government has sought to justify screening on the need to identify "illegal aliens" following the recent influx of refugees escaping the wars in Somalia. But hundreds of people born in Kenya who have no links with Somalia, and Somalis who obtained their residence legitimately, have been accused of obtaining their papers fraudulently and deported. Whatever the real reason, critics of screening believe that the procedure was prompted mainly by the decision of certain senior government officials to cripple major business interests and the desire of the Somali government to ensure the expulsion of businessmen they accuse of financing anti-government activities in Somalia. (There is a long-standing agreement between the two countries to cooperate over anti-government factions operating in the border regions.

Reminiscent of the hated old Kipande system, a special card system used in the colonial era to control the local population, screening has been strongly condemned as unconstitutional and discriminatory by Kenyan lawyers and churchmen and international human rights organizations. Screening has proved to be brutal as well as divisive and is bitterly resented by the Somali community. As a direct result, many people have been forced to seek refuge in Europe and North America and thousands have fled to neighboring East African countries, living as a stateless and persecuted diaspora subject to further hardship and indignities. They have been arrested and detained in Tanzania and Burundi. Scores of long-term residents in Tanzania have been caught up in the sweep, deprived of their livelihood and are currently imprisoned under appalling conditions. At least two thousand Kenyan citizens deported to Somalia are suffering great physical hardship as they are forced to survive without any recognized status - either as legitimate refugees or citizens of either country - and without any adequate humanitarian assistance.

Africa Watch reiterates its strong condemnation of the Kenyan government's decision to implement this procedure. Donor governments have failed to criticize this arbitrary and highly discriminatory practice. Instead, they have rejected as refugees the victims who have fled Kenya and neighboring countries. Africa Watch also notes with great concern the conspicuous failure of international organizations to speak out about this issue or assist the victims, which has caused bewilderment and generated almost as much resentment as that

**felt towards the Kenyan government itself.**

**The number of people deported by the Kenyan government as a result of the screening is not known. Official sources claimed to have expelled at least two thousand "illegal aliens" by January 1990 but many more have been deported since January; in addition, this figure does not include the hundreds of people who left to avoid further intimidation.**

N.B. We have used the term "deportation" throughout this document; it is important to note, however, that the expulsions have been characterized by the failure to respect accepted judicial procedures.

### **The Procedure is Set in Place**

According to the lawyers, friends and relatives of those who failed the screening "test" in Nairobi, two police stations - Pangani and Kasarani - were packed full of people detained by the Screening Task Force. According to the government's own admission, many of the "aliens" are people who have lived in Kenya for more than twenty years, and on that basis alone, should not have been expelled from the country which has become their home. In Nairobi, arrests started at the end of the first week of the screening exercise and continued until the first major batch of deportations on December 3, 1989. Cells were reported as extremely over-crowded, exacerbating the unhygienic and poorly ventilated conditions. Lack of space and segregation meant many of the women were made to sleep on floors outside the cells without blankets or mats. Detainees relied on relatives to bring food, although many people suffered from lack of such assistance as they were taken straight from the screening center and were not known to be detained for some time.

According to one of the lawyers who visited both police stations, people were not properly charged: "the police were not holding those people on any charge under the Penal Code and there was often no option of a police bond. They were only holding on behalf of Nyayo House (Special Branch headquarters and office for the Screening Task Force), using Special Branch powers to detain." The legal requirement that the details of a complainant be recorded in the Occurrence Book (OB) before an arrest can be made was abandoned; no such entries were seen by lawyers, who said there were "serious departures from police regulations when arresting." Police proved obstructive to those attempting to provide legal representation, and to those attempting to seek it. On the few occasions the cell registers were made available to lawyers, the reason of detention was simply recorded as "screening" - which has no legal validity or constitutional foundation.

A climate of fear and intimidation in Kenya, which is both current and cumulative, promotes public ignorance of fundamental legal rights which is all the more acute in the case of an ethnic group which has been subjected to a long history of repression and discrimination. As a result, even though the people detained insisted they were legitimate Kenyan citizens, only a small

group of businessmen sought legal representation. This conspicuous lack of legal advice and representation is also attributed to the screening procedure itself, wherein people were taken directly from the centers to the police stations, and to the common practice in Kenya for police to deny people opportunities to make arrangements for legal representation. Advocates who were called in to represent certain businessmen describe the surprise of other people in custody that lawyers could be used. "They believed entirely in the power of the government and were convinced that lawyers couldn't be involved" said one lawyer. He added that "many believed that taking a lawyer would make their case more difficult, and had been told that everything would be solved by the government "in a proper manner." They were told lawyers "would do a lot of damage."

Most of those arrested, detained and subsequently deported were also without the financial means to get representation even if they had the opportunity. Lawyers said that everyone they managed to talk to in custody seemed convinced that deportation was a threat but not a possibility, and were optimistically waiting for "things to be sorted out." The people who went to the centers to obtain their card were the ones who felt they had nothing to fear since they were in possession of the right documents. They went to the centers without any money, without having made arrangements about their businesses and without having taken care of the needs of their families.

In addition, the Immigration Department, as part of the screening exercise, issued a circular to all Kenyan travel agents requiring them to bring the documents of all ethnic Somalis intending to travel outside the country to the Immigration Department to receive special clearance. Now, no ethnic Somali can travel without additional vetting from the Immigration department, which is clearly an unconstitutional, discriminatory and punitive measure. Reports reaching Africa Watch indicate that it has frequently been used to prevent Kenyan Somalis from travelling, and is also used to inhibit the movement of other ethnic Somalis from neighboring countries using Kenya as a transit point.

### **Arbitrary Criteria Used to Determine Qualifications**

According to those who were subjected to the screening, judgement of legitimate Kenyan citizenship depended on arbitrary methods of assessment which superseded ability to produce official documentation, that is a birth certificate, national identity card and party membership, the reasons given for the screening process. Judgement was based primarily on:

- \* identification by elders and other members of the Somali community;
- \* ability to name clan, sub-clans and full names of grand and great grand parents;
- \* ability to give a detailed geographical description of the person's place of birth;

- \* language spoken: fluency in KiSwahili, the national language;
- \* ability to answer random questions about the history and politics of Kenya;

Such procedures were never officially acknowledged as methods of identification by the head of the Screening Task Force, Mr Mohamed Yusuf Haji, who maintained that there was "nothing to fear if the right documents are produced." (Mr Haji is the Rift Valley provincial commissioner).

### **Doubts About the Legal Basis of Screening Panels**

A number of Kenyans, journalists, lawyers and clergymen, have criticized the composition of the Task Force, arguing that it does not have the competence to make the necessary judgements. Gitobu Imanyara, a lawyer and the editor of *The Nairobi Law Monthly* wrote, after he listed the members of the Task Force:

To the best of our knowledge none of the above persons is a magistrate or a judicial officer. Yet "all persons of the Somali ethnic community resident in Kenya who are of eighteen (18) years and above" are required to furnish to the above persons "such documentary or other evidence of the truth of their registration." How the "truth" is to be established is not indicated. Yet there can be no denial that the screening panels are adjudicating authorities. Those who fail the screening test are being locked up. Upon "successful screening," those who pass are issued with certificates of registration...

In addition to the normal identification card carried by other Kenyans, Kenyan Somalis must now also carry a special identification card. Section 76(9) of the Constitution has the following provision:

"A court or other adjudicating authority prescribed by law for the determination of the existence or extent of a civil right or obligation shall be established by law and *shall be independent and impartial*; and where proceedings for such a determination are instituted by a person before such a court or other adjudicating authority, the case shall be given a *fair hearing* within a reasonable time."

Imanyara then questioned the legal justification for the panels:

Under what law are the screening panels established? Gazette Notice No. 5319 contained in the *Kenya Gazette* dated 10th November 1989 is *not a legal notice* capable of constituting an adjudicating authority. But assuming that it does so, where are the safeguards to ensure their *independence and impartiality*. How do they go about their screening exercise? How is arbitrariness of proceedings curbed? What opportunities of appeal lie from decisions of these screening panels? What was the criteria used in

constituting these screening panels? Are the records of these panels open to court scrutiny? These are questions that beg answers not abuse and insults from the "honorable" M.P.s who have denounced us for expressing a view contrary to their chorused vitriol.\*

Imanyara commented on the injustice of a procedure which requires those who successfully "prove" they are Kenyan citizens to be given special identity cards.

Kenyan Somali citizens are entitled to all the rights and freedoms enjoyed by the rest of Kenyan citizens. These rights include the right to have the genuineness of their citizenship papers established by an impartial and independent regular tribunal with established rules and procedures *not especially* appointed arbitrary screening tribunals manned by non-judicial administrative officers who appear to have a complete blank cheque in their manner of deliberations.\*\*

### **Facilitating the Exploitation of Local Rivalries**

The need to be identified by other members of the community was exploited by personal, local and business rivalries. In addition, many people expressed outrage at the fact that they were expected to prove intimate familiarity with places of origin in Somalia that they may have left many years ago and many have never seen. According to information received by Africa Watch, people were expected to describe their place of birth in unreasonable detail. They were asked to describe the lie of the river, specifics about the location of public buildings and the number and position of trees. Familiarity with sub-clans and grandparents proved impossible for some - especially for the educated, mobile younger generation, who are constantly encouraged to shed the traditional significance of such considerations by a government that proclaims itself "non-tribalist." A young man described his experiences:

Over the past month or so, I have been boiling within myself. Boiling because of the humiliation I went through during the just ended screening exercise.

First you present yourself before a group of elders with your ID card. The elders are asked by the other members of the board whether they know you-though one wonders how in the present day Kenya a group of elders can identify every Kenyan Somali. If the elders don't identify you, God help you then; your ID is taken away and you are whisked off to a police station.

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\* "Why the Screening of Kenyan Somalis Cannot Be Constitutionally Supported," Gitobu Imanyara, *The Nairobi Law Monthly*, November 1989.

\*\* *Ibid.*

If you are fortunate enough to be identified by the "all-knowing elders" you proceed to the next stage where you are asked to identify your clan, sub-clan, sub-sub-clan and your paternal grandfathers five generations ago. Some of us had never bothered to learn these minute details and had to go back home to ask our parents to enlighten us in these matters.

The goodwill created during the past decade by the Nyayo government amongst the Somalis has been destroyed. We are back to square one - second class citizens! To prove that we are second class citizens we can't get licenses for any sort of business, open bank accounts, obtain passports or have our children admitted to school, college or university.\*

A deportee interviewed by Africa Watch commented that:

Screening provided opportunities to settle a lot of local animosities, business, personal and tribal. Some of the elders used it to exploit these rivalries and discriminated in the way they treated people especially when they did not know them. The test was strictly applied when it suited them and not otherwise. In Maralaal, one young woman who had only been in Kenya for three months and did not speak a word of KiSwahili was given the card whereas people known to be born in the country were detained in the police-station.

### **Women at a Disadvantage**

According to information received by Africa Watch, a large proportion of the "deportees" were women, who are in a particularly vulnerable position. Many of the women detained were reported to have been rejected by the screening committees on the basis of the language requirement. Although KiSwahili is the national language and estimated to be spoken by some seventy to eighty per cent of the population, many people do not speak it as their first language and a number of different communities only speak a local language or a dialect of KiSwahili. KiSwahili has spread through education and trade, but a large proportion of the Somali community living in the isolated and underdeveloped north eastern province remain Somali-speaking only. In Nairobi, many women from the Somali community are unable to speak KiSwahili, attributed to the fact they receive significantly less educational opportunities, are less involved in large scale trading and transporting networks, and, in traditional Somali culture, are restricted socially and economically in a manner which reduces the likelihood of familiarity with the national language.

The large number of women detained and subsequently deported can also be attributed to the fact that the screening committees were made up entirely of men, making it culturally difficult for women to assert themselves and insist on their rights. A number of families reported that women

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\* "Humiliating Screening," Letter to *Focus on Africa* magazine, Vol 1, No. 2.

who had been brought from Somalia to Kenya for marriage were automatically rejected in the exercise - although under Kenyan law their marriage to a Kenyan made them eligible to be considered Kenyan citizens. This was not recognized during the screening and such women were immediately arrested and deported. Somali women married to Kenyan citizens also had problems being identified by elders and other members of the community - and their vulnerability was compounded at times, according to friends and relatives, by personal rivalries and family disputes associated with the common practice of polygamy. In addition, as women normally move to the town or village of their husband, in instances where women married into communities outside their vicinity, they have few relatives and other people, if any, who are able to vouch for their ancestry.

### **The Abandoned Children**

The tragic consequence of many of the detentions and deportations is a large number of abandoned children. Africa Watch received details of a family of seven children aged between eighteen months and twelve years, living without their parents in Eastleigh, a suburb of Nairobi inhabited largely by ethnic Somalis. Their mother had been arrested at the screening center, detained for three weeks and then deported. The father, a transporter working in Uganda and Sudan, was not present during the screening exercise and was unable to defend what the family insist was his wife's legitimate Kenyan citizenship. He has not returned since his wife's deportation. Reports from relatives and friends of other abandoned children indicate there are a number of other cases where families have been torn apart.

Aside from the bewilderment of these children now being looked after by relatives, separation from families obviously causes great suffering to the mothers - some of whom were separated during detention and deportation from breast-feeding children. Another woman, Hawa Musse (not her real name) who recently returned to Eastleigh was reunited with her five children, all under the age of eight. She said she was stopped without her screening card at a shop one morning just before the deportations began and taken straight to Embakasi police camp. The children, whom she had left in the house, were later discovered by a neighbor and taken to relatives.

### **The Deportations**

People were held from one week up to a month prior to deportation, and as the local police stations became overcrowded throughout the country, they were moved to Embakasi Police College - described as a para-military-style camp - on the outskirts of Nairobi near the airport. In anticipation of the deportations, lawyers filed some thirty cases but none, they say, were successfully afforded due legal process before deportation. Only four of those with legal representation - all wealthy businessmen - brought their case to court; the others abandoned their case or fled the country.



Two applications were filed in court on December 15 to stop the intended deportation of two businessmen, Mohamed Kanyare Afrah and Yusuf Osman Gabayare, on the basis that they had documentation to prove they were bona fide Kenyan citizens. Their lawyers were unable to obtain a court order to allow them to proceed with the necessary action to stop the Commissioner of Police and the Principal Immigration Officer from carrying out immediate deportation. On December 16, the day before the deportations, advocate Dr John Khaminwa went to the Attorney General's home between 4:30 - 5:00 p.m. but was refused entry. Dr Khaminwa had served the affidavit and the court order that stayed the deportation of the two men but the Attorney-General refused service on the grounds that it should have been served on him at his office and not his residence. Dr Khaminwa had served him the documents at his house because the following day was a Saturday and public offices are closed during weekends. The following day the Attorney General complained about Dr Khaminwa's initiative, saying "my home is not an office and I can't be served official documents there."

The two men were subsequently taken by road to Liboi, on the Kenyan-Somali border, on Sunday December 17. Dr Khaminwa went to court the next day, the 18th, to commit the Commissioner of Police and Principal Immigration Officer for contempt of court in respect of Yusuf Osman Gabayare and Mohamed Kanyare Afrah. The State Counsel argued that the government was unaware of a court order at the time of deportation and that the deportees were not within Kenya's jurisdiction as they had already been deported. In fact, the two men were still at the Kenyan border but no effort was made to bring them back or halt deportation.

A third businessman, Ahmed Hersi Farah, was also deported over the Liboi border after the Kenyan government made an unsuccessful attempt to deport him by air to Mogadishu. An attempt to stop Farah's deportation was filed on December 20, with an order made for stay of deportation on January 15, 1990. But the Attorney-General said the applicant had already been deported by air.

Africa Watch strongly condemns this deliberate obstruction to fair legal process. While the Kenyan government has the right to investigate any case of illegal residency, it is obliged to do so through the relevant legal machinery as directed by its own constitution.

According to those who were deported and to eye witness accounts, the first main group to be deported from Embakasi police camp numbered between five and six hundred women, men and children. During their imprisonment at Embakasi, most were without any means of shelter; a small number of tents were set up only for the first batch of arrivals. Witnesses describe the anguish and misery of the deportees, particularly of those separated from children, who issued constant appeals to powerless family members to arrange for their release. Relatives and friends were allowed to bring food until three days before the deportation. When access was suddenly refused, those providing food became suspicious that the deportation was imminent and many remained within the immediate vicinity to keep a 24-hour vigil of the camp. They provided Africa Watch with detailed accounts of how army trucks arrived on the day of expulsion on

December 18 at 6:00 p.m and army and police personnel attempted to load people on to the trucks. Panic ensued and many people reportedly resisted. Friends and relatives at the scene say two ambulances arrived at around 8:00 p.m to take away people who appeared to be suffering from head wounds and broken limbs. Africa Watch has been unable to confirm the numbers injured or types of injuries sustained. Witnesses were fearful to go any closer to the camp and can therefore only provide information on what they saw from a safe distance.

It was not until after midnight that security personnel successfully loaded everyone on to the trucks despite the resistance. Less than ten people remained in the camp, and were described by relatives who looked for family members the next morning as being Ethiopian refugees.

The army trucks were seen driving through Garissa, north eastern province, the following morning. Garissa residents say army jeeps, land-rovers and a helicopter provided an armed escort and that the convoy consisted of about fifty vehicles. The convoy passed through the main towns and villages without stopping, resting at a police post between Garissa and the border, and reaching the border town of Liboi at around 6:00 p.m. Although all vehicles are normally required to stop and report at Liboi Town, which is fifteen kilometers from the Kenyan-Somali border, the convoy drove directly to the border post.

### **At the Border**

The deportees stayed three nights at the border post, where they were kept under armed guard in the wire enclosure surrounding the compound of the post office. The group numbered 575, including about 100 children. Residents from Liboi who provided them with food said it was "not a police affair" - security was composed of military personnel and the para-military General Service Unit (GSU). Kenyan military personnel negotiated with Somali border officials to take the group across into Somali territory. Initially, the Somali officials refused on the basis that none of the deportees had Somali passports or identification papers. After the third day, instructions reportedly came from Mogadishu to accept the group and wait for transportation to Mogadishu.

These were the first group of "deportees" known to have been accepted by Somali border officials. The Kenyan government first attempted to deport a group of sixty businessmen from Mandera the week before but Somali border guards at Bulahow refused to accept them, apparently in accordance with instructions from Mogadishu. Kenyan Administration Police then took the Mandera group to the Ethiopian border town of Sufka, where they were also refused. Returning to Mandera, they reportedly found people fighting over their possessions. Kenyan police gave them temporary papers until deportation could be arranged. Africa Watch has been unable to get any further information on the fate of these people.

During the three days of negotiations with the Somali authorities in Liboi, one young man is known to have been severely beaten by Kenyan soldiers for refusing to eat. After a heated

exchange with a group of soldiers, witnesses said he screamed for help but was beaten until he appeared unconscious. Witnesses say he was left on the ground during the night and the soldiers refused to allow him any assistance. He was beaten again the following morning before the group was taken across the border to the Somali authorities and not allowed to leave. The other deportees raised the alarm about his situation once they crossed the border, and he was deported a day later.

Africa Watch obtained a detailed first-hand account from a young man deported from Maralaal, Sumburu district, to Mogadishu who has now sought refuge in Britain. Suleiman (not his real name) left Somalia in the mid-eighties and went to Kenya. Relatives obtained the relevant identity papers for him immediately by paying a bribe of 3000 shillings. This is Suleiman's account of his arrest and subsequent deportation.

I was arrested as soon as my questioning by the screening panel was over on November 20. Many others were arrested at the same time but they were released on bail. However, at 1:00 a.m. that night two men, brothers, and their wives were brought in. One of the young woman had a month-old baby. Both men were born and educated in Kenya and had valid papers. They were in the wholesale business and also had farms. They said that when they went to the screening panel that morning, they were told everything was O.K. and they got their cards. Then policemen went to their homes after midnight, confiscated their cards and brought them to the police-station. After they brought these two families, the police suddenly said bail would no longer be allowed.

The Maralaal chairman of the screening panel would come in the mornings and in the evenings to see us at the police-station. Each time, he gave a new order to make our life more difficult. He ordered that no-one should speak to us; another time, he told them that we should not be allowed out of our cells; because it was so cold at that time of year, we had been allowed to sit outside in the sun.

More people were brought to the station until there were twelve of us, ten men and two women. The station had been built by *harambee*\* and people would comment bitterly that their money had built the station in which they were now detained. Of course the policemen knew all these local people. They looked astonished to see them there and inadvertently would ask "But what are you doing here?" Food was brought to us by our relatives.

After nearly two weeks, the 12 of us were taken in two land-rovers; we were accompanied by armed guards. We were taken to the police-station in Eldoret. Many

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\* **Harambees are fund-raising events where the public make contributions for charities or civic purposes.**

other people had been brought in from various districts of the Rift Valley, including Nanyuki, but particularly Turkana. We were seventy people altogether. We were told that a second screening would be organized for us. We survived thanks to the Somali community at Eldoret; three times a day, they brought us a proper meal. The police at Eldoret were also helpful. They said they had no idea why we were being detained. The woman with the small baby was allowed out on bail after the Somali community petitioned on her behalf; the bond was paid by a well-known member of the Somali community.

We were questioned again. Six people were released, including the two brothers from Maralaal and their wives. This time the questions were mainly about who you planned to entrust your property to. All these people had left their businesses unattended; they had gone to fetch a card then got arrested on the spot. They included the proprietors of tea-houses, shop-keepers, farmers and livestock dealers. There was no-one looking after their property and no-one they had given instructions to because there was no way to foresee what would happen. One of the people at Eldoret in fact had been given the card himself in his home-town but his wife had been arrested. He learned she was at Eldoret and he came to look for her. Instead, he himself was arrested. One of the people detained with us at Eldoret was a sixty year-old man who had come to Kenya with his family at the age of 12; he seemed in a daze as to why he had been arrested. He used to say that he had never seen a Somali flag.

Seven of us admitted that we were Somalis, although we had all been in the country for several years. All seven of us said made it clear that we did not want to return to Somalia because of the security situation; we asked to be taken to the refugee camps in Ethiopia set up for Somalis. That night, two of the seven men were taken out of the cell at 2:00 a.m. Up to this day, no-one knows what happened to them. They told us that they had been accused of being "poachers"; everyone assumes they were killed but who knows?

We remained in Eldoret for about two weeks. One night, at about 10:00 p.m., two "Nyayo" buses arrived unexpectedly. Everyone thought that we were about to be released. It never entered our minds that our deportation was imminent. We were driven to Nairobi. A policeman told us that we were to go through another screening exercise. That gave us hope. Since Nairobi is the headquarters of the Screening Task Force, we thought that the process there would be a fair one.

We arrived in Nairobi at about 3:00 a.m. We were taken to Embakasi Police College and told to spend the rest of the night in the bus. In the morning, the men and women were separated and lists drawn up on the basis of the towns people came from. There were already so many people at the College, including many women and children. The number was about 575. People had been arrested and detained in Nairobi, Mombasa

and other towns. Among those from Mombasa was a group of young men in their twenties who had rented a boat to escape to Somalia. Another boat was sent after them and they were caught, including their sailor. They had been detained for a while in Mombasa.

Conditions at Embakasi were terrible. Only the first arrivals got tents; we got nothing. Our group was only there for one night and slept in the buses before we were deported the next day. When we arrived there, we had no idea what would happen to us. In the morning, the police cadets attending the college sold us some milk. We were not given anything to eat. At lunchtime, we got some watery rice.

At 6:00 p.m. we were told that we were being transferred to another center. All 575 of us were driven to a parking-lot. We had to line up to collect our exit papers. After some people got theirs, it became too dark to read the names out. We were then driven in different military trucks where we were cramped for lack of space. We left at 10:00 p.m. and drove in the direction of Garissa. We drove to Garissa via the route known as the Thika Road. We arrived at Garissa at 12:00 a.m. during the journey, we got nothing to eat. We stopped outside Garissa in the open, for some tea and biscuits. Each car left as soon as the passengers ate their snack.

At 6:00 p.m. we arrived at Liboi inside the Kenyan border. We were taken outside the town to a wire compound that belonged to the Post & Telecommunications. There was no water to drink and no toilet facilities. The compound was far too small for nearly 600 people and things got worse when it began to rain. We stayed in Liboi for a few days. The situation on the border was frightening because of the fighting between the Somali soldiers and the guerrillas of the Somali Patriotic Front (SPM). This made everyone even more tense. The only food we got was the occasional tin but we were not given anything to open the tins with. Three men had key rings or small pocket knives and people lined up for these. But people became too hungry to wait and out of desperation, they rubbed the tins into the cement and tried to force the cans open with their bare hands in the dark. Inevitably, many cut themselves in the process. After a while, they confiscated animals from the local people, but they fed the soldiers guarding us first. We got what they left.

## **Over the Border**

In Dobley, a small town just inside the Somali border, the group were taken to the police compound situated just outside the main town area and welcomed by the authorities. They were told they would be given transport to the capital. The majority, however, continued to protest that they were not Somali citizens and, producing their Kenyan national identity cards and other documents, became distraught at the prospect of being transported to Mogadishu. Trucks took two weeks to arrive in Dobley, sent from Kismayo, by which time a small number

of people left Doblely to find family or friends in the surrounding region or to make their own arrangements for transport to Mogadishu. Those who remained in Doblely were fed by the military who forcibly took animals from nomads.

Suleiman continued:

After a few days, a captain from the Somali army came to negotiate our journey to Somalia. We were taken over the border late one night. The captain gathered us altogether and gave us a long lecture about the insecurity in the area and the food shortages. One of the passengers had money on him and used it to buy meat for everybody but that did not last long. The captain would order his soldiers, in front of us, "to take animals by force from the local nomads." He would tell them "to shoot them in the legs if they resisted." Many people refused to eat the food on account of this. We were eventually allowed to go into the town which was completely deserted. The civilians who normally live there, who are Ogaden, had fled after the army drove the SPM out. Even though the SPM was not in the area, the soldiers were always firing their guns. The captain refused to give us our exit papers which some people had received, until transport for us arrived from Mogadishu. But we could not wait because conditions were so bad. The area is very bad for malaria and many people got sick but there were no medicines. Anyone who could find the money to pay for the bus left but of course most people had no money on them. I was one of the lucky ones and managed to make my way to Mogadishu where I promptly came down with malaria.

Two of the businessmen who had attempted to file applications in court, Kanyare and Afrah, were brought to the border in a separate police van. They were kept separate at all times and remained under guard in the van. Kanyare was known to be wanted by the Somali government, for alleged "anti-government activities," accused of financing anti-government movements. After Kanyare's arrival at the border, the group was accepted and taken to Doblely. Kanyare's anti-government reputation ended up saving his life. Once handed over to the Somali authorities, a senior member of the police force insisted on taking charge of Kanyare. A dispute between the army commander and the police ensued. According to Kanyare, this was because the army commander was Marehan (President Barre's clan) and identified with the government, but the majority of the army personnel and the police chief were Hawiye (considered an anti-government faction) and apparently favorable to Kanyare's safety. Facing a volatile situation and, in the words of those who witnessed it, a potential mutiny, the army commander agreed to allow the police to take Kanyare into police custody "to follow proper procedure."

According to Kanyare, the police reassured him that he would be afforded protection despite instructions from Mogadishu to arrest him and escort him to the capital. The police provided him with two escorts back to the border and told people the following day that Kanyare had been taken to Mogadishu. Kanyare spent about two weeks travelling back through Kenya

where he said he received help from local people. He was stopped by police in Garissa but he succeeded in continuing on to Nairobi apparently by paying a bribe. After meeting his family in Nairobi, he crossed over to Uganda where he sought assistance from the United Nations High Commission for Refugees (UNHCR), with the help of human rights organizations.

### **Stranded and Stateless in Mogadishu, Somalia**

About two thousand people are now living in the compound of the Ministry of the Interior, Mogadishu, following the deportations from Kenya. They all insist they are Kenyan citizens and carry Kenyan identity papers, passports and party membership cards to prove it. The conditions under which they live have been described as harrowing; they remain without shelter and without humanitarian assistance from either the Somali government or from international aid organizations. According to journalists and lawyers who visited the camp, people are desperate to return to Kenya where their families and their property remain. The group is composed mainly of women - some of them in an advanced state of pregnancy, and men and children, including babies. They are not typically in family units - nearly all have been separated from immediate family in Kenya. Independent witnesses have commented on the extent of psychological distress among all the deportees, including the evident confusion of children, and the desperation of the adults to return to their home country. At least three are known to have died from lack of food, shelter and medical assistance.

Somalia's only human rights lawyer, Dr Ismail Jumaale, reported shortly before his death on July 22, 1990, that deportees from Kenya began arriving in January from the Doble-Liboi border in groups of one to three hundred - and were still arriving in June, although the Somali government has refused to accept any more.

The first group of about six hundred, who arrived in trucks from the border in January, received 10,000 Somali shillings to live on from the Ministry of the Interior, which with hyper-inflation in Somalia, amounts to very little. As the numbers increased, with constant new arrivals, the deportees were housed in the compound of the Ministry of the Interior building and received no further assistance. They relied solely on what food they could beg or buy from the town and on help from Mogadishu residents, until the United Nations Development Program (UNDP) began to provide a daily food parcel. Food supplies, however, remain inadequate and the deportees continue to seek food and assistance from the town. Suleiman who visited the deportees in Mogadishu said that they were frequently turned back on the basis that the parcels had not been delivered; he added that either the officials could not be bothered to check or they are misusing the assistance. The deportees have been given no shelter, using only items of cloth and clothing draped from the sides of the building and from the few trees in the compound to provide some protection from the sun and rain. Many are suffering from poor health, which deteriorated further with the onset of the rains in July/August and the absence of health care and nutrition. Sanitation facilities are non-existent - the deportees must seek such facilities wherever they can find them outside the

compound, creating a health hazard.

After several weeks in Mogadishu, many of the group sought the help of Dr Ismail Jumaale, who had over two thousand such cases on file before he left Somalia in June. About one hundred initially proved to be Somali citizens, leaving to find friends and relatives. All those remaining in the compound insist they are Kenyan citizens and want to return to their country; none have sought refugee status in Somalia and none have claimed Somali citizenship. Some, according to Dr Jumaale, are unable to communicate adequately in Somali. All continue to produce Kenyan national identity cards, passports and party membership cards as evidence of their status.

Dr Jumaale composed a dossier of the cases on file and presented it to the Ministry of the Interior in April. A committee was appointed to investigate their status composed of personnel from the Foreign Ministry, the Ministry of the Interior, Immigration officials and Jumaale. The findings of the committee, namely that these people were non-Somalis, were reported to the Minister of the Interior.

During the same month, a United Nations Under Secretary General, Mr Abdulrahim Farah visited the camp after he had come under pressure from independent witnesses to provide immediate assistance. He promised to undertake action through "quiet diplomacy." He subsequently gave instructions to the UN to do everything possible to assist the "deportees." He also called on other international relief bodies and humanitarian organizations to assist. So far, however, no assistance has been provided apart from the UNDP food parcels, and aid organizations have pleaded "limited resources."

The Secretary General of the Organization of African Unity (OAU), Mr Salim Ahmed Salim, was also informed about the plight of the deportees by independent witnesses in Addis Ababa. In March, Mr Salim promised he would speak to Kenyan and Somali ambassadors but said the OAU had no powers to act in any way on behalf of the deportees. He has since indicated that the result of his conversation with the ambassadors "gave the impression that Kenya will not send any more people out of the country" under the screening exercise. Mr Salim has reiterated that the OAU cannot provide any help for the group who remain stateless and without assistance in Mogadishu. Africa Watch has written to the Secretary-General, calling on him to intervene and pointing out that a group of African people forcibly expelled from their country and currently stateless, had a right to expect a humanitarian response from the OAU.

Following the report of the committee set up by the Minister of the Interior, the Somali government has indicated its intention to evict the Kenyans from the Ministry of the Interior grounds. Information reaching the deportees that they were soon to be made homeless again provoked despair and anger; they made clear their intention to resist and made plans to demonstrate. Mediation with the help of Dr Jumaale had contained protest and eviction, a



position obviously encouraged by the very real fear of those in the camp that protest will only serve to worsen their situation.

Dr Jumaale wrote to the Kenyan government asking why these people were made stateless and the deportations carried out, without due process of law, leaving family and properties in Kenya. A copy of the letter was sent to the Kenyan press, but was not published.

He also sent a public letter, dated March 27, 1990, to Kenyan lawyers appealing to them to intervene with the government. He wrote:

In my capacity as a lawyer who is concerned with the question of Human Rights, I have been approached by more than 1500 persons who are complaining of unjust and illegal deportation from Kenya, a country [of which] they claim to be its citizens.

For sometime now, in collaboration with some international Agencies, I have been investigating this matter and have established that the majority of these people do possess the following documents which testify to their Kenyan citizenship:

- A. Kenyan Identification Cards
- B. Kanu Party Membership Card [Kanu is Kenya's only legal party]
- C. Kenyan Birth Certificates
- D. Kenyan Passports

The Life Membership Cards to the Kanu Party were issued to these people by the State President.

It is important that during the screening operations no considerations were given to the possession of these documents. Almost all the deportees were picked up and removed by the Kenyan Police. Despite being discriminatory and unconstitutional, this action poses some questions:

Was it not proper to take those involved to law courts and prove to them the nature of the crimes they had committed to deserve expulsion from [their] home country? Was it not also in the event that the decision to deport them had been made, [fair] to allow them to remain in Kenya enough time in order to place their property under proper care? Most of those concerned do not know the fate of their children and wives left in Kenya.

These people are being accused of being ethnic Somalis...the fact that the northeast province is inhabited by Somalis has been overlooked. Somalis who originally came into Kenya from Somalia live in Kenya as one of the many other ethnic communities and had acquired their nationality in accordance with the constitution of the State.

What is the significance of treating Ethnic Somalis different from other ethnic groups anyway? Like issuing them with special ID cards and other documents. Are the authorities engineering another "Separate Development Scheme" in a black African country?

Dr Jumaale in particular referred to the case of Ahmed Hersi Farah, the businessman mentioned above, who he said was deported after a Kenyan court decided that the applicant was a genuine citizen.

A case in point is the ruling of the Nairobi High Court on Ahmed Hersi Farah vs. Attorney-General in which the court conclusively determined Mr. Farah a citizen of Kenya. Despite numerous similar rulings, and instructions on *Nole Prosequi* from the Office of the Attorney General, these people were unconstitutionally deported by explicit instructions of the Minister of State.

The ease with which the Kenyan government was prepared to flout the law and constitutional rights can leave little faith in the use of legal procedure to assist these people, but Africa Watch notes their situation has become even more vulnerable and apparently hopeless now that they fall outside the jurisdiction of both the Kenyan and the Somali courts. In addition, the sad and untimely death of Dr Jumaale, who was the only lawyer in Somalia who dared to challenge government actions and to protect human rights, deprives these people of their principal source of practical assistance and hope.

### **Internal "Deportations"**

Under the State of Emergency in the north eastern province, the Somali community has been subjected to control of movement for trading and employment purposes. All ethnic Somalis travelling within Kenya, for social or business purposes, are generally subjected to strict identity checks, policing of movements and suspicion regarding their intention and destination. This has intensified under the screening exercise and Africa Watch has received information that ethnic Somalis are being "internally deported" back to their designated home area by local officials and security personnel. Increased restrictions are seriously affecting normal mobility, especially for purposes of trade and employment. Africa Watch also notes with concern and skepticism an announcement made on the government radio station, Voice of Kenya (VOK) in February, that a group of four hundred ethnic Somali families from Tana River district had "voluntarily repatriated" themselves across the Somali border.\* The forced removal of nomads and settled communities to alternative areas designated by the security forces has always been a feature of administration in the north eastern province. Africa Watch is urging the Kenyan government to ensure that freedom of movement is fully restored and persecution by the security forces ceases.

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\* **BBC Summary of World Broadcasts February 16, 1990.**

## **Screening Procedure Fails to Identify Illegal Residents in Kenya**

Kenya and Somalia share a fluid border that has proved to be an artificial divide between a Somali community with a unifying culture and history. Imposed by the British colonial administration and retained by the newly independent Kenyan government,\*\* it splits geographically an otherwise homogeneous ethnic group. Cross border movement continued for economic and social purposes, and aspirations for a reunification were an intrinsic feature of Somali politics both locally and nationally throughout the sixties and seventies.

Ethnic Somalis living in Kenya's north eastern province have suffered a protracted history of discrimination. The area is chronically underdeveloped and has remained under a State of Emergency since Kenya's independence, giving special powers to security forces and the military and allowing for a suspension of constitutional rights. The screening procedure has intensified existing discriminatory practices and has reinforced economic and social divisions in the community. Corruption, in particular, has been a feature of the screening - and is an entrenched characteristic of the frequently brutal administration in the north eastern province. Many non-Kenyan citizens have successfully taken up residence in Kenya among the legitimate communities by virtue of their wealth. Cross-border movement and the acquisition of false identification and documentation is readily facilitated by the security forces and government officials, where a corrupt system based on personal economic gain and local power is well established. Africa Watch has been made aware of a considerable number of illegal residents who, by virtue of exploiting official corruption, by-passed the screening with ease, or who have since returned to Kenya through the same means.

Mohamed K. Ibrahim, a lawyer who is himself a Kenyan of Somali origin, has refused to be screened and has taken a strong public stand against the procedure. He has also represented many of its victims. He wrote:

What is the object of the "screening" exercise? I truly cannot see the purpose for the exercise. Our government has all the institutions required to protect this country against external and internal problems. If we have aliens who have illegally entered Kenya and have illegally obtained Identity Cards, Passports etc, we have the Police, C.I.D. Special Branch, Immigration Departments to deal with them. The act of "screening" a section of the Kenyan population to flush out such criminals is to admit that the Government institutions have failed to function and that the Government agencies established to curb such offenses are ineffective. I think, this is not true, [and] the Government should let the usual institutions to deal with these problems.

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\*\* See *News from Africa Watch*, November 17, 1989.

The truth which many people are not accepting is that corruption is so rife in our society and in the Civil Service in particular that aliens can come into this country and virtually buy their way through the security checks and Government offices. Unless and until corruption is stamped out in the Kenyan society, illegal aliens and their collaborators will still be among us.\*

Where official corruption is so widespread and frequently exploited for business opportunities, it is inevitable that it should also be manipulated for survival. Kenya is well-known for its hostility to refugees from neighboring countries, particularly from Somalia and Uganda. Many people have been forced to flee from Somalia since civil war intensified in the northern and southern regions of the country. Kenya has absorbed an influx of people seeking sanctuary since 1988 - but, by virtue of its hostile policy, has forced an otherwise genuine refugee population to "buy safety." The first wave of Somali refugees were predominantly northern and urban who fled with the necessary resources to achieve shelter; but recent population displacements in southern Somalia have been primarily rural, nomadic and poor.\*\* Attempts to secure legitimate refugee status in Kenya have failed, and their treatment and expulsion at the border by Kenyan security personnel has been excessively cruel.

### **House to House Searches (Manyatta to Manyatta)**

Screening in the north eastern province proceeded in the absence of official information and, because the region has been made notoriously difficult for access, also in the absence of independent information. The initial exercise was extended from November to March because, according to official statements, additional time was needed to reach and register the large nomadic population. While the screening was proceeding, the national press carried reports of threats from officials and security personnel that a "manyatta to manyatta search" (house to house search ) would follow to check that every household member had the special identity card. In Nairobi, members of the Somali community have reported that security personnel are carrying out house to house and street checks demanding the new identity cards. Such searches are not new but they have increased since the screening. Members of the Somali community in Kenya, who have always been subjected to identity checks and harassment by security personnel, are voicing concern that the new identity cards provide police and special branch with additional opportunities for bribery and intimidation. It has been common practice from the beginning of the exercise for security personnel to confiscate legitimately acquired cards, accusing the owners of obtaining them fraudulently.

### **Arrests and Harsh Conditions of Detention in Tanzania and Burundi**

\* I Feel As If I Am A Third Rate Citizen, Mohamed K. Ibrahim, *The Nairobi Law Monthly*, November 1989.

\*\* See *News From Africa Watch*, November 17, 1989.

There are no reliable figures on the number of ethnic Somalis who fled into neighboring countries as a result of the screening. Most have encountered hostile or unsympathetic treatment from neighboring governments - with the exception of Uganda - or lack of assistance from international organizations based in these countries. Uganda gave Somali refugees temporary papers which allowed them to stay and work in the country; most of the men who went to Uganda are in the transport business and many of them arrived in Uganda with their transport. The true extent and consequence of the flight from Kenya can only be indicated by isolated pieces of information; at the beginning of the exercise, for example, the Ugandan press reported that 180 vehicles carrying ethnic Somalis fleeing from Kenya crossed the border in one day. Those who went to Tanzania and Uganda were not so lucky.

### **Tanzania**

Tanzania, unlike Uganda worked in collaboration with the Kenyan government, arresting a group of three hundred and returning many others to the border. Many of the people arrested include Tanzanians of Somali origin and legal residents who have resided in Tanzania for years. They are mostly poor people who failed to pay the bribe necessary to escape harassment. Africa Watch has received reliable information that 140 of them are currently imprisoned in Dar es Salaam. Out of the 140, only 25 are said to be people who fled the screening in Kenya. The others are either bona fide nationals or people with legitimate residence papers, accused of being refugees from Somalia. They are held in two main prisons, together with common criminals, although they have not been found guilty of any offence. In fact they have not been charged, let alone brought to trial. They are held on the basis of a detention order signed by the Ministry of the Interior.

Apart from five women, the rest are all men. The men are for the most part petty traders, the owners of tea-houses and shop-keepers. According to members of the Somali community in Dar es Salaam, many of the men have developed skin-diseases and some are asthmatic. They have not received any medical attention. Food is taken to them by other Somalis and half of it is routinely confiscated by the prison guards.

In another development, eleven men, legal residents who have lived for years in the Iringa region, were taken to court, accused of being illegal residents. They are for the most part owners of small tea-houses. Their legal fees had to be paid from contributions by the Somali community in Tanzania. They are currently out on bail.

The five women detainees are held in Keko Prison where they are said to be living in dismal conditions. One woman detainee, Amina Ahmed, died three months ago of diarrhea; she became ill in the prison and died the day she was taken to hospital. To the extent that they receive any care, they are being looked after by a group of Somali women living in the Dar es Salaam area. One of these women provided Africa Watch with details about their condition:

They are young married women. But their husbands can not do anything for them because they themselves are in a precarious position. They were arrested on December 4. Three of them arrived from Somalia about a year and a half ago and two of them are legal residents caught up in the anti-Somali wave that has followed the screening in Kenya. Most of them have no relatives in Tanzania. For the three who came as refugees from Somalia, their relatives are living as refugees in Ethiopia. Most of them have children; in some cases, they had nowhere to leave the very young ones and they took them to the prison with them. After one or two months in the prison, different members of the Somali community volunteered to look after the children.

They are in terrible shape. They have had their heads shaved. Their clothes are filthy and tattered. They have no money and no-one to rely on for food or medical needs. They get no medical treatment and most of them are in poor health. Visits have to be facilitated each week by bribes to the prison guards. Even then, there is only about one visit per week. If they do not get food from us, what they get is inedible and insufficient. When we take them food, the prison guards take their share every time. They also confiscate anything of value.

## **Burundi**

In addition to Uganda and Tanzania, people also fled to Burundi to escape the screening. Africa Watch has received details about seventy people currently detained on the Burundi side of the Burundi/Tanzania border. When they first went to Burundi, the government agreed to give them refugee status and settled them temporarily, awaiting further assistance from the United Nations High Commission for Refugees, UNHCR. Political fights broke out between the refugees, apparently prompted by different attitudes to the government in Somalia. Subsequently, the government moved them to a destination near Lake Tanganyika on the Burundi side of the Burundi/Tanzania border, where they are held in a warehouse under armed guard. The government has reportedly stated that it is awaiting the arrival of a Minister from Somalia in order to work out the repatriation procedure, while adding that anyone who does not wish to return to Somalia will not be forced against their will. The government has not clarified what options it will offer to those who do not wish to return to Somalia. Many of the people concerned are unlikely to want to return to Somalia, which they may have fled for security reasons in the first instance. In addition to the seventy, other reports indicate that several hundred people initially sought refuge in Burundi, but Africa Watch has not been able to verify these reports independently.

## **The Role of the United Nations High Commission for Refugees (UNHCR)**

When the screening exercise was introduced, Somali refugees living illegally in Kenya were forced to flee for a second time. For most, the prospect of deportation back to Somalia hung as a

death sentence. Few attempted to seek help from the Nairobi office of the UNHCR for fear that they could only act with the consent of the host country, which in this instance was opposed to assistance for the refugees.

UNHCR, in turn, made no attempt to effectively pressurize the government on the issue of the screening - other than going through the formality of lodging complaints. Africa Watch notes with concern that UNHCR officials in Nairobi failed to alert the international community to this inhumane exercise, and, rather than responding to the uniquely "refugee-creating" exercise, failed to meet the needs of the victims on conservative justifications of their existing mandate. The government of Kenya argues that it expelled these people on the basis that they were not Kenyans, but Somalis. In light of the wars in Somalia, Africa Watch believes that the UNHCR should have taken the initiative to find out the extent these people were indeed bona fide refugees who had failed, for whatever reason, to seek the help of the UNHCR office in the first place. There is no reason to decide from the outset that they were not refugees.

In addition, Africa Watch is disturbed by the failure of the UNHCR office in Dar es Salaam to lodge public protests against the arrest and detention of people who had registered as refugees and to assist them once they were detained, leaving them in a position of extreme vulnerability.

Africa Watch also notes with deep concern the failure of international organizations to establish sufficient regional coordination to follow the fate of the "deportees," in order to provide immediate and necessary assistance.

### **Seeking Refuge in the West**

A large but unknown number of people also fled to Europe and North America as a result of the screening. Tighter immigration controls specifically against Somalis were introduced at international airports. At Heathrow Airport, London, for example, immigration officials were seen (November and December 1989) singling out people of Somali appearance before they reached the immigration desks. Canada reported hundreds of ethnic Somalis arriving at the airport in an attempt to secure refugee status.

The United Kingdom and Canada have accepted a substantial number of Somali refugees who have fled war and violence. The British and Canadian governments feel that there are already large numbers of people fleeing Somalia and seeking refuge in the West and that those escaping screening in Kenya are an additional burden. They should not be punished on that basis. They are bona fide refugees escaping persecution, not only in their own country or country of refuge, but in neighboring countries and are also unwelcome in their supposed country of origin where most of them have no ties. Like other governments turning back the victims of screening, the U.K. and Canada should put the blame where it belongs -- on the Kenyan government. They should make unambiguous and forceful public statements condemning the screening exercise and

reminding Kenya of its obligations under international standards to which it is a party.

Furthermore, both countries are major donors to the UNHCR. In consultation with other donors, they should seek ways of making the UNHCR responsive to the humanitarian needs of refugees living in a country where the host government is hostile to the presence and interests of refugees and is deliberately taking steps that are guaranteed to create huge waves of refugees. Many of those who are now in the west had lived for years in Kenya before they were suddenly uprooted and forced to face the fact that only future insecurity and hardship awaited them in neighboring countries. This should be taken into account in considering their status.

## **Conclusion**

Members of the Somali diaspora affected by the screening say the psychological impact is devastating, describing it as creating despair and lack of confidence in a far-flung trading community previously known for its confident and entrepreneurial spirit. Apart from the immediate impact - which include humiliation and other psychological aspects, forced separation of families, the loss of property, businesses, and basic civil rights, the long-term effects are bound to be cumulatively damaging. A bureaucratic structure has been set-up which classifies ethnic Somalis as second-class citizens; the way has been paved to erode the very fabric of their existence, including education and employment opportunities, as well as housing, ownership of land and freedom of movement.

People who have already suffered a history of brutal repression now find discrimination is officially sanctioned, giving new license and new opportunities to the security forces to persecute at will. A new threat of summary expulsion from the country now hangs over the head of every ethnic Somali, a threat which has sent ripples throughout the region and has encouraged increasingly severe immigration restrictions worldwide. But despite attracting dramatic comparisons with the persecution of Jews, and the mass expulsion of Asians from Uganda, international organizations, pan-African organizations, donor countries and international aid agencies have failed to speak out in public about this inhumane policy or to provide sufficient assistance to help the victims.



## **Recommendations**

### **Appeals Should Ask the Kenyan Government to:**

- \* Abandon the policy of screening ethnic Somalis; public instructions should be issued to all government departments concerned, making it clear that any contravention of the new policy will be severely punished;
- \* Establish a commission to inquire into all aspect of the screening exercise, consisting of government officials who have not been in any way involved with screening, members of the Kenyan/Somali community independent of the government, and individuals, such as churchmen and lawyers, whose competence and integrity is beyond dispute;
- \* Punish all officials identified by this commission as having abused their authority either to intimidate victims or for the purpose of extorting bribes;
- \* Restore all the identity papers which have been confiscated;
- \* Compensate people for the property and other assets they have lost as a result of screening. Responsibility for determining the appropriate level of compensation should be vested with the independent commission outlined above;
- \* Hold talks with the Somali Government with a view to facilitating the immediate repatriation of the Kenyans who were forcibly expelled to Mogadishu.

### **Appeals Should Ask the Somali Government to:**

- \* Put an end to the brutal counter-insurgency policies which are forcing people to flee their homes and become refugees;
- \* Provide material assistance to the stateless persons who have been expelled from Kenya against their will and are currently living in hopeless misery in Mogadishu;
- \* Pressurize the Kenyan authorities, through diplomatic channels, to accept responsibility for the citizens they deported to Somalia;
- \* Bring pressure to bear on the governments of Tanzania and Burundi to release the Somali citizens they have detained, to allow those who have legitimate papers to remain if they so wish and to ensure safe passage for those who prefer to return to Somalia or to join relatives in the camps in Ethiopia.

**Appeals should Ask Donor Countries to:**

- \* Prohibit the deportation to Somalia, Kenya or Tanzania of any ethnic Somalia who has fled the consequences of screening and is seeking political asylum or refugee status, given the strong prospect of punitive measures;
- \* Condemn, in strong, public terms, the screening exercise which is causing hardship and humiliation to thousands of people, purely on account of their "ethnic" origin;
- \* Call on the Kenyan authorities to abandon screening and ask embassies in Nairobi to scrutinize the government's efforts to reverse this procedure and to compensate the victims;
- \* Urge the UNHCR and aid agencies to monitor the situation closely and to provide legal and practical assistance to the victims.

**Appeals to the Kenyan Authorities Should Be Addressed to:**

President Daniel arap Moi  
Office of the President  
PO Box 30510  
Nairobi  
Kenya

Davidson Ngibuini Kuguru  
Minister of Home Affairs  
Ministry of Home Affairs  
PO Box 30520  
Nairobi  
Kenya

**Copies to:**

Ambassador Denis Afande  
Embassy of Kenya  
2249 R Street NW  
Washington DC 20008

Dr Sally J Kosgei  
High Commissioner  
Kenya High Commission

24/25 New Bond Street  
London W1Y 9HD

**Appeals to the Somali Authorities Should be addressed to:**

President Mohamed Siad Barre  
Villa Somalia  
Mogadishu  
Somalia

Abdulqadir Haji Mohamed  
Minister of the Interior  
Ministry of the Interior  
Mogadishu, Somalia

**Copies to:**

Ambassador Abdikarim Ali Omar  
Embassy of the Somali Democratic Republic  
600 New Hampshire Ave., N.W.  
Washington D.C. 20037

Abdullahi Mohamed Dool  
Charge d'Affaires  
Embassy of the Somali Democratic Republic  
60 Portland Place  
London W1N 3DG

## **Previous Africa Watch Publications on Kenya**

### **News from Africa Watch:**

**Kenya:** Political Crackdown Intensifies, May 2, 1990

**Kenya:** Once Again, a Critical Magazine Faces Threat of a Banning Order, *The Nairobi Law Monthly* and its Editor Under Fire, April 5, 1990

**Kenya:** Suppression of Press Freedom; Banning of Critical Papers and Intolerance of Dissent, December 6, 1989

**Kenya:** Harassment of Ethnic Somalis, December 6, 1989

**Kenya:** Forcible Return of Somali Refugees; Government Repression of Kenyan Somalis, November 17, 1989

*Africa Watch is a non-governmental organization created in May 1988 to monitor human rights practices in Africa and to promote respect for internationally recognized standards. Its Executive Director is Rakiya Omaar; Richard Carver is Research Director; Alex de Waal is Research Consultant; Janet Fleischman and Karen Sorensen are Research Associates and Ben Penglase and Jo Graham are Associates.*

*Africa Watch is part of Human Rights Watch, an organization that also comprises Americas Watch, Asia Watch, Helsinki Watch and Middle East Watch. The Chairman of Human rights Watch is Robert L Bernstein and the Vice-Chairman is Adrian DeWind. Aryeh Neier is Executive Director of Human rights Watch; the Deputy Director is Kenneth Roth; Holly Burkhalter is Washington Director and Susan Osnos is the Press Director.*