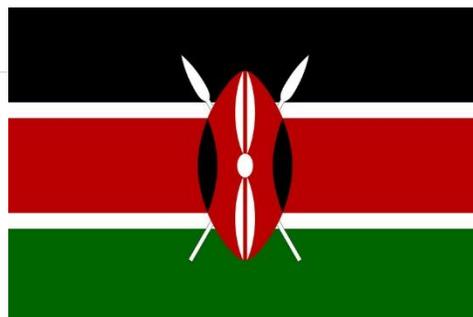


## Kenya Country Profile

*Updated April 2016*



### Key mixed migration characteristics

- Kenya is a critical hub for mixed migration in the region. It is primarily a country of destination and transit for people in mixed migration flows and to a more limited degree a country of origin for some migrants.
- Mixed migration movements into Kenya includes refugees, trafficked persons, irregular and economic migrants from other African countries particularly from East African countries including South-Central Somalia, Ethiopia, South Sudan, Tanzania and Uganda.
- As of March 2016, the refugee and asylum seeker population in Kenya stood at 597,683 with about 70% from Somalia (UNHCR).
- Kenya is also a regional hub for smuggling with an estimated 20,000 Somali and Ethiopian male migrants being smuggled to South Africa, mostly via Kenya, every year. (IOM)
- According to the U.S. Trafficking in Persons Report 2015, Kenya is a source, transit and destination country for men, women and children for the purpose of forced labour and sex trafficking. IOM's Kenya Migration Profile 2015 also cites Kenya as a major regional hub for trafficking in persons.
- Kenya is also a country of origin of mixed migration. The World Bank estimated (as of 2013) that there were approximately 475,499 Kenyan emigrants or 1% of the total Kenyan population. Top destinations for Kenyan emigrants are the United Kingdom, United States of America, the Middle East and other African countries such as Uganda, Tanzania, Botswana, Lesotho and South Africa.

### As a mixed migration origin country

To a limited degree Kenya is a country of origin of mixed migration. However, for those Kenyans who leave the country, the push and pull factors are different than for migrants in neighbouring countries. Most Kenyan emigrants are skilled and well-educated, leaving Kenya through legal channels (at least initially) to seek training or work in different countries including Uganda, Tanzania, Botswana, Lesotho, South Africa, and also further afield in the USA, Europe, the Arabian Peninsula and the Middle East. The exact figures vary according to different sources. The World Bank estimated the number of Kenyan emigrants in 2013 to be approximately 475,499<sup>1</sup> or 1% of the total Kenyan population. Some sources indicate that there are as many as 3 million Kenyans abroad<sup>2</sup>.

The Middle East and the Gulf region are key labour migration destination regions for Kenyan unskilled migrant workers. Kenyan authorities estimated the number of Kenyan migrant workers in the Gulf Region to be 100,000 as of November 2014. Agencies based in Nairobi recruit young Kenyans with promise of better pay. Press reports indicate that often upon arrival, migrants' passports are confiscated and the promised job may not necessarily have the same terms as agreed upon. Victims are reportedly forced into domestic servitude, massage parlours or brothels

or forced into manual labour upon arrival. Trafficking victims are subjected to serious human rights violations such as sexual harassment, violence, torture, starvation and other cruel and degrading treatment.

Accurate estimates of the frequency and nature of the problem are a challenge since trafficking is an underground operation in which perpetrators may collude with government officials and trafficking victims may not be willing to disclose their status. Following these reports of abuse, the Kenyan government in 2014 revoked the licenses of 930 agencies recruiting Kenyans to work in the Middle East and announced a temporary ban on recruitment of workers for employment in the Gulf region. The Ministry of Labour established a new process for recruitment agencies sourcing jobs abroad which requires government approval of all contracts prior to applicants signing them and leaving the country for employment. Applicants are also required to register with the Kenyan embassy abroad.

### **As a mixed migration destination country**

Most migrants, refugees and asylum seekers entering Kenya are escaping harsh, oppressive and undesirable conditions elsewhere (primarily Somalia, South Sudan and Ethiopia). Many cross into the country either on their own or facilitated by smugglers and/or brokers, either on foot, or in vehicles. A majority seek refuge in Kenya while an unknown, but estimated significant number, use the country as a point of transit *en route* to the South or North (see below).

In addition to Somali refugees, Kenya also hosts a large South Sudanese refugee population, which increased when a civil war broke out in the country in December 2013. Finally, Kenya hosts a sizeable Ethiopian refugee population, mainly from the Oromia and Ogaden regions, in addition to large numbers of undocumented Ethiopians. According to Mixed Migration Monitoring Mechanism Initiative (4mi) data the majority of Ethiopian migrants leave their country mainly due to political reasons, followed by economic factors. Kenya is the strongest economy in the region and scores highest in the region on the Human Development Index (as shown in the table below). This attracts (irregular) economic migrants from neighbouring countries in search of greater economic opportunities. Consequently, Kenya's relatively stable context (politically and economically), coupled with porous borders and a strategic location in the Horn of Africa make it an attractive destination (and transit) country.

### **Kenya's Human Development Index relative to other countries in the region**

	<b>HDI Value (2014)</b>	<b>HDI Rank (2014)</b>	<b>Population (2014)</b>
Kenya	0.548	145	45.5 m
Tanzania	0.521	151	50.8 m
Uganda	0.483	163	38.8 m
Sudan	0.479	167	38.8 m
Ethiopia	0.442	174	96.5 m
Democratic Republic of Congo (DRC)	0.433	176	69.4 m
Sub-Saharan Africa	0.518	-	911.9 m

Source: UNDP Human Development Report 2015

### **As a mixed migration transit country**

Kenya attracts heterogeneous migration flows due to its location, relatively developed infrastructure, good air and land connections, large migrant communities and well-connected smuggling networks<sup>3</sup>. For these reasons, Kenya is not only a country of destination but also, increasingly, a transit country. In particular, the open and porous borders between Somalia and Kenya, spanning about 700km, enable thousands of asylum seekers and irregular migrants to enter Kenya. Most transit migrants are of Somali, Eritrean or Ethiopian origin, fleeing political and/or economic insecurity in their home countries. They often use Kenya as a transit country to South Africa.

Movement of migrants via the country is mostly facilitated by smuggling networks operating in and outside the country. The International Peace Institute (IPI) labelled migrant smuggling and women/children trafficking networks – mainly Somali and Kenyan – as one of the three most prominent groups of criminal networks in East Africa. Some of the smuggling networks are reported to operate out of refugee camps and in Nairobi. Refugees are able to travel out of the camps with or without the official movement passes issued by Kenya's Department of Refugees Affairs. Some refugees pay smugglers to transport them to Nairobi, either via covert routes and /or in collusion with police or government officials. Others reported that they paid public officials or police to escort them along these routes<sup>4</sup>.

### **Refugees, Asylum-seekers and IDPs in Kenya**

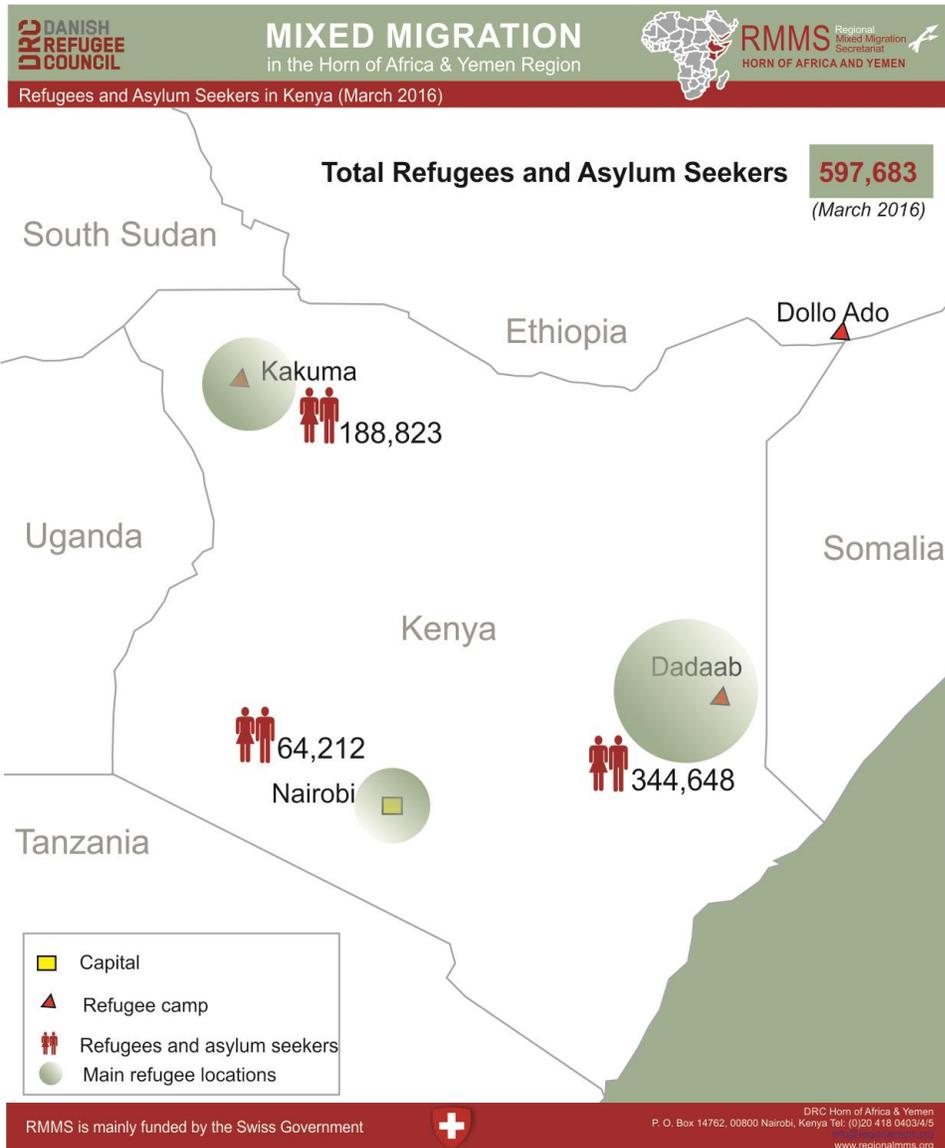
The total refugee and asylum seeker population in Kenya as at March 2016, is 597,683<sup>5</sup>. Under the Refugee Act 2006, the Directorate of Immigration and Registration of Persons in the Ministry of Interior and Coordination of National Government has the overall responsibility for all administration, coordination and management of refugee matters. A new bill to replace the Act is being drafted. Two refugee camps, Kakuma in North West of Kenya and the Dadaab complex in the North East, host the largest number of refugees in Kenya with Dadaab – the largest – hosting up to 58% of refugees and asylum seekers in Kenya as at March 2016.

#### **The total refugee and asylum seeker population in Kenya, March 2016**

<b>Country of Origin</b>	<b>Refugees and asylum seekers</b>
Somalia	415,797
South Sudan	99,315
Ethiopia	30,662
DR Congo	26,760
Sudan	10,764
Burundi	8,833
Uganda	1,985
Rwanda	1,654
Eritrea	1,641
Other	272

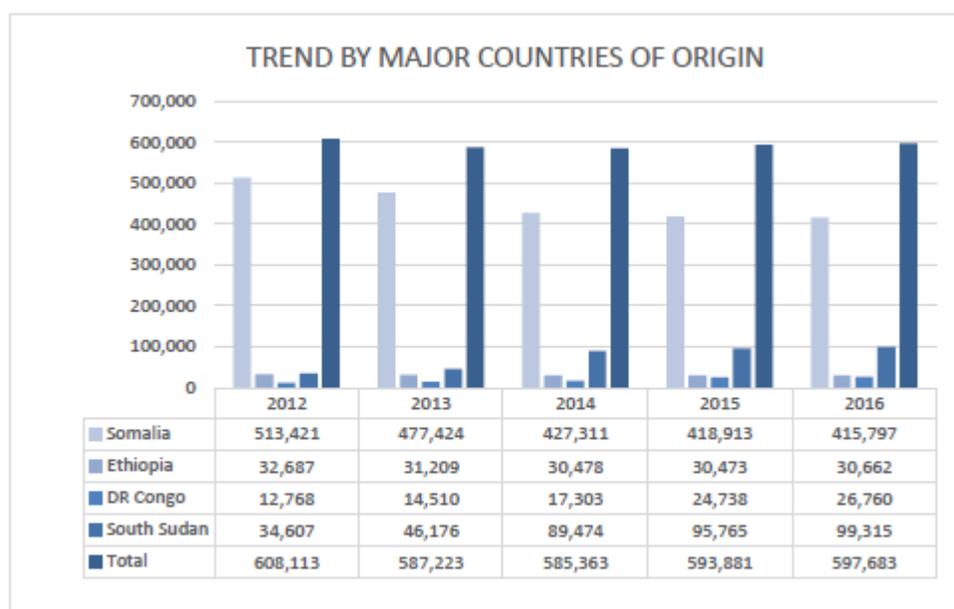
Source: UNHCR

The Kenyan government has directed that refugees must reside in designated camps to qualify for assistance. However some refugees are allowed to live in Nairobi under special circumstances. Neither the Act nor its accompanying Regulations specify what these special circumstances may be, but an informal list is understood to include reasons such as health, education, resettlement interviews, and a catch-all category called “humanitarian reasons”<sup>6</sup>. Kenya considers itself as only a country of asylum for as long as a refugee has a mandate or is in the process of acquiring or renewing one. South Sudanese and Somali nationals, with the exception of those from Somaliland and Puntland, are granted prima facie refugee status.



Total refugees and asylum seekers in Kenya as of March 2016 (Source: UNHCR)

In November 2013, a Tripartite Agreement was signed by the Governments of Kenya, Somalia and UNHCR governing the voluntary repatriation of Somali refugees in Kenya. On 8th December 2014, the pilot six-month phase returns project kicked off targeting 10,000 refugee returns to three areas in South Central Somalia: Luuq, Baidoa and Kismayo. In order to enhance the voluntary return and reintegration process, UNHCR has expanded the return areas from the initial three to nine designated areas and aims to support returns to any part of Somalia including Somaliland and Puntland. As of March 2016, a total of 12,563 individuals had voluntarily returned to Somalia under this project.



Refugees and asylum seekers trend in Kenya by major countries of origin. (Source: UNHCR)

### *Internal displacement*

Kenya is also a country of internal displacement with an estimated 309,200 internally displaced people (IDPs) as of April 2015 according to available figures by Internal Displacement Monitoring Centre (IDMC). This estimate includes people internally displaced by ethnic, political and land-related violence (about 250,000) since the 1990s, and an additional 50,000 registered IDPs following the 2007/8 post-election violence. The figure does not include displacements as a result of disasters (such as floods and droughts), development projects and more than 300,000 “integrated” IDPs who fled and settled in urban or trading centres following the 2007/8 post-election violence.

New displacements have been recorded since 2008 in different regions within the country. In 2014 for instance, UN OCHA reported there were 220,177 people displaced by inter-communal conflicts among pastoralist communities in north Rift Valley and north-eastern regions of Kenya<sup>7</sup>. The Kenyan government in February 2016 announced the release of Ksh. 1,052 billion to complete the resettlement of the remaining 5,261 2007/8 post-election internally displaced households living in camps spread over eight counties in the country. There is no official, comprehensive and up-to-date data on IDPs in the country.

## Protection issues and vulnerable groups

### *Refugees*

Although Kenya hosts over half a million refugees, the conditions in the refugee camps are far from ideal with overcrowding common and a strict encampment policy. In most cases displacement is protracted and refugees remain in the camps for years without freedom of movement and without the opportunity to access higher education, employment or to start businesses. The US State Department's 2015 Trafficking in Persons report noted that children in Kenya's refugee camps are at risk of being recruited into the armed group al-Shabaab, or vulnerable to sex trafficking, while others endure forced labour outside the camps. Women and young girls from Somalia are trafficked into Kenya via cargo trucks returning from Somalia and subsequently placed in brothels in Nairobi<sup>8</sup>.



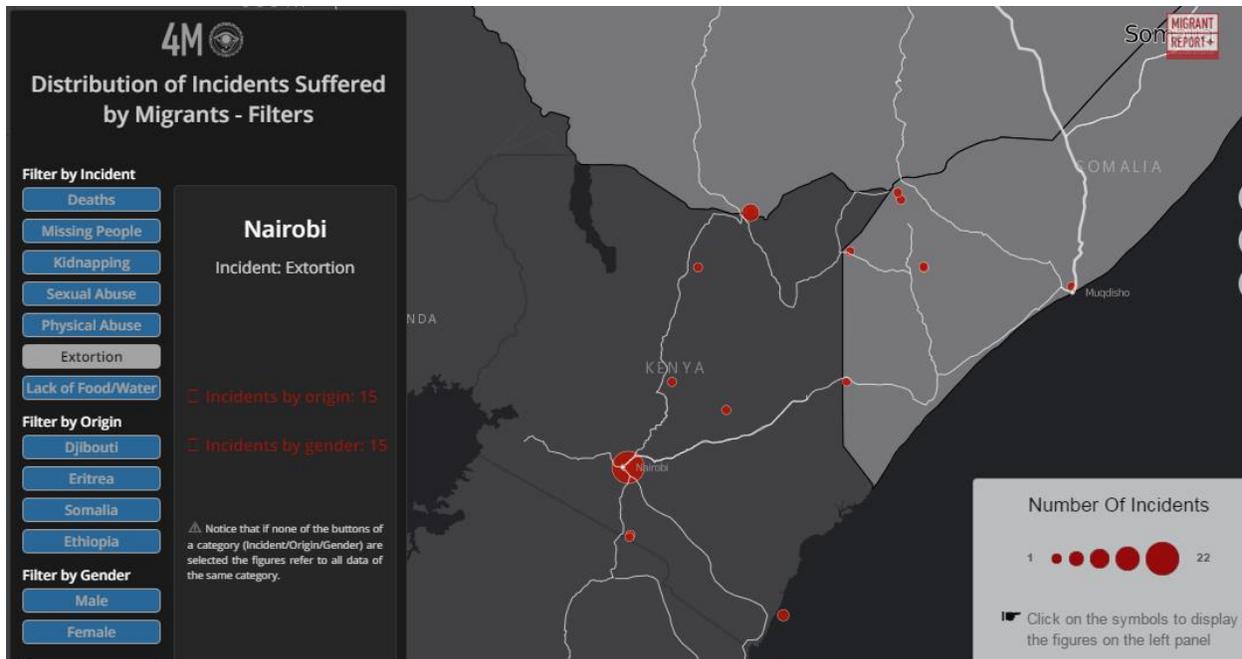
Dadaab refugee camp (left) in north east Kenya and Kakuma refugee camp (right) in north west Kenya (Photo credit: Axel Fassio/DRC)

Ever since the large influx of Somali refugees, there have been repeated calls by the Kenyan government for the relocation of Somali refugees back to Somalia, while in recent years these calls were often made in relation to the terrorist threat facing Kenya. Public opinion since 2012 has shifted following a spate of terrorist attacks on civilians. In 2015, after an attack by Al-Shabaab on Garissa University College in North-Eastern Kenya in which over 150 individuals lost their lives, the Kenyan government reiterated calls for the closure of Dadaab refugee camp and repatriation of refugees to Somalia, alleging that the camp was a support and recruitment base for terrorists<sup>9</sup>. On 11th April 2015, the country's Deputy President issued an ultimatum to the UNHCR to close down Dadaab refugee camp near the border with Somalia within three months, which was later not effected. The government also announced that it would begin construction of a wall along its border with Somalia with the intent to keep out irregular migrants and Al-Shabaab militia from Somalia.

In May 2015, then UN High Commissioner for Refugees, Mr António Guterres visited Kenya to hold discussions with government officials over the planned closures. One of the outcomes of this visit was the assurance given by the Kenyan authorities, that there would be no forceful return of Somali refugees to Somalia and instead, voluntary repatriation would be conducted as per the Tripartite Agreement. The Kenyan government and UNHCR also agreed on an enhanced security system for Dadaab area and to raise resources to ensure that the camp remains secure. It was also agreed that the voluntary repatriation programme would be enhanced by increasing the number of return stations from three to a total of nine.

## Response by authorities

Migrants and asylum seekers crossing into Kenya are reportedly often harassed by Kenya security officers. Human rights organisations allege that many of those crossing into Kenya from Somalia experience harassment near the border by Kenyan police, which may entail extortion, detention and/or deportation. This is further corroborated by [4mi](#) data. As shown in the mapping caption below, migrants interviewed in the 4mi project reported incidents of extortion along key migration hubs /routes in Kenya with the highest number of such incidents being reported in Nairobi.



Incidents of extortion reported by migrants in select migration hubs or routes in Kenya (Source: 4mi project)

One of the challenges in mixed migration and refugee protection in Kenya is the failure by law enforcement officers to distinguish between criminals, irregular migrants and asylum seekers. Some of the reasons for the arrest and detention of refugees by Kenyan police stems from ignorance of the correct procedures and ineffective application of refugee law. A 2014 report by Refugee International described the increased levels of abuse, extortion, and harassment of refugees by the Kenyan police<sup>10</sup>.

Kenya's asylum laws provides that asylum seekers have a period of up to 30 days after entering the country to get to a registration point. For most refugees coming from Somalia, this registration point will be the Dadaab refugee camps in north-eastern Kenya, but some make their way directly to urban centres including the capital, Nairobi. Because those seeking protection usually cross the border without documentation, it is not easy for the police to know how long they have been in the country. Many police and government officials have insufficient training on refugee matters and are not familiar with refugee law. They are often not able to conduct proper interviews (which is compounded by language barriers) with migrants to assess whether they entered the country as economic migrants or asylum seekers. This can lead to asylum-seekers being categorized as economic migrants. If migrants are arrested they are brought to court, however, there is also a lack of adequately trained interpreters in the courts. As a result, migrants often do not understand the charges against them, and they might accept the charges without properly understanding them, or, misconstrue the judicial officer's questions. Irregular immigration either attracts a fine or a

custodial sentence of up to 3 years. Fines can be high, with some irregular migrants fined between USD 1,125 and 2,250.

### *Detention of Migrants*

The primary policy response to irregular migration by the Kenyan authorities has been detention of detected irregular migrants. Under Kenya's Citizenship and Immigration Act 2011, a migrant who unlawfully enters or is unlawfully present in the country commits a criminal offence. If convicted, the penalty may involve a fine of up to USD 5,500 or imprisonment up to 3 years, or both. Importantly, this rule does not apply to newly arrived asylum-seekers. According to the Act, irregular migrants may be detained in police custody, prison or immigration holding facilities pending their deportation.

In addition to routine arrests and detention of irregular migrants in Kenya, authorities have on several occasions in recent years carried out mass arrests, detention and deportation of migrants and refugees as part of security operations. These arrests and deportations are carried out in an ad hoc manner on the basis of 'Executive orders' and usually in response to a security crisis such as terror attacks. In 2012, Kenyan authorities launched a nationwide crackdown on irregular migrants dubbed 'Fagia Wageni' ('Do away with/ get rid of the foreigners'). The Kenyan authorities subsequently carried out two raids in the Eastleigh neighbourhood of Nairobi. UNHCR and partners estimated that approximately 100 migrants were arrested and prosecuted.

In April 2014, Operation Usalama Watch (Peace Watch) was launched following grenade and gun attacks in Mombasa and Nairobi by unknown perpetrators in March 2014. More than 4,000 individuals were arrested and screened to establish their status in what leading human rights organisations alleged was a slow and untransparent process. UNHCR reported that it had been denied access to persons detained by Kenyan authorities. After screening, detainees were charged with unlawful presence, deported, released, or ordered to relocate to refugee camps. Two weeks into the operation, Kenyan authorities announced that more than 500 individuals had been detained and deported to their countries of origin. Human Rights Watch reported several cases of abuse, unsanitary detention conditions, insufficient food and extortion faced by individuals detained.

RMMS research also shows that migrants in Kenya face the risk of multiple detention in several ways<sup>11</sup>. For example, they are arrested several times during their journey because they do not have proper documentation or they are released from prison only to end up imprisoned again because there are no deportation / repatriation systems in place. Migrants also face the risk of multiple detentions between countries. Often migrants are deported to the nearest point of entry where, after crossing the border, they are re-arrested. In Kenya, when migrants are arrested, they are usually detained for one or two days before being prosecuted and sentenced to prison for up to two months. In some cases this cycle repeats itself before their eventual repatriation. Usually migrants are handed over to an immigration officer after they serve their sentence. The immigration officer detains the migrants until repatriation is arranged. However, migrants often end up in police cells, where they usually have to wait for a long time before repatriation. This is attributed to lack of financial resources for quick and efficient repatriation.

There is no comprehensive data on the number of migrants detained in Kenya as information on detention of irregular migrants is not collated and /or made publicly available. Data is especially limited for far flung areas of the country, such as the North Eastern Province, where it is likely that many asylum seekers and irregular migrants are detected while, or shortly after, crossing the Somali-Kenya border. In December 2015, Kenyan authorities announced a crackdown on irregular migration targeting especially the movement between Ethiopia and Kenya.

Almost on a weekly basis, there are reports of Ethiopian migrants being arrested and detained in Kenya, implying a potential increase in the number of Ethiopians traveling south through Kenya on their way to South Africa. Some police officers and government officials have reportedly been implicated in facilitating Ethiopian migrants' movement via the country.



Ethiopians arrested by Kenyan security officers in February 2016 are charged by a Kenyan Court and fined Ksh.100,000 each or in default serve one year in jail for unlawful presence in the country. (Source: Nation Media)

### *Trafficking*

Despite the country passing the *Counter-Trafficking in Persons Act*, the US Department of State's 2015 Trafficking in Persons report places the Government of Kenya on Tier 2 Watch List for a number of reasons:<sup>12</sup>

*Compliance:* The government does not fully comply with the minimum standards for the elimination of trafficking, however, there are significant efforts to do so. The Counter-Trafficking in Persons Advisory Committee was established by the government in August 2014 and has met regularly and updated Kenya's national action plan.

*Prosecution:* The State department noted that in 2015 the Kenyan government had demonstrated significant progress in anti-trafficking law enforcement efforts compared to previous reporting period in 2014. In 2015, there were 65 prosecutions of trafficking offences and 33 convictions, however, there were no efforts by the government to establish a nation-wide data collection system to help track trafficking crimes and /or cases. Over 200 government officials also received anti-trafficking training including 30 security officers in Mombasa where child trafficking remains an issue.

*Corruption:* Kenya has yet to take meaningful action against the active involvement of some law enforcement officials in trafficking. There were no reports of any investigations, prosecutions or convictions of

government officials involved in human trafficking in 2015. Corruption or complicity by officials makes it easy for trafficking agents and unsuspecting victims to obtain travel documents, including registration of false marriages to facilitate acquisition of passports<sup>13</sup>.

*Protection of trafficking victims:* The State department noted increased efforts by the Kenyan government to protect child trafficking victims including investigating, rescuing, counselling and referrals. The Department of Child Services and a local NGO jointly operate a national 24-hour toll-free hotline for reporting cases of child trafficking, labour and abuse. However protection for adult trafficking victims was considered weak both in the country and abroad.

### **International and national legislation and migration policies**

Kenya has ratified the following international legislation relevant to mixed migration and protection of human rights of migrants and refugees:

- *1951 Convention and its 1967 Protocol relating to the Status of Refugees*
- *1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa*
- *Palermo protocols supplementing Convention against Transnational Organized Crime:*
  - *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*
  - *Protocol against the Smuggling of Migrants by Land, Sea and Air*
- *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*
- *Convention on the Elimination of All Forms of Discrimination against Women*
- *Convention on the Rights of the Child*
- *International Covenant on Civil and Political Rights (ICCPR).*

Kenya has not signed the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) or the Migrant Workers Convention.

*National legislation (immigration):*

- The Citizenship and Immigration Act 2011,
- The Kenya Citizens and Foreign Nationals Management Service Act 2011.

*National legislation (asylum):*

- The Refugee Act 2006,
- The Refugee (Reception, Registration and Adjudication) Regulations, 2009,
- As of 31st March 2015, the 2011 Refugees Bill – the successor to the Refugee Act 2006 - is under consideration.
- The Security Laws (Amendment) Act 2014

*National legislation (internal displacement):*

- The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act 2012

*National legislation (smuggling and trafficking):*

- The Counter-Trafficking in Persons Act 2010
- The Victim Protection Act 2014

The *Kenya Diaspora Policy* was launched in January 2015 as a response by the government to the need to mainstream Kenyan diaspora into national development processes. The policy also seeks to develop measures to enhance protection of Kenyans abroad, develop mechanisms for partnership with Kenyans abroad and establish necessary coordination mechanisms for issues affecting Kenyan's abroad

In line with the East African Community (EAC) Common Market Protocol (CMP) Kenya's work permit system has been formally replaced by a framework of free movement within the EAC. However, as in other member states, Kenya has in practice tried to retain a tight grip on the inflow of labour from elsewhere in the EAC since the launch of the CMP in 2011<sup>14</sup>.

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<sup>1</sup> World Bank (2016). Migration and Remittance Fact book 2016

<sup>2</sup> Government of Kenya (2014). Diaspora Policy

<sup>3</sup> RMMS (2013). Mixed Migration in Kenya: The scale of movement and associated protection risks.

<sup>4</sup> RMMS (2013). Migrants Smuggling in the Horn of Africa and Yemen: The political economy and protection risks.

<sup>5</sup> UNHCR (2016). Kenya Factsheet March 2016. Available <http://www.unhcr.org/>

<sup>6</sup> Human Rights Watch (2010). Welcome to Kenya: Police abuse of Somali refugees

<sup>7</sup> UNOCHA (2014). Kenya: Inter-communal conflict by county (January-November 2014)

<sup>8</sup> Moret, J. Baglioni, S. and Efiionayi-Mader, D. (2006). The Path of Somali Refugees into Exile. A Comparative Analysis of Secondary Movements and Policy Responses.

<sup>9</sup> Daily Nation (2015). Refugees are victims of violence too, so they need our protection, not rejection. Available at [www.nation.co.ke/oped/Opinion/Dadaab-Refugees-Repatriation-Terrorism/-/440808/2684570/-/oe31jj/-/index.html](http://www.nation.co.ke/oped/Opinion/Dadaab-Refugees-Repatriation-Terrorism/-/440808/2684570/-/oe31jj/-/index.html) Accessed on 14th April 2015

<sup>10</sup> Refugees International (2014). Between a Rock and a Hard Place: Somalia Refugees in Kenya

<sup>11</sup> RMMS (2015). Behind bars: The detention of migrants in and from the East & Horn of Africa

<sup>12</sup> US Department of State (2015). Trafficking in Persons Report: 2015.

<sup>13</sup> Solidarity Center, (2007). Trafficking in Persons from a Labor Perspective: The Kenyan Experience.

<sup>14</sup> RMMS (2013). Mixed Migration in Kenya: The scale of movement and associated protection risks.