

Mission: To be a force for human rights, women's rights, and indigenous rights by empowering Oromo communities and collaborating across the globe



Re: Submission to the UN Special Rapporteur on the Human Rights of Migrants on Human Rights Violations at International Borders

The Oromo Legacy Leadership and Advocacy Association (OLLAA) respectfully submits these comments to you in response to your call for inputs related to information on:

1. Recent or current border management legislation/policies/measures, (including those temporary measures as part of a state of emergency or in the context of the COVID-19 pandemic), with a view to control, reduce or prevent migrant arrivals.

OLLAA is an Oromo led human rights organization seeking to connect, unify, and organize Oromos to create positive change in Ethiopia and the world. Our organization accomplishes this mission through advocacy, education, and community organizing. We represent over fifty (50) Oromo communities throughout the world, including twenty-three (23) based in the United States (US). In the past, we have worked with members of the US Congress to support the adoption of resolutions related to the human rights situation in Ethiopia. OLLAA's Executive Director testified before the House Subcommittee on Africa, in 2017, and was invited to speak at the Africa and Middle-East Regional Forum on conflict prevention and the protection of the human rights of minorities by the UN Special Rapporteur on minority issues.

The Oromos are the largest ethnic group in Ethiopia, estimated to be over 50 million people. However, despite their size, they have faced systemic human rights abuses by successive Ethiopian governments. These abuses include, but are not limited to, arbitrary arrests, detentions and torture. As tensions engulf the entire country, many Oromos have been forced to flee and seek asylum in Kenya, which shares a border with Oromia. With so many leaving their homes in fear of their lives, we believe it is important to share with you our concerns regarding reports of the unwelcoming and obstructive practices currently in place in Kenya, particularly those adopted in response to the COVID-19 pandemic.

Although the question posed by the Special Rapporteur refers to border policies that impact migrants, generally, in this submission, we focus on specific issues pertaining to asylum seekers and refugees, rather than all migrants. The particular nature of the issue in Kenya - whereby restrictive border policies prevent asylum seekers and refugees from being able to enter the country by legal means, results in these individuals being considered - and treated as - illegal migrants. Our aim here is to illustrate how policies put in place ostensibly as a response to the COVID-19 pandemic have been utilized in Kenya to restrict movement, particularly for the Oromo, in a way that does not align with international standards.

Oromo refugees and asylum seekers face a number of challenges in Kenya. There are longstanding reports that indicate a pattern of harassment, abduction and torture of refugees and asylum seekers by individuals claiming to be Kenyan police or part of the Ethiopian government.¹ Most recently, the government body in charge of assessing refugees' claims, the Refugee Affairs Secretariat (RAS), made the decision to officially close their office in Nairobi to the public on March 16, 2020, ostensibly in response to COVID-19. Instead, RAS shifted the office mandated with registering asylum seekers from Nairobi to Nakuru, located 170 km from the northwest capital, before moving it once again in 2021, to Eldoret town, 156km west of Nakuru and close to the Uganda border. This decision made it increasingly difficult for Oromo asylum seekers, who typically entered Kenya from the Moyale border, to register their claims. Under this policy, Oromo asylum seekers were forced to travel hundreds of miles to register their applications for asylum without the proper legal documentation to travel within the country. This left them vulnerable to deportation as they would be deemed illegal migrants.² Those who are caught by the police are required to pay an excessive amount to be released. Others, who fear being caught by police, are forced to remain in hiding in unsafe locations. There are no resources in place to assist refugees in making this difficult journey. These vulnerable individuals, especially women and children, are often preyed upon by criminals and those involved in the

¹ "Human Rights Watch Letter to Inspector General of Police of Kenya" *Human Rights Watch*, May 17, 2017, <https://www.hrw.org/news/2017/09/21/human-rights-watch-letter-inspector-general-police-kenya>.

² "The Long Arm of the Ethiopian Government in Kenya." Olla, January 22, 2022, <https://ollaa.org/the-long-arm-of-the-ethiopian-government-in-kenya/>.

human trafficking trade. Kenya is well-known to be a high-risk country for human trafficking as it is a destination, source and transit country for victims.³

Although RAS services officially resumed from the Nairobi office on October 20th, OLLAA has continued to receive reports from Oromo asylum seekers that they are facing difficulties processing their claims. Our sources have reported that even for those who managed to access the office, the asylum seekers' applications are not being entered into RAS's system, but rather, employees are simply writing the asylum seekers names down on a piece of paper and sending them away. This means that Oromo asylum seekers are still not being provided with any of the supporting documentation they would need to enable them to remain in Kenya while their application is being considered, including their proof of registration, asylum seekers pass, or movement pass. Thus, these individuals are deemed illegal migrants.

Following the closure of offices and the transfer of processing facilities across the county, OLLAA received numerous testimonies from Oromos who have made multiple attempts to register their application for asylum, without success, even now that the RAS office in Nairobi has reopened. One such example of this is Halima, an Oromo asylum seeker who entered Kenya via the Moyale border on July 15th, 2020. Halima fled Ethiopia after facing persecution from Ethiopian security forces following her decision to participate in a peaceful protest in Shashamane town. When she arrived in Nairobi on August 20th, 2020, Halima went to the RAS office in Shiro Miyo to register her application for asylum, but was told by a guard that the office had closed due to COVID-19. She then made a call to the UNHCR office at General Mathenge, Westland, where her details were taken down over the phone and she was instructed to wait for further notifications, although they never got back in touch with her. Halima once again visited the RAS office at Shiro Moyo in early 2021. At this time, the office had been reopened, and the officers there took down her information, before instructing her to wait for an interview. As of today, Halima is still waiting for this interview. As an asylum seeker who fled her home due to persecution by the Ethiopian government, Halima has no travel documents and fears that she will be stopped by the police if she leaves the home she is staying in. She is also unable to seek

³ "False hopes: Human trafficking in Kenya", *Global Initiative* (Sep 2021), <https://globalinitiative.net/analysis/false-hopes/>.

employment as she has not been registered as an asylum seeker by the Kenyan government. Halima's story is merely one of many similar accounts OLLAA has received from asylum seekers in Kenya whose applications were first delayed due to COVID-19, and now have been effectively left in limbo due to the refusal of officers at the RAS to process their applications.

Per generally accepted international norms, asylum procedures must be fair and efficient⁴ and non-discriminatory⁵ in order to ensure a full and inclusive application of the 1951 Convention relating to the Status of Refugees and the 1967 Protocol. It appears that these recent practices adopted by the Kenyan government are violating these norms. The decision to close the RAS offices where asylum seekers could register their claim in response to the COVID-19 pandemic completely cut off asylum seekers' ability to access asylum procedures at a time when they were particularly vulnerable. Although the office was ultimately reopened, the decision to move the RAS office multiple times reportedly led to confusion for Oromo asylum seekers, and made it nearly impossible for them to reach these locales, especially as they did not yet have access to travel documents. Finally, the most recent reports that RAS employees are refusing to enter Oromos' asylum applications into the system is also a form of discrimination and means that the Kenyan government has effectively denied these asylum seekers access to asylum procedures.

The practices the Kenyan government has employed, ostensibly in response to the COVID-19 pandemic, indicate their desire to prevent Ethiopian asylum seekers and refugees from arriving and remaining in Kenya, particularly ethnic Oromos, who make up the vast majority of refugees crossing the Kenyan borders (it should be noted that the majority of Tigrayan refugees have fled to Sudan).⁶ There are many cases documented by Human Rights Watch and other credible organizations of Oromos in Kenya who have been abducted and brought back to Ethiopia,

⁴ UNHCR, Asylum Processes (Fair and Efficient Asylum Procedures), U.N. Doc. EC/GC/01/12, ¶5 (May 31, 2001). Available at <https://www.unhcr.org/en-us/protection/globalconsult/3b389254a/asylum-processes-fair-efficient-asylum-procedures.html>

⁵ UN Convention relating to the Status of Refugees, art. 3.

⁶ Kenya Country Profile, *Danish Refugee Council*, <https://reliefweb.int/sites/reliefweb.int/files/resources/Kenyaupdate.pdf>; "Ethiopia's Tigray Refugee Crisis Explained" *USA for UNHCR*, July 6, <https://www.unrefugees.org/news/ethiopia-s-tigray-refugee-crisis-explained/#:~:text=As%20of%20May%202021%2C%20a.items%20and%20food%20upon%20arrival.>

including those who have been legally recognized as refugees.⁷ Since traveling within the Kenyan border without documentation is illegal, moving the registration office has caused an entire demographic of asylum seekers to be treated as illegal migrants. We believe it is important for the Kenyan government to provide a registration site between Ethiopia and Kenya to register their applications, as is the case in Sudan and other regions. We humbly ask the Special Rapporteur to include these findings in his forthcoming report to the 50th session of the Human Rights Council.

We thank you for your consideration, and please let us know if we can provide further information on these matters.

Sincerely,



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⁷ “Human Rights Watch Letter to Inspector General of Police of Kenya” *Human Rights Watch*, May 17, 2017, <https://www.hrw.org/news/2017/09/21/human-rights-watch-letter-inspector-general-police-kenya>; Horne, Felix “The Long Arm of Ethiopia Reaches for Those Who Fled” *Human Rights Watch*, September 20, 2017, <https://www.hrw.org/news/2017/09/21/long-arm-ethiopia-reaches-those-who-fled>.