

**Refugee Review Tribunal
AUSTRALIA**

RRT RESEARCH RESPONSE

Research Response Number: KEN31293
Country: Kenya
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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

Questions

Can you provide information about the treatment of failed asylum seekers returning to Kenya, including those who departed illegally? Is there any evidence that the authorities impute a political opinion to failed asylum seekers and subject them to harm by reason of this imputation?

RESPONSE

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Little information was found on this matter. The UK Home Office made this statement concerning the return of unsuccessful asylum seekers in 2003:

Treatment Of Failed Asylum Seekers

6.85 Neither the Home Office nor the Foreign and Commonwealth Office are aware of any reports that unsuccessful asylum seekers, on their return to Kenya, have suffered harassment or persecution by the Kenyan Authorities.

(UK Home Office 2003, *Kenya – Extended Bulletin*, April, sec.6.85 – Attachment 1).

A 2006 report on the situation of failed asylum seekers by Edmund Rice Centre for Justice & Community Education mentions the experiences of three failed asylum seekers returning from Australia to Kenya (two are Kenyans, one is a Rwandan). The two Kenyans were detained for a short time before paying a bribe and being released. All three had their travel documents taken away and were left without papers or proof of identity. Here are the relevant sections of the report:

In 2002 he [a Rwandan who had failed to gain asylum in Australia] was sent back to Kenya, handcuffed to the seat on the plane from the detention centre to Perth. Then he was escorted under guard to Johannesburg and on in a Kenya Airlines plane to Nairobi, where he was met by an Australian Christian Brother and a lawyer at the Jomo Kenyatta International Airport. They have no idea how he got through Immigration in Nairobi. He had some emergency travel documents from the Australian authorities but these were taken from him at the airport and once again he became stateless, without proof of identity. (p.9)

MM1 was deported to Kenya via Johannesburg. He informed us: *The officials left me in transit. They gave me a temporary travel document. I did not see any South African official. This document was taken from me in Kenya. To get through South African customs I showed no documents. The guard showed his pass and we went straight through. I was arrested when arriving in Kenya. At the airport I was in a single cell but Br Sean was waiting for me with a lawyer friend. I told them friends were waiting for me. I gave them \$50 and they said they would make me a real passport but they didn't. They just let me out. I had no papers. I am in transit here. I can get arrested here. I feel unsafe.*

MM2: *They [DIMIA] send me a letter. You must go, we will send you anyway or you sign the paper.* As he has never been to school, the interviewers were unsure whether **MM2** was able to read the letter. His voluntary repatriation seems to have taken place under duress.

At both Singapore and Johannesburg I saw no papers; the escort handled everything. In Nairobi the escort gave me a paper to show immigration then left me. I gave it to the man at Kenya Immigration. They took me to the jail at the airport for two days. One man told me if you just bribe the guard they will let you go. In the morning they came in the car to take me to the Immigration office. I gave the big boss 10,000 Kenyan dinar. He called his assistant. He carried my bags to the main gate and said go. No papers, nothing. (MM2) (p.39)
(Edmund Rice Centre for Justice & Community Education 2004, *Deported to Danger – A Study of Australia's Treatment of 40 Rejected Asylum Seekers*, September, pp.9, 39 – Attachment 2).

No other reports of the treatment of failed asylum seekers returning to Kenya were found in the sources consulted. The UNHCR in Canberra were asked if they had any information on the issue. They advised:

UNHCR has issued a number of "Return Advisories" that address the risks specific to certain countries, and made recommendations regarding the return of failed asylum-seekers to those countries. UNHCR has not issued such a Return Advisory for Kenya.
(UNHCR, Canberra 2007, Email to RRT 'Re: Request from RRT', 24 January – Attachment 3).

The UNHCR further advised that they can contact their office in Nairobi and seek information as to whether failed asylum-seekers are imputed with a political opinion (for reason of seeking asylum) and whether there is a risk that they would be targeted by the authorities as a result. This process is sometimes a lengthy one.

Sources consulted

Internet Sources:

Government Information & Reports

Immigration & Refugee Board of Canada <http://www.irb.gc.ca/>

UK Home Office <http://www.homeoffice.gov.uk>

US Department of State <http://www.state.gov/>

US Department of State website <http://www.state.gov>

United Nations (UN)

UNHCR <http://www.unhcr.ch/>

UNHCR Country Profile: Kenya <http://www.unhcr.org/home/RSDCOI/3ae6a6d730.html>

Non-Government Organisations

Amnesty International website <http://www.amnesty.org/>

Freedom House <http://www.freedomhouse.org/template.cfm?page=1>

Human Rights Watch <http://www.hrw.org/>

International Helsinki Federation for Human Rights <http://www.ihf-hr.org/welcome.php>

Human Rights Internet (HRI) website <http://www.hri.ca>

US Committee for Refugees – Kenya page

<http://www.refugees.org/article.aspx?id=1461&rid=1179>

Forced Migration Online <http://www.forcedmigration.org/>

British Refugee Council <http://www.refugeecouncil.org.uk/>

European Council on Refugee and Exiles <http://www.ecre.org/>

Edmund Rice Centre <http://www.erc.org.au/>

Refugee Council Of Australia (RCOA) <http://www.refugeecouncil.org.au/>

International News & Politics

allAfrica.com <http://allafrica.com/>

BBC News website <http://news.bbc.co.uk/>

Search Engines

Google search engine <http://www.google.com.au/>

Databases:

FACTIVA (news database)

BACIS (DIMA Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State Reports)

RRT Library Catalogue

List of Attachments

1. UK Home Office 2003, *Kenya – Extended Bulletin*, April, sec.6.85.
2. Edmund Rice Centre for Justice & Community Education 2004, *Deported to Danger – A Study of Australia’s Treatment of 40 Rejected Asylum Seekers*, September, pp.9, 39.
3. UNHCR, Canberra 2007, Email to RRT ‘Re: Request from RRT’, 24 January.