

The liberal refugee policy vs. the encampment policy: a comparative study of South Africa and Kenya

Moindi, Nancy Kamboka

URI: <http://erepository.uonbi.ac.ke:8080/handle/123456789/3561>

Date: 2011

Abstract:

This paper examines the encampment policy, which has now been made into law, after F . the Refugee Act (November 2006) received presidential assent. It challenges the Government of Kenya's (GOK) official position which requires that all refugees reside in either of the two designated camps. It argues that this practice is a violation of the basic human rights of the refugees as set out in several international legal instruments that touch on both human rights and refugee related issues. It argues that by condemning people who fled persecution to stagnate in confinement for much of the remainder of their lives is unnecessary, wasteful, unproductive, unlawful and morally unacceptable. By describing its failings and highlighting the problems faced by refugees as a result of this policy, this paper proposes that to some extent, local integration is a viable durable solution to their situation. The paper will endeavor to demonstrate that good refugee-host relations enhance refugees' enjoyment of their rights under the international conventions and promote local integration. Failure of local integration is attributed to poor refugee- host relations - the outcome of encampment. The paper will further analyze the Refugee Protection mechanisms that are in place in South Africa, a country which has no refugee camps, but instead has a liberal refugee regime which includes freedom of movement and the right to work, rights which are enshrined in the Convention Relating to the Status of Refugees of 28 July 1951. It argues that local integration is a viable solution to refugees as demonstrated by the open refugee policy in South Africa. In conclusion, the author will make recommendations that seek to promote local integration of refugees in Kenya and also some that are aimed at improving local integration for refugees in South Africa.