

December 11, 1990

KENYA

Illegal expulsion of more than 1000 refugees

At least one thousand refugees have been forcibly repatriated from Kenya and many more are in imminent danger of summary deportation, after a directive by President Daniel arap Moi that Ugandan and Rwandese refugees must leave the country immediately.

President Moi first announced on October 16 that all Rwandese refugees would have to leave the country, and then extended the order to Ugandan refugees and "all refugees engaged in illegal activities" on Saturday October 22 in a public address during Kenyatta Day celebrations. Immediately after the speech, police and members of the youth wing of the ruling Kenya African National Union (KANU) began seizing refugees from their homes, bars and lodges. Many were held for a number of days in police custody before being charged with illegal residence. Despite urgent appeals to the United Nations High Commissioner for Refugees (UNHCR), refugees are still being persecuted by the security forces and at least one thousand have been deported across the Ugandan border. Since November 21, refugees say their documents of identification have been confiscated and a seven-day notice issued for immediate expulsion.

UNHCR regional representatives say they have had talks at "a very high level" - reportedly with the President himself - but have been unable to offer the refugees any protection, other than allowing their offices to be used as an initial sanctuary. Some members of the refugee population have organized groups in an attempt to trace people who have disappeared without any formal charges, and to provide food and support for those held in police cells.

The exact number of refugees forcibly repatriated to date as a result of the directive is not known, but at least one thousand are known to have reached the Ugandan border in a specially assigned train. On October 26, a train heavily guarded by armed Administration Police (AP) and paramilitary General Service Unit (GSU) personnel left Nairobi station with about 500 refugees. Carriages carried notices "Reserved for Vagrants" and refugees were brought directly from police custody and court cells. According to the refugee community in Nairobi, another train had left on October 25 at night time with a similar number of refugees, and both trains picked up more "illegal aliens" from other major towns on route, like Nakuru and Eldoret, before reaching Busia at the Kenya-Uganda border.

At the border, the Ugandan border police and immigration officers took the refugees to a police compound for "screening" and alerted the Ugandan government. According to the Ugandan government, all the recently repatriated refugees must be screened to find any "criminal elements" and "rebels," and to verify Ugandan citizenship. The refugees were reportedly moved to an army barracks and have since been transferred to a camp in Tororo town.

After Moi's directive, local press reports recorded "thousands" of refugees picked up in police swoops. On October 23, *The Standard* said 315 "aliens" had been picked up on Kenyatta Day and a further 160 Ugandans arrested since. According to the *Kenya Times* on October 26 the Kiambu District Commissioner, Samuel Oreta, said that over 150 Ugandans were to be repatriated.

Police swoops were carried out in most of the major towns and those arrested kept in police custody for some time before being charged with being in the country illegally. Press reports said refugees were being fined 2-3,000 shillings or jailed for three months before being repatriated. Although the majority of those appearing in court are Ugandan, and some Rwandese, refugees from other neighboring countries like Ethiopia, Somalia, Burundi and Tanzania have also been picked up.

In response to an appeal by the UNHCR representative not to repatriate refugees, saying it jeopardized their lives, the Minister for Home Affairs and National Heritage, Davidson Kuguru, said it was a matter for the courts to decide. But according to testimonies from the refugees arrested and charged, there is widespread abuse of the law by the police and the security forces. Legitimately registered refugees have had their documents destroyed by the police and security forces and herded into courts *en masse* charged with illegal residence. None has had access to lawyers and many have been taken forcibly from children and family, or have been denied the right to contact friends and family. A Ugandan student, brought into the UNHCR offices from court by the police, described what happened to him:

I was arrested on the way to college where I do a course in Spring Valley. There were two APs who took my IDs (Identity Documents) and tore them up. I was taken to the Spring Valley police station and put in a cell. There were over 50

people in a cell 10 feet by 20 feet. All of us were standing and we had to remove our shirts to survive. One person was really suffocating. The police treated us very harshly. Some were beaten, slapped around and kicked, and some were beaten on their knees as they sat down. Their knees were really damaged from the clubs. Yesterday we were taken to court in Kibera, about 15 of us - the rest were all charged with drunk and disorderly behavior. The refugees were eventually put in a line and given roll call and told we would go to court again the next day. At about 3pm we were taken by police officers to UNHCR and we were told that we refugees are no longer the property of the Kenyan government, who can't be held responsible for what happens to us.

Refugees who were harassed by the security forces immediately after President Moi's speech related how Administration Police and KANU youthwingers came to their homes to look for "illegal" residents. Many of those caught in the initial swoop were Ugandan and Rwandese women working in bars and hotels. Crowded into the offices of UNHCR in the hope of protection, refugees described how local youthwingers identified the homes of refugees to the police. Although most refugees could produce identity papers, they were subjected to police violence, confiscation of property and extortion as youthwingers and police illegally forced entry and destroyed or confiscated identity papers. Some reported incidents of rape and sexual harassment by the youthwingers.

One woman, who said she lost her ID and was in the process of obtaining another one, described how police and youthwingers forced their way into her house:

They came and said they wanted all the Ugandans to go back. It was about 10pm - there were five youthwingers. They just came into the house, said they were youthwingers and ordered me out. I said that first I want to take some things with me, give me time. But, although I was cooking and holding a child, they kicked my body and have badly bruised my neck. I followed them because I feared to be beaten. The children were crying terribly and running behind me grabbing at me. Then they said give us some money and we'll leave you. I gave them 200 shillings and they left us alone.

Those who managed to escape the initial round-up searched for missing friends and family in the local police stations while pleading with the UNHCR to give protection. One Ugandan man taking refuge in the UNHCR offices described how he escaped:

Two APs came to my house - and my friends staying there alerted me. They just came straight into the house. The refugees there showed them ID, the APs continued coming in asking "are you Kenyan?" I was hidden in the toilet. I could hear my friends explaining they were registered refugees, but the APs tore up the cards.

They took away five people - all registered refugees - to the Chief's post in Kihara location. They haven't come back. They're in the cells and the police don't allow anyone to see them. One of them is Mohamed Ali Kalule, a young boy of 17. The police have demanded 1000 shillings for each person. They ask for 1000 shillings and advise you to go and hide yourself for some time. We don't know how many are there [in Karuri Police Station, Kiambu] but there are many.

Before deportation, many of the refugees spent a number of days in police custody without access to either lawyers or family. Conditions were described as very poor, exacerbated by chronic overcrowding. One family of 14, including three children under the age of five, described their two nights in police custody:

We were picked on Saturday [the day of the speech]. There were about eight police and youthwingers. They didn't show us any identification, but just walked into our home. They told us we are all under arrest. We went with them to the police post at Ongata Rongai where we were put in a cell together with some Kenyans - about 25 of us. They denied us food and water. We didn't even have anything for the children. When we asked for food they beat us - slapping us on the face, kicking us, as well as drawing their guns and threatening to shoot us.

In the morning we were taken to court without even receiving a mug of tea. In court we were told our IDs are fake and they took us back to the police station. This morning we were given some tea and brought to UNHCR. Even the children had nothing - but when we tried to give money for food to some of the officers who seemed a bit sympathetic, it was taken from us.

Africa Watch received a list of refugees who were taken from their homes to Nairobi police stations:

Jennifer Bukananza (ID 1393, File 8807094) - Pangani police station
Sarah Nabuyire (File 8807094) - Pangani police station
Manhur Ali (File 12838) - Kilimani Police station
Mulina Umur (File 12838) - Kilimani police station
Mushimile Leonard (ID 9901)
Asha Nasuronde Mamonye (ID 1132)
Margaret Mugide Kiekesa (ID 130420)
Lehema Nambozo (ID 8112)
Afish Namyanzi (ID 8112)
Chemesia Kaiza Masolo
Mary Manare Muroya
Judith Nambozo Mugoyo

Jennifer Mutonya
Patrick Madanda Webunya - Thika police station
Fred Kakembo and family - Buru Buru police station
Charles Kaliokya and family - Buru Buru police station
Steven Gumikiriza - Buru Buru police station

Bandana Hill Karuri police station (23 October):

Mrs Kyeyune
Mrs Kasumbukire
Mary Nabada
P. Waiswa
Margaret Nakibuka
G. Lwanga
Mrs Lwanga

In his speech, President Moi said Rwandese refugees were using Kenya as a base for subversive activities - a direct reference to the recent invasion of Rwanda by rebels deserting the Ugandan national army, led by Major General Fred Rwigyema. President Moi is a close associate of Rwandese President Juvenal Habyarimana. On October 19, the Rwandese Ambassador to Kenya, Cyprien Habimana, said some of the 2,000 Rwandese refugees in Kenya were actively involved in supporting the invasion and had been raising funds to buy weapons and "spreading propaganda." He also accused Uganda of recruiting and arming rebels. President Moi instructed Kenyan security forces to monitor the borders to stop "undesirable aliens" from entering Kenya. Rwandese refugees who have been resident in Kenya for many years have consequently found themselves faced with summary deportation to a country beset by civil war. Taking refuge in the offices of UNHCR, Rwandese refugees said they were shocked to be thrown out of Kenya without warning or assistance and condemned the round-up as "entirely politically motivated" and "inhumane."

One Rwandese woman expressed great concern for her brother who, she said, was now in a Kenyan gaol for "political reasons":

My brother was picked up off the road and taken to Langata police station on Sunday. We've been here as refugees for 25 years - we schooled here, worked here and lived here, and we are proud of that. But now? How can I even go to my brother because I'll be arrested with him. We have to find people to take my brother food. I don't understand how they can arrest him and lock him up like that. How can he go to Rwanda now?

We have all the right documents and cards. Alright, if they want us to go, we must go ... but they should find us a place to take us if they don't want us here. An alternative place must be found and they should put us all together in some center

to assist us; not just picking us up and putting us in cells.

Why after 25 years do we end up in cells and told pack our things and leave? We need time to leave if we have to go. They should release people and get them all together, instead of some in Kabete police station, some in Langata, some in Pangani, some in Dagoretti. We won't go to Rwanda, but at least they can settle us somewhere else properly.

While the expulsion of Rwandese refugees is clearly and specifically linked to the recent invasion, there is a well-established history of expulsions and persecution of Ugandan refugees. President Moi condemned the use of Ugandan territory to launch the invasion into Rwanda, but Ugandan refugees regard this latest incident as an excuse to justify what they see as a continuing policy of harassment and rejection.

Under increasing pressure to liberalize and reform the one-party state, President Moi has reacted harshly to criticism with detentions, arrests and general harassment by the security forces. It is characteristic of his rule to lash out at foreign communities and ethnic minorities in an effort to divert attention from national political and economic crisis. Ugandan refugees have suffered a history of persecution in Kenya, with periodic expulsions, and have been repeatedly harassed during times of political and economic stress. Ugandans are resented in some circles because of the presence of a minority of educated and professionally qualified refugees and migrants at a time when unemployment is high and educational standards are deteriorating.

In May 1989 human rights organizations and the UNHCR condemned the forced repatriation of 238 Ugandan refugees from a camp in Thika. The Minister for Home Affairs and National Heritage, Davidson Kuguru, claimed the refugees had been returned at their own request and that the Kenyan government "has and would continue to adhere to the international convention on refugees, regardless of their country of origin." According to residents in Nairobi suburbs and slum areas, however, regular police swoops target Ugandan refugees. In October 1988, all Ugandan school teachers were ordered to return home after being dismissed without warning from their posts.

President Moi has frequently accused Ugandan President Museveni of attempting to destabilize Kenya, assisting dissidents and training rebels, and allowing armed incursions across the neighboring border. Despite occasional periods of respite, President Moi has maintained consistent political hostility to Museveni's government - said to have originated in President Museveni's alleged betrayal of peace talk resolutions negotiated personally by President Moi, shortly before his National Resistance Army seized power in Uganda in January 1986. Because of this hostility, a minority of politically active refugees receive the encouragement and even sponsorship of the Kenyan authorities. (By contrast, during the presidency of Milton Obote from 1980 to 1985, Kenyan security agencies cooperated with their Ugandan counterparts to forcibly return active political exiles into custody in Uganda where they sometimes faced death.)

However, President Moi still chooses to play the xenophobic card and many Ugandan refugees living in Kenya say they lead a very tenuous existence. One refugee told Africa Watch: "All channels for resettling Ugandan refugees have been blocked here. It's political of course. You cannot go to any embassy because they will automatically refuse Ugandans. This is not the first time Kenya has chased the Ugandans."

Africa Watch strongly condemns the action taken by the Kenyan government, its security forces and its party youthwingers against refugees. Africa Watch notes with particular concern that there are strong parallels with the screening and deportations of ethnic Somalis initiated by the Kenyan government in November 1989 - namely, total disregard for the correct legal process, police abuse of the law and lack of access to legal representation, confiscation and destruction of legitimate identity cards and documentation; and summary deportations of people without recourse to fair investigations.

The Kenyan government's actions are in clear breach of its obligations under the United Nations Convention Relating to the Status of Refugees, to which it is a party. This treaty forbids the expulsion of a refugee except on grounds of national security or public order (Article 32). But even so, this decision is not simply for the host government to make. The refugee is guaranteed due process of law. If it is decided after this process that a refugee should be expelled, the government must allow the person time to seek legal admission to another country. This has not been done in the case of Ugandan and Rwandese refugees in Kenya. The forcible return or expulsion (*refoulement*) of refugees is also prohibited under the convention (Article 33). The only exception is in the case of a refugee who has been convicted of a particularly serious crime endangering the community, or someone who is a danger to the security of the host country. But for such an assessment to be made, some measure of impartial scrutiny is required. The Kenyan government, by contrast, simply announced blanket measures against refugees of Ugandan or Rwandese origin.

Recommendations for Action

Please send appeals to the Kenyan government authorities listed below:

- * protesting the recent expulsion of Ugandan and Rwandese refugees as part of an officially stated policy of discrimination against them;
- * calling on the Kenyan government to abide by its obligations under the UN Convention Relating to the Status of Refugees, namely that refugees may only be expelled or forcibly returned on genuine grounds of national security, and then only after having the benefit of due process of law.

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

The Representative
UNHCR
PO Box 43801
Nairobi, Kenya

Previous Africa Watch Publications on Kenya

News from Africa Watch

Kenya: Screening of Ethnic Somalis; The Cruel Consequences of Kenya's Passbook System, September 5, 1990

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 Chairman is William Carmichael and 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; Ben Penglase and Jo Graham are Associates.

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