

12 November 1997

Further information on EXTRA 115/97 (AFR 36/04/97, 18 August) and follow-up (AFR 36/04/97, 4 September) - Fear of refoulement

MALAWI Around 765 Rwandese refugees and around 470 refugees from the Democratic Republic of Congo (DRC)

UA participants have received replies from the Malawi authorities regarding Amnesty International's concerns about the repatriation process for Rwandese and DRC refugees in that country. The Government of Malawi confirms that a large number of letters of concern were received. Government responses received include:

· A 19 September 1997 letter from presidential Press Secretary Mr Alaudin S. Osman on behalf of President Dr Bakili Muluzi, in which he states that "...no refugee will be forcefully repatriated to Rwanda or to the Democratic Republic of Congo or to any other country. Refugees will be returned home on voluntary basis..."

· A 23 September letter titled "Facts About Repatriation of Rwandan and Democratic Republic of Congo Refugees and Asylum Seekers in Malawi", by Malawi's Ambassador to Germany, Hon. G.G. Chipungu. In that letter, he states: "Malawi and the UNHCR jointly decided to repatriate the refugees under question having been satisfied that the situations in their countries had changed for the better."

· A 4 November 1997 speech by Mr Lucius Chikuni, Commissioner for Disaster Preparedness, Relief and Rehabilitation, in the Third Committee meeting at the 52nd Session of the United Nations General Assembly meeting in the United States of America. Mr Chikuni reportedly said that: "...contrary to claims by Amnesty International and other such human rights institutions, those who repatriated, did so voluntarily". Mr Chikuni went on to say that: "We appreciate all the correspondence we have received from Amnesty International and other Human Rights Organizations throughout the world in this regard. I would like to assure them and the entire international community that those who have returned to Rwanda from Malawi were not forced to do so, but through their clear conscience they exercised their right to return. ...repatriation exercises have not received support from the Human Rights Organizations which have blamed Governments, often wrongly so, for forcibly repatriating refugees."

· A 22 September written by Assistant Chief State Advocate Mr Brian M J Chigawa, on behalf of Malawi's Solicitor General Stephen Matenje, in which he states that: "I am convinced that the issue of voluntary repatriation of Rwandan refugees has been misrepresented deliberately by individuals who have something to hide."

AI's concerns about the repatriation process in Malawi are in the context of forcible repatriations of Rwandese refugees, which have taken place from a number of countries in 1995, 1996 and 1997, including Tanzania, the DRC, Burundi and most recently Gabon. In Malawi, a screening by a special panel of UNHCR and government lawyers has continued to determine the validity of Rwandese refugees' fear of return to their country and to renew some asylum-seekers' status as refugees. So far up to 60 individuals have been repatriated, while 238 refugees are still in Dzaleka Refugee Camp. Approximately 85 of them have been interviewed and await determination of their refugee status.

AI delegates who interviewed refugees at Dzaleka Refugee Camp on 29 August 1997 found that many of the refugees who said they were happy to return had felt pressurized by the heavy police presence at the camp to sign voluntary repatriation forms and felt that refusal to return might be misinterpreted. In apparent recognition of this possible coercion, the Malawian authorities decided that all refugees were re-screened, even those who earlier signed forms saying they would voluntarily be repatriated.

Amnesty International recognizes that while some refugees may make an individual choice to return to their country, despite the grave human rights situation there, the refugee community should not be encouraged to return until it has been independently found that there has been an effective and durable change in their country of origin. This is clearly not the case in either Rwanda or DRC. Those returning to Rwanda have been arrested, "disappeared" or killed soon after their return from the former Zaire or Tanzania in late 1996 and early 1997. Patterns of ill-treatment in 1997 also indicate that returning refugees are especially harshly treated.

As some further action would be useful, anyone who participated in this action, who is able to, may send a fax, express or airmail letter, including as much of the following as possible:

- welcoming assurances from Malawi President Dr Bakili Muluzi that no refugee will be repatriated against her or his will; and the apparent decision not to repatriate refugees from the Democratic Republic of Congo (DRC) at this time, despite earlier statements that Malawi would do so;
- making it clear that to date Amnesty International has never claimed that Malawian authorities have sent any refugee back involuntarily in this current repatriation program, but restate that there is a concern that Rwandese or Congolese refugees might be repatriated against their will or that returns may not be truly voluntary;
- stating that Amnesty International's concerns about repatriation are increased by Malawian officials' repeated statements that there is peace and stability in the two countries that allows refugees to return;
- observing that many refugees are afraid of returning to Rwanda because they are aware of continuing human rights violations and insecurity in their country, that fear of return cannot simply be equated with involvement in the genocide, and that refugees' guilt or innocence can only be proved in a court of law, not in a refugee screening process.
- urging that Malawi provide continuing protection to those refugees who have well-founded fears of return, so as to fulfill the stated promise that no refugee will be forcibly repatriated, honouring Malawi's obligations under the UN 1951 Convention Relating to the Status of Refugees and the organization of African Unity 1969 Refugee Convention.

His Excellency the President Dr Bakili Muluzi
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Salutation: Your Excellency

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Salutation: Dear Mr Chikuni

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Salutation: Dear Solicitor General

COPIES TO:

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and to diplomatic representatives of Malawi accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat,
or your section office, if sending appeals after 30 December 1997.**