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Item 8: Activity Reports of Members of the Commission and Special Mechanisms

(xiii): Special Rapporteur on the Rights of Refugees, Asylum Seekers, Internally Displaced Persons and Migrants in Africa

Chairperson, Honourable Commissioners,

Amnesty International welcomes this opportunity to address the African Commission on Human and Peoples' Rights (African Commission) on the rights of refugees, asylum seekers, internally displaced persons and migrants.

Somali refugees and asylum-seekers in Kenya

One million Somalis have sought refuge in neighbouring Kenya over the last 20 years. Amnesty International has long encouraged the Kenyan government to ensure that Somalis fleeing armed conflict and human rights abuses can seek protection on Kenyan soil and also urged other states to offer resettlement in third countries in recognition that Kenya has shouldered significant responsibility for Somali refugees.

During the Kenyan government's counter-terror operation in April 2014, the rights of refugees and asylum-seekers, particularly Somalis, have been violated. Somali refugees have faced arbitrary arrest, beatings, extortion and harassment by security forces during house-to-house searches in the capital, Nairobi. Thousands of people have been arbitrarily arrested and detained for several days without charge in inhumane conditions in Kasarani football stadium and police stations. Since registration of Somali asylum seekers was suspended by the Kenyan authorities in the camps in 2011 and in Nairobi in December 2012, many individuals who would qualify for refugee status lack documentation heightening their risk of arbitrary arrest and forced return to Somalia.

On 9 April 2014, 83 Somalis were deported to Somalia. None had access to legal aid organizations or the UN Refugee Agency (UNHCR) prior to deportation. They were not brought before a court and charged and the reasons for their deportation remain unclear. There are reports that some of those deported

were registered refugees. There are plans for a second plane of Somalis to be imminently deported. Amnesty International is extremely concerned that the Kenyan government is forcibly returning refugees in violation of the principle of non-refoulement.

The refugee crackdown has escalated since Kenya's Cabinet Secretary for the Interior, Ole Lenku, issued a directive in March 2014 ordering all refugees to move to camps. The order breaches a High Court judgment in July 2013 which overturned a previous directive for violating refugees' dignity and freedom of movement and for risking indirectly forcing them back to Somalia. Forcing refugees to return to Somalia is contrary to international and regional law and may contribute to further flight?.

The Kenyan authorities' approach to counter-terrorism not only violates the rights of refugees, but also risks causing further instability by marginalizing entire communities. Cessation of registration hampers refugee status determination and also undermines security by preventing the Kenyan authorities knowing who is in the country.

Amnesty International calls on the African Commission to:

- Request an invitation from the Kenyan government for the Special Rapporteur on the Rights of Refugees, Asylum Seekers, Internally Displaced Persons and Migrants to assess the extent to which the Government of Kenya is complying with its regional and international human rights obligations regarding the rights of refugees and asylum seekers;
- Demand that the Government of Kenya does not return refugees or undocumented Somalis until cases have been brought before courts and are found to be in accordance with international and national legal standards;
- Urge the Kenyan authorities to stop all violations against refugees and asylum seekers, including harassment, extortion, arbitrary arrest and ill-treatment, which can lead to indirect forced return, and allow freedom of movement of refugees;
- Urge the Kenyan authorities to allow UNHCR and legal representatives unfettered access to all detained refugees, asylum seekers and undocumented foreign nationals;
- Encourage the Kenyan authorities to urgently resume registration of asylum seekers and continue to grant asylum to individuals fleeing persecution in line with its obligations under national and international law;
- Call on member states, other countries and intergovernmental organizations to support Kenya by increasing third country relocation for Somali refugees.

Displaced persons in South Sudan, Central African Republic and Chad

Intensifying conflict in the Central African Republic (CAR) and renewed conflict in South Sudan have pushed many victims of war crimes, crimes against humanity and other grave human rights abuses to leave their homes in search of safety.

In CAR, recent months have seen a forced exodus of tens of thousands of Muslim civilians to neighbouring Chad, Cameroon and the Democratic Republic of Congo (DRC). Many of these refugees are living in makeshift camps in dire conditions which will worsen if shelter, food and medical facilities are not made available urgently. Most camps are too close to the border contributing to insecurity and vulnerability of refugees.

There are still more than 620,000 internally displaced persons inside CAR with over 200,000 in the capital, Bangui, alone. Insecurity and limited funds are preventing humanitarian agencies from accessing and providing adequate support to these people.

As a result of the current conflict in South Sudan, over 800,000 people are internally displaced. Some 10 per cent of these displaced people are sheltered in over-congested UN compounds where they are at risk of water borne diseases as the rains start. The rains will also make it harder for humanitarian supplies to reach displaced persons in rural areas compounding existing shortages caused by obstructions to the movement of humanitarian agencies and harassment of their personnel by the warring parties. The United Nations has warned that one million people are at risk of famine.

In Darfur, some 200,000 people have been newly displaced following violence between government forces and armed opposition groups, as well as inter-communal violence. This adds to the two million people who face long-term displacement in Darfur since 2003. The Government of Sudan continues to restrict humanitarian access to conflict-affected areas and internally displaced persons are vulnerable to attacks, abduction, looting and sexual violence.

Amnesty International calls on the African Commission to adopt a resolution:

- Urging the governments of South Sudan, Sudan, Central African Republic and Chad to adequately protect displaced people, guarantee their security and allow humanitarian and human rights workers full freedom of movement;
- Calling on the Government of South Sudan to ratify the African Charter on Human and Peoples' Rights and effectively implement the Charter within its domestic legal system;
- Call on the Government of Sudan to ratify the Convention for the Protection and Assistance of Internally Displaced Persons;
- Request adequate humanitarian support for displaced persons and refugees.

Amnesty International encourages the Honorable Commissioner Maya Sahli-Fadel in her work following her visit to Chad in March 2013. We ask states to work with the Commissioner to ensure that refugees and displaced people who have fled persecution, conflict and humanitarian crises can seek refuge in safety and dignity.

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