

UA 270/95 Arbitrary arrest / Fear of torture /
Fear of refoulement

6 December 1995

**KENYA Hundreds of refugees including Rwandese, Ugandans, Somalis, Sudanese and
Burundi nationals**

In several waves of arrests, hundreds of foreign nationals, including refugees and asylum-seekers of various nationalities, have been rounded up by the Kenyan police. Although a significant number have been released, some are reportedly still held. Amnesty International fears that those detained are at risk of torture in police custody and of being forcibly returned to their countries of origin where some would be at risk of serious human rights violations.

The majority appear to have been arbitrarily arrested in response to the recent increase in violent crime in Kenya. The arrests began on 25 November 1995 when up to 100 people, including many Rwandese and some Burundi nationals, were arrested as allegedly illegal immigrants who had no legal status to remain in Kenya. Some, such as the retired Anglican Bishop of Rwanda, Adoniya Sebununguri, were released in the following days, but a fresh wave of arrests took place on 28 and 29 November. The second sweep was broader and targeted refugees from many different countries including Ugandans, Somalis and Sudanese. The arrests appear to have been arbitrary and included people in possession of valid travel documents. It is not known whether any of the detainees were taken to court or have been formally charged.

Some of those arrested are at risk of serious human rights violations if deported to their countries of origin. This is particularly true of the Rwandese, the majority of whom are Hutu. If forcibly returned to Rwanda, they would be at risk of arrest, detention in appalling prison conditions and possibly political killing. Several of those arrested are religious figures, who could be especially at risk. The Rwandese authorities have accused church leaders of involvement in the massacre of Tutsi in 1994.

Those arrested were initially held in police stations. Some have been transferred to Thika refugee camp, 15 kilometres outside Nairobi, where conditions are harsh. The refugee camp had been closed earlier this year and has apparently been reopened to receive these detainees. Refugees there do not have access to adequate food supplies or sanitary facilities.

BACKGROUND INFORMATION

In the past, Amnesty International has received numerous and frequent reports of refugees from Uganda, Somalia and Rwanda being harassed, ill-treated or tortured by Kenyan security forces. Some, including scores of Ugandans, have been deported against their will to their country of origin after being arrested and ill-treated or tortured. Refugees and asylum-seekers are often victimized by the authorities and the police to distract attention from criticism of the government. Earlier in 1995, President Moi had stated that all refugees should leave Kenya.

Return of refugees to a country where their life or freedom is at risk is in violation of international law and of both the 1951 Convention Relating to the Status of Refugees and the 1969 Organization of African Unity Convention Governing Specific Aspects of Refugee Problems in Africa. Kenya is a state party to both of these.

Torture and ill-treatment by the Kenyan security forces is widespread and usually takes place shortly after arrest. Criminal suspects as well as political prisoners are routinely tortured to extract confessions. Detainees are frequently held beyond the legal limit, in harsh conditions.

Kenya has come under strong international criticism for failing to take action against Rwandese living in Kenya who are suspected of having ordered or taken part in the massacres of as many as a million people in Rwanda in 1994. President Moi's government continues to provide a haven for several high-level officials of the former Rwandese government with whom it had close connections and other individuals reported to have played a role in ordering or encouraging the genocide. While the Government of Kenya has an obligation to investigate the role of individuals currently in Kenya suspected of having participated in the genocide in Rwanda and to hand them over to the International Criminal Tribunal for Rwanda if appropriate, Amnesty International is concerned that this should not lead to arbitrary arrests on the basis of nationality or ethnic origin.

RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters in English or your own language:

- expressing concern that hundreds of refugees appear to have been arrested solely on the basis of their nationality or ethnic origin;
- asking to be informed of the identity of those still held and the nature of any charges against them and appealing for their immediate release unless they are promptly charged with recognizably criminal offences, and their detention is reviewed before a judicial or similar authority;
- seeking assurances that the detained refugees are not being tortured or ill-treated, and will not to be sent back to their country of origin if they are likely to face human rights violations there;
- seeking guarantees that Kenya will abide by its treaty obligations to protect refugees from arbitrary arrests, torture or *refoulement*.

APPEALS TO:

1) President Daniel arap Moi

Office of the President

PO Box 30510, Nairobi, Kenya

Telegrams: President Moi, Nairobi, Kenya

Telexes: 22003 FOREIGN ROB / 22796 FOREIGN RB

Faxes: + 254 2 337340 (if no tone, please try later)

Salutation: Your Excellency

2) Mr Stephen Kalonzo Musyoka

Ministry of Foreign Affairs and Internal Co-operation

Harambee Avenue, PO Box 30551, Nairobi, Kenya

Telegrams: Foreign Minister Musyoka, Nairobi, Kenya

Faxes: + 254 233 5494

Salutation: Dear Minister

3) Mr Amos Wako

Attorney General

PO Box 40112, Nairobi, Kenya

Telegrams: Attorney General Wako, Sheria, Kenya

Faxes: + 254 2 211 082

Salutation: Dear Attorney General

4) Mr Shadrack Kiruki
Commissioner of Police
Kenya Police Headquarters
PO Box 30083, Nairobi, Kenya
Telegrams: Commissioner Kiruki, Police, Kenya
Salutation: Dear Police Commissioner

COPIES TO:

Paul Wamae, Chairman, Law Society of Kenya, PO Box 72219, Nairobi, Kenya
and to diplomatic representatives of KENYA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat,
or your section office, if sending appeals after 25 January 1996.