

**MEMORANDUM TO  
THE GOVERNMENT  
OF UGANDA ABOUT  
THE CESSATION OF  
REFUGEE  
PROTECTION FOR  
RWANDANS**

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## Background

As with numerous other countries, Amnesty International has a long-standing commitment to research and action on Rwanda's human rights record. In this context, the organization has also documented the experiences of Rwandan refugees who fled to neighbouring countries, including Uganda, following the 1994 genocide as well as in recent years.

In September 2011, Amnesty International delegates visited Nakivale and Kyaka II refugee settlements in Uganda and met, among others, Apollo Kazungu, Refugee Commissioner from the Office of the Prime Minister, Kai Nielsen, the UN High Commissioner for Refugees' (UNHCR) Country Representative in Uganda, and representatives of civil society and non-governmental organizations working on refugee rights.

Part A of this memorandum outlines Amnesty International's recommendations regarding the expected invocation and application of the so-called ceased circumstances clause of the 1951 UN Convention Relating to the Status of Refugees (the Refugee Convention) to Rwandan refugees in Uganda in light of international refugee law and standards.<sup>1</sup>

Part B details Amnesty International's findings and concerns following the above-mentioned September 2011 research visit to Uganda.

## PART A

### "CEASED CIRCUMSTANCES" CESSATION

In recent years, the cessation of international refugee protection for Rwandan refugees has been considered at bilateral and multilateral levels. To Amnesty International's knowledge, the latest position of UNHCR on achieving "comprehensive solutions for Rwandan refugees", including cessation, was set out in a joint communiqué issued by UNHCR and the government of Rwanda on 7 October 2011.<sup>2</sup> The communiqué recommended that countries hosting Rwandan refugees invoke the ceased circumstances cessation clause and stated that further details would be discussed by relevant states, UNHCR and other actors in December 2011.

In light of UNHCR's expected recommendation to countries hosting Rwandan refugees, including Uganda, in this memorandum, Amnesty International makes detailed

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<sup>1</sup> The relevant provisions of the ceased circumstances cessation clause in the Refugee Convention read as follows: "This Convention shall cease to apply to any person ... if: ... (5) He can no longer, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality". Article I(4) (e) of the Convention Governing the Specific Aspects of Refugee Problems in Africa is worded in identical terms.

<sup>2</sup> In this respect, the communiqué states: "...UNHCR will recommend to States that they invoke cessation by 31 December 2011 effective on 30 June 2012 so as to make further progress on solutions and to manage the implementation of cessation in an effective and protection-sensitive manner."

recommendations to the government of Uganda on the cessation of refugee status and related matters. The organization believes that the implementation of these recommendations would help ensure that any measures taken to cease refugee status for Rwandan refugees be consistent with relevant international refugee and human rights law and standards, including treaty provisions by which Uganda is bound, as well as with domestic law.<sup>3</sup>

Under international refugee law – reflected in Article 1C(5) & (6) of the 1951 Refugee Convention and Article 1(4) (e) of the Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Refugee Convention) – when the circumstances in the country of nationality or habitual residence that had warranted recognition of entitlement to international protection have undergone a “fundamental, stable and durable change”<sup>4</sup>, such that they have ceased to exist, refugees who were entitled to the surrogate protection of the host state<sup>5</sup> can no longer refuse to avail themselves of the protection of their country of nationality or habitual residence.

It is self-evident that for former refugees, the availability of effective national protection in the country of nationality or habitual residence is a positive development and may present an opportunity to return home and rebuild their lives.

However, under international refugee law, the test for lawful termination of refugee protection on the basis of a fundamental, durable and stable change of circumstances in the country of nationality or habitual residence is stringent. It requires proof that an individual refugee *will* – as opposed to *may* - enjoy the protection of his or her country of nationality or habitual residence.

Before terminating refugee status, international law and practice require host states to comprehensively assess conditions in the country of origin or habitual residence. Moreover, international standards require host states, if the individual refugee so requests, to evaluate post-flight developments against the particular cause(s) of fear of persecution that warranted refugee status recognition in the first place.<sup>6</sup>

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<sup>3</sup> See in particular, part II Article 6 (1) (e) of the 2006 Uganda Refugees Act (Refugees Act).

<sup>4</sup> Executive Committee Conclusion Cessation of Status No. 69 (XLIII) - 1992, paragraph B (hereinafter Executive Committee Conclusions No. 69). To be both fundamental and durable, the change has to be major, profound and stable in nature.

<sup>5</sup> The term host State is used in this document to refer to a country that has been providing protection to refugees.

<sup>6</sup> The main international standards addressing cessation of refugee status, including in particular decision-making and implementation processes, are set out in Executive Committee Conclusion No. 69, UNHCR’s Guidelines on international protection: Cessation of Refugee Status under Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees (the “Ceased Circumstances” Clauses), Section B, and UN High Commissioner for Refugees, Note on Cessation Clauses, 30 May 1997, EC/47/SC/CRP.30.

Host states need to establish a “screening or reconsideration” process<sup>7</sup> to allow individual refugees to request reconsideration of the application of the cessation clause on the grounds of a continued risk of persecution which may include different persecution risks that have materialized since recognition<sup>8</sup> or on the basis that they have “compelling reasons arising out of previous persecution”.<sup>9</sup> Amnesty International, while using screening and reconsideration to describe this exercise, underscores that whatever the name given to this process, it is the substance, rather than the form, of the framework implemented by host States that matters. In summary, the procedure whatever its name must ensure full compliance with relevant procedural safeguards derived from international refugee and human rights law and standards.

Screening procedures should also identify other reasons, including those based on broader human rights protection grounds, which, while not warranting continuance of refugee status *per se*, may entitle the person to remain in the host state as a permanent resident on international or domestic law grounds.

Given the serious consequences that cessation may have on the situation of people living in the host state as recognized refugees, including, in particular, their entitlement to, and enjoyment of, rights exclusively granted to them as refugees under international and domestic refugee law, Amnesty International urges the government of Uganda to ensure that it carefully evaluates conditions in Rwanda to ensure that they do indeed warrant invocation and application of the ceased circumstances cessation clause.

Further, should the Ugandan authorities decide to apply the cessation clause, the organization urges them to do so in a manner consistent with their obligations under international and domestic refugee and human rights law and standards.

#### **Assessment of a fundamental, durable and stable change of circumstances**

As a state party to the 1951 Refugee Convention and its 1967 Protocol, the government of Uganda has the exclusive competency to invoke and apply the ceased circumstances cessation clause. It is the Ugandan government’s responsibility to demonstrate in a verifiable, objective and transparent manner that stringent requirements for the invocation and application of the clause have been met prior to invoking and applying it. While the government of Uganda should give due consideration to UNHCR’s evaluation of the situation in Rwanda, Amnesty International considers that the Ugandan authorities should also conduct their own assessment

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<sup>7</sup> Executive Committee Conclusion No. 69, UNHCR Guidelines and past instances of declarations of cessation refer to a multiplicity of terms to indicate a process by which refugees can -- on an individual basis -- request a decision-maker to reconsider the application of the cessation clause on different grounds in international and domestic refugee law with a view to their cases being exempted from the general application of the clause. This process is referred to, among other things, as a screening process, reconsideration process, review of individual cases, exemption procedures/process etc.

<sup>8</sup> In Amnesty International’s view, an assessment of “a continued risk of persecution” must comprise consideration of the original circumstances that warranted refugee status recognition, as well as a full appraisal of potential, new intervening causes of persecution.

<sup>9</sup> Art.1 C (5) 1951 Refugee Convention.

of the situation in Rwanda.<sup>10</sup>

Amnesty International urges the Ugandan government to use a broad range of indicators to ascertain whether the conditions in Rwanda have sufficiently changed for the purposes of cessation. The government of Uganda should evaluate “reforms that alter the basic legal or social structures of the State”,<sup>11</sup> including:

- adherence to fair trial standards, including with regard to the use of evidence gathered by gacaca in any future genocide trials before conventional courts;
- mechanisms for the respect and protection of human rights such as the right to life, non-discrimination, freedom from torture or other ill-treatment, liberty of persons, freedom of expression and opinion;
- freedom of association and peaceful assembly, including tolerating criticism and dissent; and
- ability of human rights organizations to monitor violations and advocate for remedies, including through conducting prison visits.

The Ugandan authorities should draw on diverse sources, including statements by UNHCR and its Executive Committee offering authoritative guidance on evaluating in a verifiable, objective and transparent manner whether a fundamental, durable and stable change of circumstances has taken place to warrant the invocation and application of the ceased circumstances clause. Reports from independent local and international non-governmental organizations assessing the political and social space and the human rights landscape in Rwanda should also be fully considered.

In this regard, Amnesty International continues to have serious concerns about human rights violations in Rwanda. The organization has documented patterns of abuse relating to restrictions on the right to freedom of expression, association and peaceful assembly; unlawful detentions of civilians in military facilities; lack of access for Rwandan human rights organizations to monitor prison conditions; and lack of accountability for serious violations of international human rights and humanitarian law, including unlawful killings committed by the Rwanda Patriotic Army in Rwanda and in the Democratic Republic of Congo (DRC).<sup>12</sup>

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<sup>10</sup> Executive Committee Conclusions 69 paragraph A stresses that host states “in taking any decision on application of the cessation clauses based on “ceased circumstances”, *States* must carefully assess the fundamental character of the changes in the country of nationality or origin, including the general human rights situation, as well as the particular cause of fear of persecution, in order to make sure in an objective and verifiable way that that the situation which justified the granting of refugee status has ceased to exist.” [emphasis added]

<sup>11</sup> UN High Commissioner for Refugees ‘Note on Cessation Clauses’ 30 May 1997, EC/47/SC/CRP.30, paragraph 20.

<sup>12</sup> See for example Amnesty International publications including: Rwanda: *Respect freedom of expression*

In the light of the above, the organization urges the Ugandan authorities to pay specific consideration to refugees who may have a continued well-founded fear of persecution, including due to:

- their actual or perceived political views or past or present involvement in criticism of or opposition to the Rwandan government, whether in Rwanda or in exile;
- their denunciation of human rights abuses, corruption or other alleged wrongdoings by the government;
- past prosecutions, or threat of prosecution, for vaguely worded crimes, such as “genocide ideology” or divisionism;
- their trial *in absentia* before gacaca based community courts in cases where the trial did not meet fair trial standards;
- their having been victims and/or witnesses of serious violations of international human rights and humanitarian law committed by the Rwanda Patriotic Army in Rwanda or in the DRC or simply their being in possession of information about the above-mentioned violations; and
- their property or land in Rwanda being currently occupied by influential members of the ruling party or the army.

#### **A lawful implementation of cessation**

An assessment of post-flight conditions in the country of origin or habitual residence may lead to the conclusion that a fundamental, durable and stable change of circumstances has indeed occurred. However, this broad assessment is unlikely to exhaustively address the grounds giving rise to a well-founded fear of persecution for all Rwandan refugees who have a complex displacement history and have sought asylum at different times and for different reasons.

In the light of this, it is important that the government of Uganda publicly announces whether it intends to apply the ceased circumstances clause to all Rwandan refugees in Uganda or whether the cessation process will apply only to certain categories of existing refugees.

In line with accepted practice as reflected in Executive Committee Conclusion No. 69 and UNHCR Guidelines on International Protection, Amnesty International recommends that all refugees who are subject to a group application of the ceased circumstances cessation clause be given access to a fair and effective procedure by which they can challenge, on an individual basis, the termination of their refugee status if they so wish. The organization considers that such a procedure is essential to prevent the unlawful termination of refugee status of persons who -- notwithstanding the fact that a fundamental, durable and stable change of circumstances may have taken place -- continue to need, and be entitled to, international protection on the basis of the specific circumstances of their cases.

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*and end arbitrary detentions and enforced disappearances* AFR 47/005/2011; Rwanda: *Safer to Stay Silent: the chilling effect of Rwanda's laws on 'genocide ideology' and 'sectarianism'* AFR 47/005/2010.

Further, Amnesty International urges the Ugandan authorities to take the following steps – if they decide to invoke the cessation clause - so as to ensure that the procedure by which cessation takes place is both fair and credible:

- publicly declare the invocation of the cessation clause, providing clear guidance on its scope, including the group to whom it applies, and details about how it affects their rights;
- refugees be given clear and timely notice, in a language they understand, of the type of screening procedures, including appeal, established by the Ugandan authorities together with details about the deadlines for review applications, the body responsible for consideration of review requests and any further requirements, including, for example, application forms, other documents, etc.;
- refugees be provided with translation and interpretation services, if required, when their reconsideration claim is considered;
- refugees be given sufficient time to access legal advice in preparation for their interview;
- any reconsideration process, including interviews should be conducted by qualified officials who are familiar with refugee law and have been trained in the legal framework around cessation; and
- applicants should be informed in writing of the outcome of their request and, if negative, they should be able to appeal against it to an independent and impartial tribunal previously established by law. Applicants must be able to appeal on the grounds of material errors of law and/or fact, as relevant.

Amnesty International is mindful of the challenges that host states such as Uganda may encounter when establishing and implementing the procedural framework described above, including the fact that it could potentially result in a lengthy process. The organization appreciates that technical and material support may be needed from UNHCR for this process, as well as for the independent evaluation that should precede the invocation of the cessation clause. In the light of this, Amnesty International will call on relevant agencies to make their support available.

#### **Durable solutions: local integration and sustainable voluntary return**

While the cessation process may formally lead to a termination of refugee status for a portion of the caseload of Rwandan refugees in Uganda, *per se*, it does not guarantee a lasting solution to the Rwandan refugee situation. Amnesty International considers that while there may be scope for devising strategies aiming to conclusively resolve the Rwandan refugee situation, there is simultaneously a need for host states to be flexible to respond to the evolving displacement patterns of Rwandan refugees.

Further, the organization believes that there will be an enduring refugee caseload because there is likely to be a group of Rwandan refugees who have continued protection needs even after the cessation process is carried through. Moreover, the government of Uganda should bear in mind that new asylum-seekers are still arriving from Rwanda and those with meritorious

claims should not be prejudiced by the expected cessation declaration. New asylum-seekers often state that they fled Rwanda following harassment, accusations of “genocide ideology” or divisionism, or arbitrary arrests due to actual or perceived involvement with opposition parties.

Amnesty International urges host states such as Uganda to view the current juncture as a real opportunity to commit to the realization of all durable solutions, including local integration to respond to the complex situation created by decades of waves of forced displacement from Rwanda.

### **Local integration**

Many long-term Rwandan refugees in Uganda have established strong social, family and economic ties in their host state and have acquired rights during their time there. Long-term stay and their *de facto* integration may give rise to a compelling entitlement under international and domestic human rights law to alternative residence status so that rights which have accrued and strengthened over time be given full effect.

Amnesty International spoke with many refugees who first fled Rwanda in 1994 and who have spent most or all of the last 17 years in Uganda. Some refugees have established family life in the settlements, including with partners from the refugee community, but of different nationalities or with Ugandan citizens. Refugees with a spouse or children with a partner of a different nationality expressed their concern about maintaining family life if cessation was invoked without recourse to an alternative status enabling their family to stay together in Uganda. Further, Amnesty International spoke with refugees who arrived as orphans, or shortly thereafter became orphans, or unaccompanied minors in Uganda, and who did not know their place of origin or whether they had any living relatives in Rwanda.

These examples illustrate individual circumstances arising from long-term residence which may warrant granting alternative lawful residence status in Uganda even if no longer based on a need for, and an entitlement to, international protection. In this regard, Amnesty International urges the government of Uganda to give careful and favourable consideration to credible claims under international and domestic human rights law based on the right to private and family life because these entitlements are not extinguished by a lawful ending of refugee status.

Amnesty International appreciates assurances given to our delegates by Apollo Kazungu, Refugee Commissioner that the legal question of naturalization of refugees in Uganda is being further explored and that this issue requires interpretation because of conflicting provisions in domestic law. The organization would be grateful for any information on the steps taken by the government of Uganda to consider this legal question and whether steps will be taken to resolve it before plans to invoke the cessation clause are announced.

## **PART B**

### **Rwandan refugees’ basic needs and access to assistance and services**

The testimonies of Rwandan refugees collected by Amnesty International delegates during the organization’s research mission to Uganda in September 2011 disclosed serious concerns about people’s difficulties in accessing basic services such as health, protection and

education. For example, the refugees reported serious hindrances in accessing health services beyond primary care as a result of settlement officials withholding the required authorization on the grounds that “Rwanda was a safe country” and Rwandan refugees “should go home”.

Amnesty International is particularly concerned about the impact of the ban on cultivation imposed on Rwandan refugees in force since 2009. Since then, refugees have become extremely food insecure and reported resorting to numerous coping mechanisms that, in turn, increased their vulnerability. The organization’s delegates collected reports indicating that large numbers of Rwandan refugees struggled to obtain food on a daily basis. As a result, they were going hungry, and were only surviving by farming land belonging to others refugee communities or Ugandan nationals on an *ad hoc* basis. In turn, this made them extremely dependent on the good will of others, resulting in uncertainty about where the next meal would come from causing, for many, widespread anxiety and leading to conflicts and disputes within and among the different refugee communities.

Amnesty International found that the cultivation ban has greatly reduced the ability of Rwandan refugees to obtain adequate food compared with that of other refugee communities. The ban on access to cultivation land, which applied exclusively to Rwandan refugees, has had a serious detrimental impact on them. In this regard, Amnesty International considers that such a ban directly discriminates against the Rwandan refugees on the grounds of nationality and as such violates Article 3 of the 1951 Refugee Convention.<sup>13</sup> Furthermore, the Committee on Economic, Social and Cultural Rights (CESCR) stated in its General Comment on the right to adequate food that “any discrimination in access to food, as well as to means and entitlements for its procurement, on the grounds of race, colour, sex, language, age, religion, political or other opinion, *national or social origin*, property, birth or other status with the purpose or effect of nullifying or impairing the equal enjoyment or exercise of economic, social and cultural rights constitutes a violation of the [International] Covenant [on Economic, Social, and Cultural Rights]” [emphasis added].<sup>14</sup> The CESCR also clarified that “[t]he obligation to *respect* existing access to adequate food requires States parties not to take any measures that result in preventing such access”.<sup>15</sup> Amnesty International believes that the decision preventing Rwandan refugees from accessing land for cultivation violates Uganda’s obligation<sup>16</sup> under article 11 of the International Covenant on Economic, Social and Cultural Rights to respect the right to adequate food.

It is indisputable that food production is an essential component of the self-reliance strategy pursued by the Ugandan government. In turn, it also determines the level of food rations distributed by international agencies. In the light of this, Rwandan refugees have a legitimate

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<sup>13</sup> Article 3 of the 1951 Refugee Convention reads as follows: “The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.”

<sup>14</sup> Committee on Economic, Social and Cultural Rights, General Comment 12 on the right to adequate Food (article 11 of the International Covenant on Economic, Social and Cultural Rights), para.18.

<sup>15</sup> *Ibid*, para.15.

<sup>16</sup> Uganda acceded to the International Covenant on Economic, Social and Cultural Rights on 21 January 1987.

expectation that they would continue enjoying access to cultivation land (as a most important and sometimes sole source of livelihood) on the basis of non-discrimination, in the same way as other refugee communities in Uganda do.

Further, Amnesty International notes the findings and recommendations on food needs and food security of Rwandan refugees in the Joint Assessment Mission report in 2009.<sup>17</sup> The report recommends that food rations should be restored to the full allowance for the most vulnerable members of the Rwandan refugee community and to lift the ban on access to land cultivation “while lasting alternative solutions are being considered”. However, thus far, neither has been implemented.

The organization is also gravely concerned about the timing of the 2009 cultivation ban given that it was introduced at the same time as vigorous efforts to promote voluntary repatriation and against a backdrop of a then impending deadline that would have seen the closures of the camps on 31 July 2009. Amnesty International is concerned that the ban on cultivation has been and continues being used as a tool to force Rwandan refugees to return to Rwanda. The organization wishes to underscore that any material pressure - such as preventing access to land that is the primary source of livelihood for long-term refugees in Uganda - or physical pressure to push recognized refugees to repatriate renders the “voluntariness” of their return questionable and raises questions about Uganda’s compliance with the *non-refoulement* principle. Voluntary return requires that the choice to return has been made free from coercion and on the basis of the refugee’s prior and informed consent.

The organization calls on the Ugandan authorities to respect their international obligations under international refugee and human rights law with regards to the right to adequate food, by reinstating their access to land for cultivation.

#### **Voluntary repatriation and monitoring of returns**

Amnesty International understands that the numbers of Rwandan refugees who have voluntarily repatriated from Uganda in the past two years has been relatively low. Credible reports, including those collected during the organization’s recent research visit to Uganda in September of this year, indicate that some Rwandan refugees have subsequently returned to Uganda after various obstacles prevented them from successfully reintegrating in Rwanda. The experiences of these groups should inform any future repatriation efforts.

Amnesty International delegates spoke with Rwandans who had re-entered Uganda after voluntarily repatriating, or being forcibly returned to Rwanda from Tanzania, or during the July 2010 forced returns from Uganda. Many attributed their decision to return to Uganda to numerous challenges experienced on return. The most common complaint related to inability in accessing land and property on return to Rwanda as a result of, either or both, being occupied by others. Refugees reported that property disputes often led to fabricated criminal charges against them or the threat of such charges.

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<sup>17</sup> The Joint Assessment Mission was conducted by OPM, UNHCR and the World Food Programme and the final report issued in March 2010.

The restitution of property, especially land since it is an important source of livelihood, will need to be comprehensively addressed by the government of Rwanda. The government of Uganda will need to assess, among other things, the restitution of property in its evaluation of whether refugee protection can be lawfully ceased.

The organization is concerned that there has been limited monitoring and evaluation of the reintegration of Rwandan returnees. Amnesty International considers that monitoring of returnees is an important safeguard to ensure that their human rights are adequately protected. Further, the organization believes that valuable lessons can be learned from returnees' reintegration which, in turn, can inform future repatriation efforts. In the past two years there have been cases of Rwandan returnees who have re-entered Uganda because of difficulties in the reintegration process with, for instance, problems with the restitution of property in Rwanda and the inadequate level of support from government officials in the refugees' home areas raised as a factor in their decision to return to Uganda. A more sustainable return could be ensured if returnees were monitored in their own areas of residence, fully supported with their needs and problems highlighted on their return and adequately addressed by the stakeholders.

Amnesty International recommends that the Ugandan authorities urge UNHCR and the government of Rwanda to provide adequate reintegration packages, increase monitoring of returnees and address legal and practical obstacles that prevent sustainable return for those who are determined to no longer have a well-founded fear of persecution.

#### **Provision of information**

Rwandan refugees expressed confusion and a lack of understanding about cessation. They noted that the high level delegations from the governments of Uganda and Rwanda that frequently visited the settlement depicted the current situation in Rwanda in positive terms, but offered no real opportunity for Rwandan refugees to enter into a dialogue to address their concerns. They stressed that the past experience of forcible returns and fear of this happening again made them avoid meeting in public places and in groups thus preventing them from organizing effectively like other refugee communities and voicing their concerns.

The repeated issuance of deadlines, threats of termination of refugee status, the 2010 forced removals and lack of clear plans on cessation that could address the anxiety of the community have caused some refugees to leave the settlements and settle in other parts of Uganda. This decision to live in host villages is partly attributable to the government of Uganda because there has been a failure to effectively communicate with and give assurances to refugees that their rights will be respected and that any cessation process will be implemented in accordance to international standards.

The Amnesty International delegation was unable to ascertain whether, beyond radio broadcasts and the high-level delegation visits to the settlements, any sensitization campaigns have been rolled out to inform refugees of their rights and options. Those initiatives could include sharing objective information on conditions in Rwanda, including through opportunities for refugees to visit their home areas in Rwanda to assess the conditions there for themselves, the distribution of relevant materials, and information on opportunities to either repatriate voluntarily or continue staying in Uganda lawfully through local integration and acquisition of

Ugandan nationality or permanent lawful residence.

Amnesty International recommends that an urgent sensitization effort is launched to ensure better and increased engagement of refugees in discussions on voluntary repatriation to increase confidence.

### **Removals**

Amnesty International stresses that removal proceedings must always be conducted in compliance with international human rights law and standards, ensuring respect for the rights of persons subject to enforced removals.

Amnesty International issued a public statement<sup>18</sup> condemning the forced returns of around 1,700 Rwandan refugees and asylum-seekers conducted by the government of Uganda in Nakivale and Kyaka II settlements on 14 and 15 July 2010. The organization's findings, which were based on interviews with refugees and asylum-seekers directly affected by or witnesses of the forced returns, reinforce the observation that these returns were in grave violation of both international and domestic refugee and human rights law.

During the recent research mission to Uganda, Amnesty International collected disturbing accounts of the manner in which the Uganda authorities enforced the July 2010 acts of *refoulement*, including the deceitful gathering of recognized refugees, asylum-seekers and others under the pretext of food distribution, the use of physical force during the operation, reports of fatalities and serious injuries sustained during the operation and separation of families in the ensuing panic.

Amnesty International does not accept the assertion by the Ugandan authorities that the persons removed in these operations were rejected asylum-seekers and their lack of entitlement to international protection justified the operation conducted. Amnesty International repeats its concern expressed in our letter to Professor Tarsis Bazana Kabwegyere, former Minister of Relief, Disaster Preparedness and Refugees, about the lack of fairness in the status determination process that considered some of these individuals' claims. Those returned included recognised refugees contrary to assurances given by the Ugandan government. Irrespective of the legal status of those rounded up during the operation, the manner in which the Ugandan government effected these removals, including the resort to excessive force violated refugee and human rights law and standards.

In particular, the organization is concerned that the removals were a flagrant breach of Uganda's international obligation to respect the prohibition on *refoulement*. Amnesty International remains concerned that Ugandan government officials have attempted to justify the returns as acceptable. In this respect, the organization would seek clarification on whether an investigation was conducted by the Ugandan government regarding the events that took place on the 14<sup>th</sup> and 15<sup>th</sup> of July 2010. Amnesty International urges the Ugandan authorities

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<sup>18</sup> Amnesty International: 'Uganda forcibly returns 1,700 Rwandan asylum-seekers' 16 July 2010.

Similar statements condemning the forced removals were issued by UNHCR, Human Rights Watch and other NGOs.

to ensure than any operations of this nature will never be repeated and all future returns will comply with international refugee and human rights law.

## RECOMMENDATIONS

### **In the light of the concerns set out in this memorandum, Amnesty International urges the government of Uganda to:**

- conduct a comprehensive, objective and verifiable evaluation of current human rights conditions in Rwanda to determine whether there has been a fundamental, durable and stable change of circumstances such as to justify the invocation and application of the ceased circumstances cessation clause in manner that is fully consistent with international and domestic refugee law and standards;
- establish procedures to assess the general impact of any such a change in Rwanda, as well as on the original and/or present well-founded fear of persecution so that refugees can individually request reconsideration of the application of the cessation clause and be granted an exemption from it if indeed one is warranted in their individual case. Such procedures should also enable people with no continued international protection needs to nonetheless apply for -- and be granted if warranted -- alternative lawful residence status in Uganda on grounds recognised in international law and domestic law, including human rights law;
- explore all durable solutions to enable Uganda to adequately respond to the protracted nature of the Rwandan displacement situation. Those solutions should include pathways to local integration, including by resolving legal ambiguities around naturalization;
- respect the fundamental prohibition on *refoulement* by ensuring the voluntary character of any repatriation;
- ensure that any enforced return be conducted in a rights-respecting manner in accordance with international human rights and domestic law;
- guarantee continued access to assistance and services;
- lift the land cultivation ban imposed on Rwandan refugees in accordance with Uganda's obligations under the 1951 Refugee Convention and International Covenant on Economic, Social and Cultural Rights;
- urgently address the information gap by informing Rwandan refugees of their rights including in the context of the expected invocation of the cessation clause and reconsideration procedures;
- urge UNHCR and the government of Rwanda to provide adequate reintegration packages for returnees, and increase the monitoring of returnees in Rwanda; and
- ensure that new Rwandan asylum-seekers have adequate access to asylum procedures and that their refugee status determination claims are given a fair hearing.

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