



Refugee Law Project



2nd April 2004

CONGOLESE REFUGEES IN BUNDIBUGYO DISTRICT: SITUATION REPORT

Between the 15-17 March 2004, a team from the Refugee Law Project (RLP) of the Faculty of Law, Makerere University, visited Bundibugyo district. The visit, intended as a follow up to earlier visits,¹ sought to establish the latest developments concerning the situation of refugees fleeing the conflict in the Democratic Republic of Congo (DRC). In particular, the team sought to assess:

- (a) The current security and humanitarian condition of the refugees
- (b) The extent, if any, to which the apparent de-escalation of conflict in the DRC had resulted in any voluntary repatriation on the part of the refugees.
- (c) The veracity of reports that the refugee presence was the cause of encroachment upon, and environmental degradation of, Semliki Wild Life Reserve (the Reserve).

While in Bundibugyo, the team visited Karugutu, Rwebisengo and Ntoroko sub counties, the epicenters of the refugee influx into the district. The team also toured sections of the Reserve and interviewed refugee and national pastoralists in and outside of it. The team also interviewed different Government and non-Government officials concerned with the Reserve's management

Background

Bundibugyo district in western Uganda is a low-lying area adjacent to Lake Albert, lying along the border between Uganda and the DRC. The district is also located at the foot of the Rwenzori Mountains, a factor that places it in a rain shadow and results in seasonal floods and drought. Within Bundibugyo, and particularly in Rwebisengo and Ntoroko sub-counties, is part of the Semliki river, as well as the Reserve. While the river is one of the few sources of water in the area, the Reserve is an important habitat for many species of wild game.

Despite being at the border with the DRC, there is no formal immigration control in Bundibugyo and the movement of people between the two countries has always been

¹ In July and August 2003, RLP visited Bundibugyo district and conducted an analysis of the displacement in the district. The findings are reported in RLP Working paper 10, *Displacement in Bundibugyo District: A Situation Analysis*, October 2003, available at www.refugeelawproject.org

fluid. In addition, there is no formal mechanism for determining one's refugee status or even ascertaining the number of asylum seekers. Nonetheless, under Article 1 (2) of the 1969 OAU Convention on the specific Aspects of Refugee Problems in Africa - to which Uganda is a party - refugee status should be granted to every person who flees his or her country of origin or nationality, "*owing to external aggression, occupation, foreign domination or events seriously disturbing the public order in either part or the whole of his country of origin or nationality*". Refugee status in this case flows automatically from the prescribed circumstances and need not be formally conferred through any status determination procedure. It is on the strength of this that the Office of the Prime Minister granted *prima facie* refugee status to all persons fleeing the conflict in the DRC.

In late 2002, civil conflict in the DRC reached its height, forcing several thousand Congolese nationals to flee into Uganda. In response to this influx, the Refugee Law Project (RLP) of Makerere University made two visits to Bundibugyo in July and August 2003. At the time, it was estimated, through informal mechanisms like voluntary registration with the local authorities, that there were 20,000 refugees in the district.² Furthermore, although Ugandan policy requires all refugees, with the exception of a minority, to live in Settlements, the refugees in Bundibugyo resisted attempts to be transferred to Kyaka II settlement in Kabarole district. Interviews by the RLP revealed that many of the refugees considered the conflict in the DRC temporary and preferred, therefore, to settle in the border villages of Rwebisengo, Ntoroko and Karugutu.³ Since many of the refugees in question were, like their hosts, pastoralists, the number of cattle in these locations more than doubled, resulting in growing competition for grazing land and tension between the refugees and their national hosts.⁴

Findings

The absence of a formal refugee status determination procedure in Bundibugyo means that there are no proper records of the number of refugees in the district or of those who have voluntarily returned to the DRC. Nonetheless, the RLP, through interviews with officials, refugees, and nationals in Rwebisengo, Ntoroko and Karugutu, was able to establish the following:

- **The number of refugees in Bundibugyo district has fallen substantially.**

Given the high mobility of the refugees and the lack of a refugee status determination procedure, there are no means of establishing the precise numbers of incoming, settling or repatriating refugees. Nonetheless, an estimate by one official puts the number of refugees in Bundibugyo district at 8000.⁵

² Interview with LC 1 Chairman Rwebisengo, 5th August 2003

³ For a detailed account of this, see RLP Working Paper 10, *Displacement in Bundibugyo District; A Situation Analysis*, October 2003

⁴ Interview with Ugandan national in Rwebisengo village 15/3/2004

⁵ Interview with Security Official Ntoroko, 16/3/2004

Since the beginning of 2004, Ugandan security authorities, particularly in Ntoroko sub county, have, apparently, made efforts to reconcile some of the warring militias in the DRC. The efforts have taken the form of peace meetings held in Uganda, between faction commanders of the Hema, Lendu and Ngiti communities of the DRC. According to one security official, “we urge the commanders not to attack innocent civilians returning to their homes. In return, we allow the commanders to do cross border trade. The UPDF then escort the refugees up to the border.”⁶ Largely because of the above peace initiatives, many refugees sense an improvement in the security situation in the DRC and have voluntarily returned home. There are also few new cases of refugees fleeing from the DRC into the district.

Although there is an inter-communal mix, the majority of those returning to the DRC appear to be from the Hema community, while most of those remaining are from the Lendu and Ngiti communities. Some members of the latter two communities fear reprisal attacks by the Hema upon return to the DRC.

The repatriation process has been informal with no involvement of the Ugandan authorities. According to one security official, “those refugees who want to go home just pack up and leave without having to inform any of the authorities.”⁷

- **Many refugees, however, have not returned to the DRC.**

Despite the relative de-escalation of conflict in the DRC however, a number of refugees still feel that conditions are not yet safe for return to the DRC. This feeling was reinforced by reports of continued fighting in the DRC, as well as the fact that a few of the refugees who had voluntarily returned to the DRC have since returned to Uganda. More so, providing the refugees with security up to the border is not enough. One refugee noted that “Even though there is peace in my village, I cannot go back because I have to pass through enemy territory.”⁸

Many refugees are also reluctant to return to the DRC because of the absence of means of livelihood, as well as social amenities like schools and hospitals, in their home areas: “There is no food, medicine or clothes in [DRC]. Yet, when [humanitarian agencies] take food to [DRC], they merely go straight to major places like Bunya and Ituri. They ignore small villages in between.”⁹ Other refugees stated that they could not return to the DRC without any form of humanitarian assistance. As one refugee woman said, “How can I go back

⁶ Interview with Security official, Ntoroko, 16/13/2004

⁷ Interview with Security Official, Ntoroko, 16/3/2004

⁸ Interview with male refugee in Ntoroko sub county, 16th March 2004

⁹ Interview with male refugee in Ntoroko sub county, 16th March 2004

to [DRC] when my house was burnt down and my husband and sons killed? Who will build a house for me?”¹⁰

Other refugees have failed to return to the DRC owing to inability to access the available means of transport. As one refugee asked, “When I came in with my family, I had some cows and could sell these in order to get fare for the boat. I sold all my cows since I came to Uganda. Where can I get the money to pay for the boat fare across lake Edward [to DRC]?”¹¹

○ **The humanitarian condition of the refugees is appalling;**

The living conditions of most refugees in Bundibugyo district are extremely worrying and call for an urgent response. Refugees are coping with an acute lack of food and medicine and many among them have to beg for provisions from their national hosts.¹² Furthermore, at least 53 homeless families spend the night in a church building. Interviews with the refugees and agencies like the World Food Program reveal that there have been no distributions of food or non-food items since April 2003.”¹³ Faced with such difficulties, as well as insecurity in the DRC, at least one thousand refugees have been compelled to register for transfer to Kyaka II Refugee Settlement in Kabarole district.

○ **Refugees are being used as a pretext for encroachment upon the Reserve.**

Although the influx of refugees into Bundibugyo began in 2002, pressure and encroachment upon the Reserve land began as early as 1996.¹⁴ As such, while the refugee influx may have intensified competition for grazing land and water in the area, it is not, in itself, the cause of the encroachment on the Reserve land.

In addition, even assuming the refugee influx were to blame for the growing competition for land, the concessions already made by the Government and the Reserve management are sufficient to accommodate any additional demand for grazing land, thereby obviating the need for encroachment on the Reserve. In December 2003, President Museveni, in a bid to ease the intensified competition for grazing land and water, authorized the use of parts of the Reserve for temporary grazing, pending the repatriation of the

¹⁰ Interview with female refugee in Ntoroko sub county, 16th March 2004

¹¹ Interview with male refugee in Rwebisengo, 15th March 2004

¹² Although many of the refugees initially sustained themselves by selling dairy products, the need for subsistence has compelled many to sell off the cows. Further more, fishing as a means of livelihood is limited by regulations imposed by the Ugandan authorities, as well as the lack of fishing gear.

¹³ Interview with male refugee in Ntoroko sub county, 16th March 2004; also interview with Mr. Tom Ahimbisibwe, Co-ordinator, World Food Program, Bundibugyo.

¹⁴ In 1996, the indigenous community in Rwebisengo sub-county successfully demanded the degazettment of 400 square kilometers of the Reserve land. This generous concession by Government was soon followed by demands for further de-gazettment of the Reserve land. See letter from Executive Director UWA to Chairman Board of Trustees, UWA, (UWA/BoT/02/10) dated 31 October 2002.

refugees.¹⁵ In keeping with this directive, the Reserve authorities allowed for limited grazing in the Reserve.¹⁶ This concession was considered a sufficient trade-off between the additional demand for grazing land (resulting from the refugee influx) and the need to preserve the environmental balance and habitat of the wildlife in the Reserve. However, despite the recent decline in the number of refugees in the area,¹⁷ competition for grazing land in the area has continued to grow, and now extends beyond the permitted area to cover at least 120 square kilometers.¹⁸ Indeed, RLP interviews reveal that the indigenous community of the area is presently calling for further degazettment of the Reserve land, with the local Member of Parliament preparing a private motion to that end.

There can be no doubt that the encroachment on the Reserve has negatively affected wildlife and caused immense environmental damage. For instance, because of the extension of grazing beyond the permitted limits, there are several hundred cattle occupying vast sections of the Reserve, a factor that appears to have resulted in the destruction of significant chunks of the vegetation within the Reserve. According to one Wildlife official, “the depleted vegetation has severely jeopardized the existence of the Wildlife. Since the wild animals cannot compete with the cows for vegetation and water, they have either died or migrated to the DRC”.¹⁹ Indeed, with the exception of a few Uganda Kob and baboons, the RLP team, despite touring sizeable sections of the Reserve, did not see much Wildlife. The Reserve also bore visible signs of deforestation, allegedly carried out by encroachers for purposes of making charcoal and constructing houses. “The trees cut down include rare species like the *Borassus Palm*, *Theonyx Palm*, *Iron Wood* and *Cola Tree*. It takes more than 25 years for these trees to mature. The damage being caused to the Reserve will take several years to repair.”²⁰

¹⁵ See letter from President Museveni to Hon. Prof. Edward Rugumayo (Ref: PO/14) dated 20th December 2003. The letter states in part that “as long as our brothers from Congo are still here, the herdsmen in the area should be allowed to graze in the game Reserve on account of a bigger cattle population. When our Congolese brother, however, go back, then, all encroachers on the Park should stop.”

¹⁶ The precise extent of the Reserve land allocated for this purpose is currently in dispute. For instance, whereas UWA officials speak of 70 square kilometers, Brigadier Kale Kaihura, who was delegated by President Museveni to mediate in the matter, denies that any precise measurements were agreed upon, and claims instead that the extent of the Reserve land open to grazing was to be determined by pastoralists’ access to water sources.

¹⁷ See page 2 above

¹⁸ Efforts by the Reserve authorities to impose a fine of 400 Uganda shillings for every cow found to have strayed beyond the permitted limits have not inhibited the encroachment.

¹⁹ Interview with UWA official, Bundibugyo, 15th March 2004

²⁰ Interview with Wildlife expert, Kampala, 16th March 2004

Conclusion and Recommendations:

- The RLP wishes to commend the Ugandan authorities for making efforts to facilitate the repatriation of Congolese refugees by attempting to reconcile warring militia in the DRC and accompanying refugees up to the border with the DRC.
- The RLP, however, urges all concerned actors to urgently respond to the deteriorating humanitarian condition of the refugees in Bundibugyo.
- The RLP, nonetheless, calls on the Ugandan authorities to immediately establish a refugee status determination procedure in Bundibugyo district to help identify refugees. Such formal procedure will facilitate the delivery of humanitarian assistance to refugees, while ensuring that repatriation is voluntary and under conditions of safe return. Identification of refugees will also prevent nationals from encroaching upon the Reserve land or exploiting other measures intended to accommodate the refugee influx.
- Finally, the RLP urges President Museveni, the Ministry of Tourism, Trade and Industry, as well as all stakeholders, to intervene immediately and decisively to prevent encroachment upon, and degradation of the Reserve for selfish interests, and in a manner that is likely to undermine local hospitality towards refugees. In particular, it may be helpful to immediately embark on a programme aimed at sensitising the local community on environment-friendly grazing practices, as well as the socio-economic significance of wild game.

For further information or media inquiries, please contact:

Emmanuel Bagenda
Advocacy Officer
Refugee Law Project
PO Box 33903, Kampala
Tel: (041) 343556 or (077) 442364
E-mail: research@refugeelawproject.org