



Refugee Law Project

Faculty of Law, Makerere University



PRESS RELEASE ON RWANDESE REPATRIATION

During the 6th Meeting of the Tripartite Commission on Repatriation of Rwandan refugees, held on 22 April 2009, the Government of Uganda, the Government of Rwanda and UNHCR agreed to a number of resolutions aimed at repatriating all Rwandan refugees currently residing in Uganda. Indeed, now that relative peace has returned to Rwanda, many Rwandan refugees may be eager to return home and rebuild their lives. The Refugee Law Project (RLP) commends both governments and UNHCR for their commitment to facilitate and promote voluntarily repatriate for those refugees who wish to return and for their efforts to find alternative durable solutions for any refugees who may opt to stay.

We note with concern that many Rwandan refugees are under the impression that the voluntary repatriation operation to be established will be forcible. It is indeed a matter of urgent concern to all actors concerned with refugee issues that no refugee be extradited, deported or compelled to return to Rwanda against his or her will, and that those who chose to return are guaranteed protection and safety upon arrival in Rwanda. We therefore urge the Governments and the UNHCR to clarify and demonstrate the voluntary nature of the repatriation exercise, and to inform refugees about alternative durable solutions in the case that they are unwilling to return to Rwanda. This will be in line with the 1951 Convention relating to the Status of Refugees and the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, both of which emphasize the voluntary nature of repatriation of refugees.

It is important to stress that the 22 April agreement between the governments and UNHCR does not invoke the cessation of refugee status clauses of Uganda's Refugees Act 2006. The fact that they are not invoked indicates that both governments and UNHCR recognise that there remain grounds under which some Rwandans continue to require protection in Uganda.

Individual Claim Assessment

At the Tripartite meeting it was agreed that “the retention of refugee status by present Rwandan refugees is no longer justifiable or necessary”. However, despite the general prevalence of peace in Rwanda and diplomatic “assurances” of protection, some individual refugees have legitimate concerns about their safety. While it may appear that the “change” in circumstances in Rwanda render refugee status unnecessary for many refugees who fled generalized violence and were therefore accorded *prima facie* status, the same does not hold for those refugees who went through the individual status determination process and continue to have genuine protection concerns. A number of refugees may not be able to return because of other extenuating circumstances that justify the need for continued international protection. In either case, these refugees have a right to retain their status under the provisions of the 1951 Convention (Article 1 C (5) and (6)) and cannot be forced to return to Rwanda.



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The repatriation of any refugee who continues to fear persecution upon return would be involuntary in nature and would also violate the universal principle of *non-refoulement*, which prohibits states from “expelling or returning (“*refouler*”) a refugee to the frontiers of territories where he or she would be exposed to persecution”. To guard against violating this principle and to ensure that repatriation exercises are free and informed by the refugees themselves, it is essential that each refugee’s protection claim is individually considered before deciding to revoke his or her refugee status.

Alternative Durable Solutions

In order to ensure that repatriation is voluntary, refugees must have free choice in making their decision to return, including but not limited to facilitating “go and see” visits to Rwanda and in particular to put the individual refugees interest, security and welfare at the forefront. There cannot be any “push” factors encouraging refugees to leave their country of asylum, such as incomplete information that might lead them to think that repatriating is their only option. If anything, repatriation exercises should err on the side of caution and be biased toward facilitating rather than encouraging return. Refugees must therefore know what alternative durable solutions exist, specifically local integration and third country resettlement.

Recommendations

Repatriation exists as a durable solution for refugees only if it is voluntary. To this end, UNHCR, the Government of Uganda and the Government of Rwanda must ensure that no refugee is forcibly returned to Rwanda.

To promote the voluntary nature of repatriation, it is recommended that the Government of Uganda should:

- conduct individual assessments of refugees’ protection claims and other reasons prohibiting repatriation
- consider prospects of local integration for the residual caseload and publicise such options as alternative durable solutions
- continue assistance for the residual caseload in light of the fact that all refugees have been advised to stop cultivation
- desist from labelling refugee movement across the border as irregular since there are valid reasons for people to return to Uganda after repatriation

It is further recommended that UNHCR should:

- support local integration and third country resettlement as alternative durable solutions for the residual caseload
- stick to its mandate and provide oversight to the Government of Uganda in implementing the repatriation programme.

It is further recommended that all involved actors should:



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- respect, facilitate and prioritise the right of refugees to make a free and informed decision regarding repatriation
- recognise that circumstances may not allow the voluntary repatriation programme to be completed before the deadline of 31 July 2009
- respect the rights of individual asylum seekers to seek refuge abroad, including current and future Rwandan asylum seekers.

Signed,

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