
“A PLACE TO CALL HOME?”

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The forced repatriation of Rwandan refugees

While the displacement of people caused by armed conflict and persecution in the Great Lakes region is not new, recent events surrounding the forced repatriation of Rwandan asylum seekers in Burundi and their Burundian counterparts in Rwanda not only suggest a worrying disregard for international humanitarian law by these governments, but also demonstrate the extent to which asylum may be politicised. An analysis of these events highlights the continuing vulnerability of asylum seekers, refugees and internally displaced persons (IDPs) in this highly volatile region – a vulnerability that contributes to undermining any prospect of a durable peace in the region.

Towards the end of March 2005, media organisations reported that more than 2,000 Rwandans were fleeing their country to neighbouring Burundi. Reports were unclear about the reasons for such a large-scale exodus but suggested that possibly many Rwandans feared persecution as a result of the *gacaca* trials. Yet, in the absence of adequate demographic profiles of those who were fleeing, it becomes difficult to understand the motivations for the spontaneous exodus. What common factors bound these Rwandans together? Were they victims or perpetrators of violence in the past? What prompted them to leave at this particu-

lar time?

As detailed in the article by Stephanie Wolters in this section, the traditional *gacaca* courts were set up alongside the formal justice process as a way of addressing the backlog of cases surrounding crimes committed during the 1994 genocide. The trials are meant to bring victim and perpetrator together in front of their communities in an attempt to simultaneously address justice and reconciliation. However, many (including whole communities) are sceptical about the extent to which justice and reconciliation can be weighted against each other. Tied to the issue of guilt is the pressure that victims may feel to forgive the perpetrators – for some, a function of the need to safeguard themselves and their families against relatives and friends of the accused. Several aid workers believe that this fear of retribution may explain the rumours of what some call a ‘counter-genocide’: this time against Rwandan Hutus.

It should be noted here that the term ‘asylum seeker’ refers to an individual who has fled persecution or human rights abuses in his or her country of origin, but is awaiting the outcome of an application for asylum. Once this application has been approved this individual is considered a ‘refugee’ by the host country. However, the difference in technical terms does not erode the right to protection for both categories of people as set out in the 1951

International Convention on Refugees.

After the exodus referred to above, the Burundian government called on the United Nations High Commissioner for Refugees (UNHCR) for assistance. The agency agreed to assist on condition that the asylum seekers were moved away from the border area for security. By 18 April Burundi's Minister of Interior, Didace Nzikoruriho, announced that the incoming population were being moved to temporary camps at Songore in the north-eastern province of Muyinga and Cankuzo, explaining that "the government and its partners are yet to decide on more long-term places to relocate them".¹ At this juncture media reports put the number of Rwandan asylum seekers at between 5,000 and 7,000.

On 6 May the Rwandan government dispatched a task force to visit these refugees, allegedly to 'mobilise' them to return. On the same day, it was reported that many were already returning to Rwanda, making their way either by transport provided by the Rwandan government or on foot. As Charles Ntakirutimana, mayor of the border district of Mugombwa, explained at the time, the task force "is telling them that *gacaca* [will] not victimise anyone. The taskforce, consisting of mayors from Butare province as well as officials from central government, is telling people there is no reason to flee."² It is extremely doubtful whether this vulnerable population would voice their concerns to a taskforce composed of state officials, however. The spectre of forced repatriation became clearer as events unfolded.

On 23 April the Burundian government halted all transfers from border areas to inland centres. Yet, there was still little information on who actually constituted this refugee population, though it was believed that women and children made up the majority. Some weeks later, on 17 May, the UNHCR reported that hundreds of asylum seekers who fled to Burundi may have been intimidated to return home. The agency explained that most of the departures took place between 4 pm and 9 am when UN country staff in the area were subject to curfew. Four of the seven temporary housing sites were empty, and asylum seekers were seen to leave on trucks sent by the Rwandan government, while a large number left on foot.

Simultaneously, a Rwandan information campaign aimed at encouraging the asylum seekers to return home began.

On 20 May the Rwandan prime minister convened a meeting with several representatives of local government, security bodies and the attorney general to discuss the 'root causes' for the flight of people. In this meeting, the mayor of Butare suggested that those fleeing Rwanda may have links to the Burundian rebel group, the *Front Nationale de Libération* (FNL), adding that refugee camps might be being used as bases for new recruitment and training. Prime Minister Bernard Makuza concluded that security considerations needed to be prioritised in order to stem the tide of people fleeing to Burundi.

On 31 May Burundian authorities order the dismantling of several border sites and closed two transit sites. Those housed at these sites were moved to one ill-equipped and overcrowded transit centre at Songore in northern Burundi (able to accommodate 800 refugees, the centre now sheltered over 6,000 people). UN agencies raised concerns about the severe pressures on sanitation and water access.

On 11 June the governments of Burundi and Rwanda signed a bi-lateral pact regulating the exchange of what were now labelled 'illegal immigrants'. A joint press release described the actions of the asylum seekers as unfounded, stating that "all measures will be taken to ensure that these people are repatriated without delay".³ UNHCR representatives from both Burundi and Rwanda were not admitted to the meeting, however, and were effectively barred from accessing the displaced.

Merely three days later, the Songore transit site was closed – with an estimated 5,000 people returning home on transport provided by the Rwandan government. The governor of Burundi's Ngozi province, Felix Niragira, confirmed reports that six asylum seekers had jumped out of the trucks, saying that "the escapees certainly have something to account for in their country".⁴ At this point, the UNHCR was still unsure whether the return was voluntary or forced – in the latter case, both governments would be in clear contravention of the Refugee Convention. Protais Musoni, Rwanda's Minister for Local Government, promptly dismissed the

international outcry which surrounded these events, reaffirming his government's now official view that these people were "running away from justice".⁵

The Rwandan-Burundian case demonstrates the impotence of international rights-based law in the face of conflicting domestic political aims.

To be or not to be a refugee

As this year's World Refugee Day marks more than 50 years since the signing of the International Convention Relating to the Status of Refugees, the need to revisit the spirit of the convention, and assess the practical actions of its 136 signatory states is more relevant than ever. Certainly the protections set out in the 1951 convention and the subsequent 1967 protocol represent the only "wall behind which refugees can shelter", as described by the director of the UNHCR Protection Department, Erika Feller, and remains the fundamental basis for the agency's work across the globe.⁶ Mandated to be the lead agency for coordinating assistance to refugees in the aftermath of World War II, the UNHCR was not expected to be operational for more than three years! However, the agency's importance has grown exponentially as the conflicts in the former zones of cold-war influence continued in varying degrees of intensity. Currently some 19.2 million displaced people across the globe reaffirm the critical need for basic humanitarian

assistance and protection.

While the movement of people is a global phenomenon, the term 'refugee' or the spectre of nameless masses of people fleeing violence and persecution is largely associated with conflicts on the African continent. Indeed almost 30 per cent of the world's refugee population originate from Africa. According to the most recent global refugee update compiled by the UN the total number of refugees fleeing civil and inter-state war on the continent stands at around three million people. If we consider the highly porous nature of borders between states on the continent, undocumented asylum seekers will add a significant portion to this number.

For governments in the north, one of the means of fighting the 'war on terror' in the post-11 September context has been to impose increasingly stringent immigration laws – yet this has resulted in the conflation of two separate issues: economic immigration and asylum from persecution. The newly confirmed High Commissioner for Refugees, former Portuguese Prime Minister Antonio Guterres, has been critical of the tendency to confuse refugees and asylum seekers with terrorists and economic migrants when the former were victims of terrorists themselves. Guterres recently noted that "refugees do not migrate because they want to improve their situation, they migrate because they are being persecuted".⁷ The following table presents, in summary, answers to some of the most common questions concerning refugees:

Who is a refugee?	A refugee is a person who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country". 1951 Convention Relating to the Status of Refugees
How are refugees protected?	Governments normally guarantee the basic human rights and physical security of their citizens. But when civilians become refugees this safety net disappears. UNHCR's main role in pursuing international protection is to ensure that states are aware of, and act on, their obligations to protect refugees and persons seeking asylum. However, it is not a supranational organisation and cannot be considered a replacement for government responsibility. Countries may not forcibly return refugees to a territory where they face danger or discriminate between groups of refugees.

What are the obligations of a refugee?	Refugees are required to respect the laws and regulations of their country of asylum.
Who decides who is a refugee?	Governments establish status determination procedures to decide a person's legal standing and rights in accordance with their own legal systems. The UNHCR may offer advice as part of its mandate to promote refugee law, protect refugees and supervise the implementation of the 1951 Refugee Convention. The agency advocates that governments adopt a rapid, flexible and liberal process, recognising how difficult it often is to document persecution. The UNHCR's 64-member Executive Committee sets non-binding guidelines and the agency's Handbook on procedures and criteria for determining refugee status is an authoritative interpretation of the 1951 Convention. In countries that are not party to international refugee instruments but that request the UNHCR's assistance, the agency may determine a person's refugee status and offer its protection and assistance.
Are persons fleeing war or war-related conditions (such as famine and ethnic violence) refugees?	The 1951 Geneva Convention, the main international instrument of refugee law, does not specifically address the issue of civilians fleeing conflict, though in recent years major refugee movements have resulted from civil wars, ethnic, tribal and religious violence. However, the UNHCR considers that persons fleeing such conditions, and whose state is unwilling or unable to protect them, should be considered refugees. Regional instruments such as the AU convention support this view. Some countries argue that civilians fleeing generalised war or who fear persecution by non-state groups such as militias and rebels should not be given formal refugee status. It is the UNHCR's view that the origin of the persecution should not be decisive in determining refugee status, but whether a person deserves international protection because it is not available in the country of origin.
What rights does a refugee have?	A refugee has the right to safe asylum. However, international protection comprises more than physical safety. Refugees should receive at least the same rights and basic help as any other foreigner who is a legal resident, including freedom of thought, freedom of movement and freedom from torture and degrading treatment. Economic and social rights are equally applicable. Refugees should have access to medical care, schooling and the right to work. In certain circumstances when adequate government resources are not immediately available, including the sudden arrival of large numbers of uprooted persons, the UNHCR and other international organisations provide assistance such as financial grants, food, tools and shelter, schools and clinics. With income-generating and skill training projects, the UNHCR makes every effort to ensure that refugees become self-sufficient as quickly as possible.

The challenges of reintegration and rehabilitation

The UNHCR emphasises that refugee numbers are declining globally, with an unprecedented level of voluntary repatriation. The emphasis on the 'voluntary' nature of repatriation is particularly important to the work of the agency as outlined in Article 33 of the Refugee Convention:

No contracting state shall expel or return (*'refouler'*) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.⁸

In fact, over a four-year period the global refugee population has fallen by 24 per cent⁹. But these figures suggest another trend in human population movements, that of a steadily increasing number of IDPs. The Sudanese case highlights the enormous challenges facing that country as it begins to contemplate post-conflict reconstruction in the south. It is estimated that over four million people have been internally uprooted by the war in southern Sudan and as many as 600,000 of them are refugees in the seven neighbouring states.

While the increasing movement towards returning 'home' is a testament to the success of ongoing peace-making initiatives on the continent, one of the main challenges to building peace is the socio-economic reintegration and rehabilitation of uprooted individuals in their countries and communities of origin. Yet, as noted in a recent IRIN news agency report on the experiences of refugees who have returned home, the "initial euphoria of going back turns sour and leads to frustration as families struggle to reintegrate into societies ravaged by war and social dislocation".¹⁰

This should not come as a surprise. Life as a refugee is characterised by dependence on external aid, either from UN agencies such as the World Food Programme (WFP) or government bodies of the host country. Indeed, the levels of either self-sufficiency or dependency while in exile have an important bearing on the subsequent pace of economic reintegration.¹¹ The need for a coordinated socio-economic reintegration strategy (as an integral and fundamental part of post-conflict reconstruction efforts) has been highlighted, *inter alia*, by the UN Secretary-General's 2005 report entitled *In larger freedom: development, security and human rights for all*, which calls for, among other things, the incorporation and adoption of a developmental approach to peacekeeping efforts.

While UN agencies are mandated to provide relief and development assistance, the responsibility for reintegration must perforce also lie with government institutions in the state in question. This should not be interpreted as a call for the reduction of international donors' assistance – critical, particularly to sta-

bilise populations in distress during emergency periods. Strengthening governments' ability to positively contribute and lead processes of socio-economic reintegration of their populations is key to their long-term success as well as preventing former refugees and IDPs from re-entering the 'revolving door of displacement'. Viewed from the perspective of conflict prevention, the successful socio-economic reintegration of refugees and IDPs is instrumental in ensuring peace in post-conflict societies.

Conclusion

According to the UNHCR in Rwanda, the majority of repatriates were received by their communities rather than by local authorities. There is now clear evidence that most of them were women and young children – challenging the validity of the Rwandan government's claim that they fled because of fear of being prosecuted by the *gacaca* trials. It is more likely that those who fled did so from fear of general insecurity and intimidation emanating from the tense situation created by the *gacaca* process.

The Rwandan government's qualification of the group as a subversive and criminal entity is a stark violation of the principles of international law. Jean Pierre Misago of the University of the Witwatersrand's Forced Migration Unit explains: "Everybody should be allowed to apply for asylum, after which the appropriate authorities would make an informed decision in line with international law."¹² More importantly, and following from the chronology of events detailed above, political machinations have largely determined the status of this vulnerable population.

Aid workers in Burundi maintain that the move had been anticipated for some time, but aside from trying to open up dialogue channels between government and humanitarian agencies, they were impotent to stop Rwanda's actions. In addition, the pressure mounted on a Burundian government struggling to retain re-label the refugees.

The movement of people is symptomatic of the broader challenges to peace-building in a region that has been characterised by inter-

necine violence and instability. For the thousands of people who continue to be displaced and those who make the decision to return home, international law represents their only defence against human rights abuses.

Notes

- 1 IRIN news, UN agency relocates newly arrived refugees, <<http://www.irinnews.org>>, 18 April 2005
- 2 IRIN news, Hundreds of Rwandans returning from Burundi, <<http://www.irinnews.org>>, 6 May 2005.
- 3 UNHCR, UNHCR alarmed by Rwanda's and Burundi's decision to re-label refugees as illegal immigrants, <<http://www.unhcr.ch>>, 13 June 2005.
- 4 IRIN news, Transit camp closed 'asylum seekers' repatriated, <<http://www.irinnews.org>>, 14 June 2005.
- 5 Ibid.
- 6 UNHCR, A timeless treaty under attack, *Refugees* 2 (123), 2001, p 6.
- 7 D Wallis, West should learn lessons from Uganda, <<http://www.alertnet.org>>, 20 June 2005.
- 8 UNHCR, Convention and protocol relating to the status of refugees, 1967.
- 9 Population and Geographical Data Section UNHCR, Global refugee trends: Overview of refugee populations, new arrivals, durable solutions, asylum seekers, stateless and other persons of concern to UNHCR, 17 June 2005.
- 10 IRIN news, The long journey home: a web special on the challenge of refugee return and reintegration, <www.irinnews.org/webspecials>, 20 June 2005.
- 11 T Allen and H Morsnik, *When refugees go home*, United Nations Research Institute for Social Development (UNRISD), Geneva, 1994, p 34.
- 12 Interview with Jean Pierre Misago, Forced Migration Unit, University of the Witwatersrand, 20 June 2005.