

Application of the Cessation Clauses to the Refugee Problem in Rwanda: opportunities and challenges

Charles Gasarasi¹

Pierre Claver Rutayisire² (Corresponding author) rutayisirepc@gmail.com

Marie Rosine Uwineza³

Joan Murungi⁴

Abstract

The appearance of literature highly criticizing the application of the “Ceased Circumstances” Cessation Clauses to the very protracted case of Rwandan refugees has sparked significant interest in this research endeavour. The study illuminates the multifaceted challenges surrounding the acceptance and execution of the cessation clauses, shedding light on the adversities faced by non-compliant Rwandan refugees within host nations, as well as the intricacies of repatriation and reintegration efforts in Rwanda. A noteworthy finding was that nearly all respondents expressed no remorse regarding their repatriation, with the majority articulating substantial advantages resulting from their decision to return. Consequently, the initial vehement criticism directed at the application of cessation clauses for Rwandan refugees appears, in hindsight, to have been largely unfounded. This study suggests that protracted refugee situations may benefit from a discerning and timely implementation of cessation clauses, with a crucial prerequisite being the political determination of the country of origin.

Keywords: Cessation clauses, refugees, return migrants, Rwanda

¹ Professor of Political Science, Retired.

² Senior Lecturer of Demography, Applied Statistics Department, UR, Corresponding author.

³ Assistant Researcher, Centre for Conflict Management, UR

⁴Head of Curriculum, Rwanda Education Board.

Introduction

Interest in embarking on the current study was sparked by the appearance of literature highly critical of the idea of applying the “Ceased Circumstances” Cessation Clauses to the very protracted case of Rwandan refugees. Such literature began to be churned out by highly influential International NGOs such as Human Rights Watch (Tertsakian, 2011) and Amnesty International in 2009, increasing in intensity between 2011 and 2013. At about the same period, high-profile refugee studies specialists such as Barbara Harrell-Bond (2011) joined in the condemnation of applying the cessation clauses to Rwandan refugees, setting the stage for a trend of “negative” writings on the adoption and application of the said clauses to the concerned category of Rwandan refugees. The influence of this negative evaluation of the idea to end the refugee status of Rwandan refugees who fled their country between 1959 and 1998 is reflected in studies that appeared during the period leading up to the date of formal invocation of cessation, set for 30th June 2013. Such studies were produced both by institutions (Fahamu, 2011) and some scholars (Rabideau, 2013; Cliché-Vivar, 2013) in the area of refugee studies.

The major argument in the above studies is that invocation of the “Ceased Circumstances Cessation Clauses” with regard to Rwandan refugees was wrong from a legal standpoint, and flawed in its implementation as observed until the time of the studies. The studies stress the “premature nature” of the application of the 1951 Refugee Convention cessation clauses to Rwandan refugees, claiming that the country of origin’s requirements allowing for the application of the “ceased circumstances” cessation clauses were not yet met by Rwanda.

For those who were once refugees, hopelessly yearning to return home against the bad political will of the governments in power in Rwanda in the past (Mugesera, 2014), it is difficult to comprehend what was so wrong about the current government extending a hand of welcome to its people in exile with so much candour and empathy. A refugee’s life is a precarious and crippling life. Those who tasted it understand what it means to be welcomed with open arms by the government of the motherland.

It was against the above background that a number of interrelated ideas shaped research questions to be analysed in this research paper. In what ways the ‘ceased circumstances’ cessation clauses can be legitimately invoked? Is it a rare phenomenon that it would be alarming to apply to the very protracted Rwandan refugee situation? Is the Rwandan refugee population a special politically significant group that poses a special security threat to Rwanda and is therefore in need of advocacy not to return because of fear of targeted persecution by the Rwandan State?

In order to figure out whether opposition and resistance directed to the invocation and implementation of the cessation clauses for the specified category of Rwandan refugees was justified or not, it was crucial to assess the feelings and attitudes of returnees about opportunities and challenges experienced after return. Were they well received by home country officialdom and communities? Was the decision to return rewarding or regrettable? What do prospects for meaningful social and economic reintegration look like? To answer some of these mostly attitudinal issues, a survey was conducted among the returnees. The details on the material and methods used are presented below.

Material and Methods

Three major activities may summarise the methods used by the research team in Rwanda, Uganda, and Zambia: collection and in-depth analysis of documentation, interviews with government officials who deal with refugee affairs, and field administration of research questionnaires in three selected districts in Rwanda.

In Uganda, two important published research studies found on the same subject served as a good source of data, since they were both based on extensive field research in refugee camps hosting Rwandans (Hovil et al., 2010; Karooma, 2014).

A number of interviews with government officials who deal with refugee affairs were carried out in Rwanda at the former Ministry of Disaster Management and Refugee Affairs (currently Ministry in Charge of Emergency Management) whereas in Zambia interviews were conducted with Mr. Jacob Mphepo, former Commissioner for Refugees and Mr. Katele M. Kalumba, the Legal Officer.

The field administration of a research questionnaire conducted in Karongi, Musanze, and Rubavu districts collected data from purposely selected sixty (60) respondents in all which means twenty (20) per district. The three selected districts had the highest numbers of returnees according to the statistics availed by the Ministry in Charge of Emergency Management (MINEMA).

The questions asked included among others the occupation before refuge, during refuge, and after return. The questions on gender-related influence in the decision to return were also included as well as factors that hinder or encourage voluntary repatriation. A significant number of attitudinal questions were asked on the quality of reception upon return by different public institutions and local communities; the quality of various reintegration programs; economic and social opportunities received after return; current household income; attitude towards the application of the cessation clauses policy; whether returnees encourage repatriation of those they left behind; and the greatest challenge they have faced after return and what can be done.

The criteria used in sample determination were mainly the individual characteristics of respondents such as their age, sex, level of education as well as occupation after repatriation.

Results

Individual Characteristics

The background characteristics of our respondents are summarized in Table 1 where the proportion of the respondents by sex is in line with the distribution of the population at the national level as mentioned in the fourth RPHC with 52 per cent of all respondents being females and 48 per cent being males.

The distribution of the respondents by age exhibits a relatively young population with almost three out of four aged below 40 years. Two main categories which are dominant age groups with 27 per cent are respectively those aged between 20 and 24 and those aged 40 years or more. Two other

remaining important age groups follow with respectively 16.7 per cent (25 - 29 years) and 18.3 per cent (30 – 34 years).

During refuge, 52.6 per cent of all respondents were single while 35.1 per cent were married and 14.3 per cent were either divorced/separated or widowed. At the moment of the interview, the proportion of singles decreased with only one out of four respondents. The proportion of those married was 48.3 per cent, while that of the divorced/separated and widowed stood at 26.3 per cent. The increase in numbers of those married after return relative to those during refuge may suggest that the home country environment is more favourable and encouraging to singles in matters of deciding to start a family. Correctness of this assumption would be indicative of confidence-building opportunities resulting from reconnecting with the motherland.

Table 1: Respondents' Individual Characteristics (N=60)

Characteristics	Per cent	
Sex		
Male	48.3	
Female	52.7	
Age group		
Less than 20	1.7	
20 – 24	26.7	
25 – 29	16.7	
30 – 34	18.3	
35 – 39	10.0	
40 – 44	8.3	
45 – 49	8.3	
50 +	10.0	
Marital Status		
	<i>Refuge</i>	<i>After return</i>
Single	52.6	25
Married	35.1	48.3
Divorced/Separated	3.5	13.3
Widowed	8.8	13.3
Education		
None	28.3	
Primary	56.7	
Technical	6.7	
Secondary	8.3	
Occupation		
Farmer/Pastoralist/Fisherman	55	
Apprenticeship	23.3	
Student	11.7	
Salaried employees in the private sector	5	
Self-employer craftsman	5	

Information collected on returnees' background characteristics also included their level of education. The majority of respondents did their primary education (56.7 per cent). Only 6.7 per cent had attained technical education and 8.3 per cent had reached the secondary school level. However, slightly more than one returnee out of four (28.3 per cent) had no education at the time of the interview.

The current occupation of returnees was also one variable of interest. Presently, 55 per cent of the returnees are farmers, pastoralists, or fishermen. Only 10 per cent are salaried employees or self-employed craftsmen. About 11.7 per cent are students. Those in Apprenticeship are 23.3 per cent and none is unemployed. The zero unemployment rate probably suggests increased favourable opportunities for access to some livelihood-giving occupation after the return.

Level of satisfaction of returnees

A closer look at the year of return was done to get a clear idea of the migration streams of returnees and it is clear that the majority of returnees arrived in Rwanda in 2009. This is precisely the year when the UNHCR issued its recommendation that its cessation clauses be invoked with respect to Rwandans who became refugees between 1959 and 1998. About 46.6 per cent returned to Rwanda between 2009 and 2010 while 48.3 per cent are recent returnees who came back between 2011 and 2014. Only 5.1 per cent had returned between 1996 and 2008. It is interesting to note that a whole 74.9 per cent of our respondents repatriated starting the year of the announcement of invocation of the cessation clauses and ending with the actual formal implementation. Then another 20 per cent were repatriated one year following the coming in force of the cessation clauses. Both phenomena suggest that the spirit of the cessation clauses significantly triggered and sustained voluntary repatriation to Rwanda.

Table 2 represents respondents' ratings of their levels of satisfaction with regard to the way they felt welcomed by various Rwandan institutions and the community after their return. Analysing how refugees felt welcomed after their return to Rwanda by different institutions, 89.7 per cent mentioned that they felt much welcome by MINEMA compared to 10.3% who were not satisfied.

Table 2: Respondents' rating of their levels of satisfaction

Welcome and Assistance received	Satisfaction Levels (%)					
	None	Very little	Little	Adequate	Much	Very much
MINEMA	-	1.7	8.6	-	15.5	74.1
District authorities	1.9	9.6	3.8	-	25	59.6
Local authorities	1.7	3.4	5.2	5.2	19	65.5
Security organs	-	3.4	5.2	-	24.1	67.2
Community where resettled	-	-	-	-	15.8	84.2
Family of origin	-	10.3	6.9	3.4	12.1	67.2
New neighbours	1.8	12.3	-	-	22.8	63.2
Assistance received for basic needs or money	7.0	-	-	-	21.1	71.9

Assistance received for those who did not know their places of origin in Rwanda	-	2.1	-	-	10.4	87.5
Assistance in formal registration and ID card	7.4	7.4	-	-	27.8	57.4
Provision of legal assistance	18.4	-	4.1	-	18.4	59.2
Getting back their formerly owned land	16.3	-	2	-	22.4	59.2
Landless to acquire land	19.1	-	6.4	-	31.9	42.6
Settle in planned settlements	15.4	-	5.8	-	13.5	65.4
Health insurance fee paid for them	22.6	-	5.8	-	13.2	58.5
Free education, clothing and educational materials to returnees' children	28	-	6	-	16	50
Provision of livestock for economic advancement	30	-	8.9	-	17.9	42.9
Roofing materials	35.2	-	3.7	-	18.5	42.6
Finding employment	25.5	-	5.5	-	14.5	54.5
Training offered in entrepreneurship	3.5	-	-	-	10.5	86.5

Analysis of year of return was done to first get a clear idea of the migration streams of returnees and it is clear that the majority of returnees arrived in Rwanda after 2009. This is precisely the year when the UNHCR issued its recommendation that its cessation clauses be invoked with respect to Rwandans who became refugees between 1959 and the end of 1998. About 46.6 per cent, returned to Rwanda between 2009 and 2010 while 48.3 per cent came back between 2011 and 2014. Only 5.1 had returned between 1996 and 2008. It is interesting to note that a whole 74.9 per cent of our respondents repatriated starting from the year of announcement of invocation of the cessation clauses and ending with the actual formal implementation. Then another twenty per cent repatriated in the single year that followed the coming in force of the cessation clauses. Both phenomena suggest that the spirit of the cessation clauses significantly triggered and sustained voluntary repatriation to Rwanda.

The respondents' rating of their levels of satisfaction with regard to the way they felt welcomed by various Rwandan institutions and the community after return are analysed below.

89.7 per cent mentioned that they felt much welcome by MINEMA compared to 10.3 per cent who were not satisfied. The question on how respondents rated the quality of welcome they received from district and other local authorities, as these are the entry points towards the reintegration process was also investigated. At the district level, over 84.6 per cent of the respondents felt much welcome while 13.4 per cent were not entirely satisfied. At the local level, 89.7 per cent showed

satisfaction by the way they were welcomed while 13.8 per cent were to some extent dissatisfied. Only 1.7 per cent mentioned clearly that they were not satisfied.

One reason among others mentioned by those who were against the cessation clauses was the lack of freedom of expression, democracy, and security guarantees in Rwanda. This is why the research team was interested in exploring the level of satisfaction of respondents with regard to the welcome received from security organs in Rwanda. Results show that returnees were well received by security organs at 91.4 per cent while 8.6 per cent had a few concerns. For protection services offered by security organs in communities where resettled, results show that 99.8 per cent of respondents were satisfied by that service.

Another area of interest was to know how the returnees were welcomed by their families of origin. The majority of respondents were well received by their families of origin at 93.2 per cent compared to 6.8 per cent that were unhappy perhaps due to property-related conflicts with close or distant relatives. Besides being well received by families, 86 per cent of returnees also expressed satisfaction with receiving good treatment from their new neighbours. Only 14.1 per cent had issues related to trust and other social issues.

Rating of the level of satisfaction in services (basic needs or money) offered to respondents as they reintegrate into their communities shows that 93 per cent were very happy with the services compared to 7 per cent who were not satisfied due to delays in providing some services or insufficiency of the supplies. Over 97.9 per cent of the respondents appreciated the way they were assisted to find their places of origin. Only 2.1 per cent had concerns.

The survey also shows that 85 per cent were satisfied with receiving assistance for formal registration and the issuance of the national identity card compared to 14.8 per cent who were not satisfied due to delays and other issues like transport costs to sector offices. In relation to the provision of legal assistance to respondents, 77.6 per cent were satisfied with the service compared to 22.5 per cent due to a lack of knowledge of the service, delays, and costs involved.

Concerning the very sensitive issue of re-acquiring formerly owned land, 81.6 per cent of the respondents were satisfied after a formerly owned land or property was returned to them while 18.3 per cent showed a lack of satisfaction perhaps due to land-related conflicts and the new land law that allows girls and women to inherit the land which the returnees had no idea about, or even prevalence of corruption. With regard to assisting landless returnees to acquire land, 74.5 per cent were satisfied with the service while 25.5 per cent were not satisfied.

Several returnees are assisted to settle in planned settlements. Among the respondents, 78.8 per cent were satisfied with such assistance while 21.2 per cent were unhappy perhaps due to the fact that the phenomenon of planned settlements was new to them, while others preferred staying on their land of origin or family land.

On the service of having the health insurance fee paid for returnees upon arrival, 71.7 per cent were satisfied while 28.3 per cent were not happy due to delays in getting medical insurance cards. Regarding the provision of free education, clothing, and educational materials to returnees'

children, results show that only 66 per cent were happy while 34 per cent were unhappy as some families had not received schooling materials for their children.

Another response related to being given livestock for economic advancement, 60.7 per cent were satisfied while 39.3 per cent were not satisfied with the service. Some mentioned corruption issues during delivery while others simply said that they had never received that service. Only 61 per cent were satisfied with the assistance given in roofing materials compared to 38.9 per cent who were very unhappy. The reasons behind the high dissatisfaction in this service had mainly to do with with prolonged days of waiting without any official explanation.

68 per cent of the respondents showed satisfaction with being assisted to find employment, while around 31% were still struggling. This has been a general problem in Rwanda that has raised public concerns, making the government introduce ways of creating jobs not only for returnees but also for college graduates and other citizens. It was in this context that programs such as VTC, Hanga Umurimo (Create Own Jobs), and others were introduced.

Up to 96.5 per cent of the respondents were very satisfied with training offered in entrepreneurship, an aspect they saw as most important in returnees' lives.

As we wanted to tease out indications that our respondents had re-entered economic life, we asked about grassroots economic organizations they had joined, land ownership, and current monthly income. Most respondents were members of micro finance organisations such as Umurenge Sacco (Rwandan based savings credit and co-operatives at the sector level) and *ibimina* (Saving and lending groups) at 78.3 per cent compared to 21.7 per cent who had not joined and the latter were mainly old people.

Discussion

Actions by the Government of Rwanda to encourage the refugees to repatriate have included high-level Rwandan delegations to host countries to urge Rwandans to repatriate (Mozambique, Zambia, Malawi, Congo Brazzaville, Uganda, and Cameroon). Such visits may have motivated a number of refugees to return, but there have been cases where such delegations were not welcomed by the refugees. Another approach to encourage repatriation both before and after invocation of the cessation clauses was the organization of “go-and-see, come-and-tell” missions in which various groups of refugees from host countries were enabled to travel to Rwanda to see for themselves the real situation prevailing in the country in order to subsequently make informed decisions with regard to returning to their home country and to share the experience acquired with fellow refugees back in the host country. Some of such visits have resulted in voluntary repatriations, but in at least one known case, the feedback given by the “go and see” visitors back to fellow refugees in the asylum county was negative. In Zambia, we learnt that “*Refugee leaders Louis Ukulikiyeyesu in 2004 and Egide Rwasibo in 2015 returned with negative reports about the country [Rwanda].*”(Nishimwe L., 2015) There are numerous other ways in which the Government of Rwanda tried to build confidence among the refugees in order to enable them to return. These include signing and ratifying ‘the Great Lakes Protocol on the Property Rights of Returning Persons’, giving formal guarantees about the refugees’ ability to return safely, provision

of travel and identity documents to returning refugees, as well as allowing the UNHCR to monitor returnees inside the country to ensure adequate national protection.

It is difficult to measure the impact of the 'go and see come and tell' visits and that of visits by high-level Rwandan delegations to host countries in persuading Rwandans to repatriate. However, such efforts partially contributed to the return of significant numbers who were received and reintegrated since 2003, including those who continued to repatriate in big numbers since July 1st 2013 when cessation clauses took effect. Many other factors encouraged repatriation over time, including testimonies to refugees from those who repatriated before and radio broadcasts from Rwanda that could be heard in some areas of asylum countries. The role played by returnees to sensitize fellow refugees left behind in asylum countries to repatriate was very significant. Over 71.7 per cent agreed to having talked to their relatives about the matter. However 28.3 per cent did not for reasons such as not knowing their relatives' current addresses. Some mentioned people who had no interest of returning to Rwanda due to awaiting Gacaca court (Community Justice) rulings.

The survey we conducted also helped us to understand other dynamics that influenced the decision to repatriate. Among married refugees, women played a bigger role in influencing the decision to return to Rwanda at 35.6 per cent perhaps due to the fact that the burden of bearing and caring for children and the family becomes more of a woman's responsibility compared to men during times of refugeehood or displacement. The influence by the husband was at 24.4 per cent while the influence by family members was 15.6 per cent. The decision to return taken by both wife and husband remained at 13.3 per cent.

Conclusion

Based on the favourable evaluation of the reception and reintegration exercise by returnees in terms of available opportunities to reconnect with mainstream national economic, social and other aspects of life, it could be said in retrospect that invocation and implementation of the cessation clauses for Rwandan refugees was a sound and timely decision after all. The survey conducted points to an overall high rating of the respondents' felt amount of welcome after return. This applies to government institutions as well as local communities. Additionally, the survey shows an overall high rating of services received after return. The quasi- totality of our respondents felt no regret of having repatriated. On the contrary, most were able to mention one most important benefit they derived from their decision to return.

The alarmist warning of repression, human rights violations and other prophecies of doom awaiting returnees have not materialized. The ex-refugees who repatriated since 2013 went to blend into the population of another 3.5 million Rwandans who had repatriated since 1994 and an even larger section of the population who did not flee.

Accusations against the UNHCR that it was manipulated by the Government of Rwanda into recommending the cessation clauses do not seem to be well founded. The agency's stated evaluation of the situation in Rwanda prior to the invocation of the cessation clauses was objective as the return and reintegration realities on the ground currently indicate. Indeed, Rwanda has over

time recovered from instability, fragility and problems of governance. Various published international performance indices testify to that.

For a very protracted refugee situation that lasted close to six decades, some form of closure was absolutely necessary. Fortunately, political will on the part of the current Rwandan government has always been there to bring the protracted crisis to resolution. Missing this important ingredient would have meant a lost opportunity by other actors to pull the remaining few Rwandans out of a limbo that most face about national identity. Most victims of this limbo are ordinary Rwandans languishing in former refugee settlements in Zambia, Republic of Congo, Uganda, the forests of DRC and elsewhere. They are not the few conscientious opponents of the Government of Rwanda (political activists, journalists, etc) who have occasionally been streaming out of the country by choice. Nor are they those who fled after 1998 as they still maintain their refugee status. However, even this latter group remains vulnerable to unpredictable push factors in their host states. Based on the asylum countries' right to invoke mandated repatriation, the vagaries of potential expulsions based on unbending national interests are great. Historical examples of such risks abound, not least in Rwanda's backyard.

A word of advice to ordinary Rwandans still living in the above-said limbo is to think smart and not miss the train of organized and assisted repatriation and reintegration. The current repatriation and reintegration assistance programs are finite. Those Rwandans should not succumb to the deceiving propaganda of players who are objectively conscious of their own interests in opposing a return to the motherland, including international 'humanitarian' organizations. Heeding their advice to resist return is tantamount to individual and collective false consciousness and gullibility.

As is true with all migration waves, there is bound to be a residual part of Rwandans who will not wish to return. There is nothing abnormal about that. However, local integration in any country is governed by laws that must be observed. One such common law is for the candidate to such local integration to demonstrate previous national affiliation before being granted various types of immigration status. For such a group, refusal of the Rwandan national passport and other identity papers is foolhardy, to say the least. It may be a first step to statelessness. When things get bad as a result of some not-very-distant future, the priorities of the organizations mentioned at the beginning of this study will have shifted to more trendy subjects as they have indeed already done. The polemic on the subject has long subsided in cessation clauses literature. For Rwandans still procrastinating, there cannot be a better wake-up call. Resolution of other types of protracted refugee situations in Africa and elsewhere may be inspired by the Rwandan experience. But to succeed, one indispensable ingredient is the political will of the refugees' home country's government.

References

- Cliché--Rivard G. (2013) Violating International Law and Domestic Legislation: A case study of UNHCR's Recommendation and Uganda's Decision to Invoke the Cessation Clauses on Rwandan Refugees.
- Cooke Jennifer G. (2011). Center for Strategic and International Studies, Rwanda: Assessing Risks to Security.
- Fahamu Refugee Programme (2011) Rwanda: Cessation of Refugee Status is Unwarranted: Memorandum of Fact and Law September 22, 2011.
- Harrell-Bond B. (2011) "Cessation Clauses Ugandan Style", Center for Forced Migration Studies Working Paper Series, pp:1-17.
- Hathaway, James C. (2005)"The Rights of States to Repatriate Former Refugees." jch@umich.edu Ohio State Journal on Dispute Resolution 20, no. 1: 201-242.
- Hovil, L., Okello M.C.and Clancy D. (2010) *A Dangerous Impasse: Rwandan Refugees in Uganda*, Citizenship and Displacement in the Great Lakes Region, Working Paper no.4.
- Karooma C. (2014).*Reluctant to return? The primacy of social networks in the repatriation of Rwandan refugees in Uganda*, Working Paper Series No. 103.
- MIDIMAR (2014) Repatriation and Reintegration Programs for Rwandan Refugees & An Overview on Socio-Economic Progress in Rwanda.
- Mugesera A. (2004) *Imibereho y' Abatutsi kuri Repubulika ya Mbere n'iyi Kibili 1959- 1990*, Les Editions Rwandaises, Kigali.
- Musoni, E. (2015) *Rwanda, Zambia move closer to inking extradition deal*.
- Nishimwe L. (2015) *Rwandan Refugee Integration In Zambia Requires The Return Of The Refugee Status*, May 13, 2015.
- Rabideau J. (2013) Application of the UNHCR's "Ceased Circumstances" Cessation Clauses to the Rwandan Refugee Crisis, Durham, North Carolina, April 2013.
- Rwasibo E. (2012) Representative, Rwandan Refugee Community, [Letter from the Rwandan Refugee Community in Zambia to UN Secretary-General Ban Ki-Moon](#), Re: Rwandan Refugee Community in Zambia, 24 February 2012.
- Tertsakian C. (2011). Senior Researcher, African Division, Human Rights Watch (HRW), Time for a review of UK policy on Rwanda, African Arguments.

Acknowledgement:

The authors express their gratitude to the UR-SWEDEN PROGRAMME for the financial support (**Ordinary Research Grant 007**) and to the team from the former MIDIMAR renamed Ministry in Charge of Emergency Management (MINEMA) for their technical support and useful comments on the first draft.