

REFUGEES IN EASTERN DRC: A DISCUSSION DOCUMENT

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The question of the “refugees” in the east of the Democratic Republic of the Congo (DRC) is complex. With recent allegations of the return of thousands of Congolese refugees from Rwanda, and with the recent request of the Rwandan government to implement a cessation clause with regards to the refugee status of all Rwandan refugees, the situation has become yet more fluid.

We are thus in a situation that concerns two types of refugees:

1. Congolese refugees in Rwanda who are present in three refugee camps (other Congolese refugees are in Uganda, Tanzania and Burundi). More refugees are living in “host” villages in Rwanda.
2. Rwandan refugees in DRC – particularly in the east (other Rwandan refugees are present in the sub-region and in Congo-Brazzaville, and in some western countries). The refugees in eastern DRC are not living in camps.

This paper discusses the first issue: that of the return of the Congolese refugees from Rwanda.

1. Historic context

Inter-ethnic tensions in North Kivu, and in particular the *petit nord* area, have been present for many years, and involve closely linked questions such as identity, nationality, and land access and these issues go to the core of the current conflict.

Conflicts between the different ethnic communities in North Kivu – principally Nande, Hutu, Hunde, and Tutsi – have their origins prior to independence, and there have been occasional periods of violence, particularly during the “ethnic wars” in the early 1990s, when Nande and Hunde groups calling themselves “indigenous” fought with Hutu and Tutsi groups who were trying to claim political and customary rights to correspond with their demographic weight.

The different rebellions of first the AFDL (Alliance of Democratic Forces for the Liberation of Congo) and then the RCD (Congolese Rally for Democracy), dominated by Tutsi and Rwandan interests reinforced suspicions from many “non-Rwandophone” Congolese towards the Congolese Tutsi population in particular.

This suspicion and even violence could once again become more extreme if the question of the return of the refugees from Rwanda is not managed in sensitive, transparent and fair way.

2. Congolese refugees in Rwanda and returns from 1993 till 2008

The majority of the Congolese Tutsi fled the then Zaire between 1993 and 1995. Some left voluntarily to support the RPF rebellion in Uganda. Others – refugees – fled during the ethnic wars of 1992 and 1993; most of them fled in a hurry, either abandoning their land, or selling it at whatever price they could get.

During the RDC period, and the period of transitional government that followed, there were cases of land-grabbing by some Rwandophone politicians. Even today, there are a number of cases still going through the courts. During the same period, there were the first movements of

refugee return from Rwanda, in particular after 2002, when returned refugees settled in villages and camps around Kiorirwe, in an area close to the Virunga National Park.

It was during the CNDP period that the Rwandophone community managed to increase their territorial control of parts of Masisi and Rutshuru territories, not otherwise controlled by the FDLR or PARECO groups. Different waves of displacement during this period of conflict were often ethnic in nature. According to some analysts, the CNDP used these different population movements to encourage the settlement of Rwandophones in areas under their control, to the detriment of other communities.

This pattern has accelerated since 2008, with the establishment of a parallel administration run by the CNDP in Masisi territory, based in Mushake. This administration has a police force, and continues to name local administrators and customary chiefs favourable to the CNDP. In this way, areas around Ngungu, Mushake seem to be becoming increasingly Tutsi-dominated.

3. “Facts and figures”

The Congolese refugees in Rwanda are present in three camps, and number around 50,000, according to UNHCR.¹ An unknown number of other Congolese – not registered by UNHCR and some with an ambiguous status – are living in Rwandan villages. UNHCR says that the latest census in the refugee camps was carried out in 2008. The camps are controlled by the Rwandan authorities and UNHCR does not have unrestricted access to the camps.

The number of refugees registered by UNHCR in the camps in Rwanda has not changed even if a certain number of refugees have returned to DRC. This can be explained by following factors:

1. UNHCR distributes identity cards to refugees giving them access to the camps, but there is no direct control of people entering and leaving the camps. Therefore, the fact that no cards have been handed back does not mean that nobody has left the camps.
2. The procedures UNHCR has in place for the return of cards require the refugees to go to Kigali; given that many returns are spontaneous, it is difficult to imagine that people who have very little resources will make the journey to hand back their cards.
3. The cards also give refugees entitlement to food rations and in general it seems that many returns are made by “half families”: i.e., one part of the family returns to assess the situation in DRC, while the other family members remain in the camps with their cards.
4. Some refugees, it seems, have been selling their cards as they leave the camps.

According to the Congolese authorities (the National Refugee Commission), more than 12,500 people (refugees) have returned to North Kivu from Rwanda. This figure is provided by a local transport organisation. NGOs put forward other very varied figures concerning the numbers of returnees. Nonetheless, these figures do not tell us about the period over which this return movement took place, nor its composition.

1. According to some, the returns are mostly refugees from the three camps in Rwanda, and this movement is said to be recent, having taken place over the last few months, with returnees settling in “transit” camps and in villages in North Kivu.

1 Interview with UNHCR official.

2. According to others, these figures include a mix of refugees who returned during the RCD period and who were in a camp near Kirolirwe, and who, because of perceived improvements in the security situation, have been recently returning to their villages. Included in this group are reportedly other Congolese who were residing in Rwanda, in particular in the area of Gishawthi (near Gisenyi) where Rwandan authorities recently prevented land access to Congolese living in the zone. These also include recent returns from the camps in Rwanda.
3. It is impossible to estimate the number of people that are “recycled”; that is, those who cross to check on their property, and who return to Rwanda, to then return again to DRC.

However, it does seem that since April 2009 (and this has been confirmed by UNHCR), there has been a population movement from Rwanda towards Masisi in particular, but at the moment the numbers are not known, and neither the Congolese authorities nor UNHCR are able to confirm who these people are.

Visits conducted to Kibumba in Rutshuru territory and to Kisuma in Masisi territory by International Alert and by MONUC show a situation which seems relatively clear. At Kibumba, near the Rwandan border, there has been a fairly well organised movement of people, which takes place openly. According to MONUC, this non-official crossing of the border by people without any papers takes place under the supervision of Rwandan soldiers and CNDP soldiers on either side. On the main road in Kibumba, busses sent from Goma transport these people, again under the surveillance of the CNDP, towards a number of predetermined destinations; camps in the villages of Kisuma, Bishusha, Ngungu and Kitchanga, villages which lie in the part of Masisi territory controlled administratively and militarily by the CNDP.

In Kisuma, between 1,500 and 3,000 people have reportedly arrived from Rwanda since March 2009. These people are almost all poor Tutsi subsistence farmers, originally – according to them – from villages further to the west, still under the control of the FDLR. The camp is composed of small huts constructed from bamboo and banana leaves which surround the village. The camp has not received any humanitarian aid. In Kisuma, the returnees are able to cultivate small fields – part of a state farm – access to which has been facilitated by the Mushake-based administration. The children of returned families are schooled in a dilapidated primary school in the village. In other camps, such as in Kitchanga, the CNDP authorities have allowed agriculture to take place in the Virunga National Park. This south-west part of the national park is completely outside the control of the Institut Congolais pour la Conservation de la Nature (ICCN), the state national parks authority with responsibility for nature conservation, and has no access.

During a visit to Masisi, an official from UNHCR found that there were no major problems concerning the welcome of the returnees, and that the situation of the spontaneous returnees was not problematic at the current time. It is important to note that the returnees have not requested the help of UNHCR in terms of NFIs (non-food items) or food aid.

There seem to be several factors driving the return from Rwanda:

1. Improvement in the security situation in certain parts of North Kivu, especially in areas controlled by the CNDP, a politico-military movement which has made the return of the refugees one of its main objectives.
2. The desire of families to school their children in DRC in French. Since the 2009 school year, instruction in Rwanda is given exclusively in Kinyarwanda and English.
3. The impact of agricultural reform in Rwanda. According to some analysts, the Rwandan land reform process has increased the insecurity of Congolese refugees in the country, which

pushes people to return to DRC, where land access is considered easier. In addition to this, there is arguably a worsening food security situation in general in Rwanda.

4. According to some returnees, the humanitarian conditions in the camps in Rwanda have become worse. However, allegations that food aid rations have been reduced have been denied by UNHCR.

In general, different declarations are contradictory, the figures remain inexact – and probably exaggerated – and the overall impression is that discourses are deliberately confused. The statements of UNHCR and the Congolese authorities certainly seem ambiguous.

International Alert met with the CNDP administrator, Jerome Mashagi, in Mushake on 8th December 2009. According to Mashagi, there has been no recent return of refugees from Rwanda. He said that unless the refugees are able to return, there will be no peace, but that the CNDP was waiting for the signing of the Tripartite agreement between the DRC, Rwanda and UNHCR in order for the refugees to return officially. The population movements towards Kisuma, according to him, were the relocation of refugees who had returned at the time of the RCD.

However, the existence of camps for recently returned refugees has been confirmed, for example, by Maitre Muiti, cabinet member of the provincial justice minister and member of the CNDP based in Goma.

4. Identification of refugees

Following the question of the numbers, the second grey area is: who exactly are these people? As far as UNHCR is concerned, officially the returnees have not been identified as returning refugees, and thus UNHCR does not consider these people to fall under its mandate, and as such it offers no assistance during or after the return. However, in the opposite direction, since January 2009, UNHCR has offered assistance to some 9,000 Rwandan Hutu refugees from North Kivu, even though these people have not been formally identified as refugees, and have no identity papers.

In private, officials from UNHCR in DRC and in Rwanda admit that there has been a movement of some “half families” from the camps in Rwanda; people who leave and cross the border in order to evaluate the conditions in DRC. Others who are crossing the border, according to UNHCR, are considered economic migrants.

Abbé Malu-Malu hopes to set up a pacification committee to prepare for refugee return and to accompany the process. In principle, this initiative is welcome, but the composition of this committee has not yet been defined. According to UNHCR, this committee should comprise representatives of the governor’s office, STAREC (the government-backed stabilisation plan, supported by MONUC), and perhaps also be supported by UNHCR.

One of the objectives of this committee should be to work with customary chiefs to enable the facilitation of the return. The role of these chiefs appears crucial; some customary chiefs claim to know the exact number of Tutsi families who were resident in the areas under their jurisdiction, and it is only these families that they will “accept”. But, after 15 years of absence, how is it possible to identify returnees?

Furthermore, some customary chiefs – non-Rwandophone – have a vested interest in not welcoming Rwandophones who may pose a challenge to their customary authority. In the areas controlled by the CNDP administration, the opposite case is likely, that customary chiefs put in place by the CNDP will encourage the return of the refugees. Thus, the involvement of customary

chiefs in the return process must be done in a realistic and flexible way, in order to avoid them becoming part of the problem.

Above all, in an extremely politicised context, the identification of the returnees must be done in an independent and apolitical fashion.

5. Land questions

The question of land is another extremely sensitive issue. Refugees have the right to return to their land, but this risks causing conflict. In Masisi, land purchases have not been clearly defined. For example, a senator from DRC has bought land between two hills “as the bird flies”, making it difficult to establish the actual limits. Such purchases seem to be to the detriment of the refugees, who themselves own and require land.

Since October 2009, with the return of around 50,000 internally displaced people from the camps in Mugunga, of whom a large proportion come from Masisi, pressure on land looks likely to increase significantly.

NGOs such as International Alert, and also UN agencies, have received testimonies from people who claim that the CNDP authorities prevent farmers who own land in CNDP-controlled areas from accessing their fields. In some cases, witnesses from Ngungu claim that the politico-military CNDP authorities have used force and violence to make people sign documents transferring their property to another person. According to some, this practice is designed to create a geographic space for those who support the CNDP, and thus to chase those who oppose the movement.

This situation – qualified by some analysts as a “land-grab policy” of the CNDP-led administration or at least some individuals within the movement such as Colonel Zimulinda – has recently led to some population displacement in the area of Ngungu. Some people even suggest that there is a trend of “forced displacement” to favour the return of the refugees and to make place for sought-after pastureland.

The issue of land is critical, and the need for the fair resolution of conflicts is essential in order to avoid tensions linked to the refugee return. The rights of the returnees to access their land must be respected, as must the rights of other population groups. Measures to help those who lose out following land disputes must be put in place.

6. Risks

For some, this “disorganised” return is the price to pay for the diplomatic rapprochement between the DRC and Rwanda: according to some analysts, the return of the refugees was part of the “deal” negotiated between Kinshasa and Kigali in January 2009. The return does seem to have been part of the peace agreements signed between the CNDP and the Congolese government.

However, as has been shown above, questions concerning demographic pressures, land rights, nationality and identity lie at the origin of the conflicts in North Kivu, and therefore the risks of renewed tensions are clear if the refugee return is not managed in a fair and apolitical manner.

Tensions provoked by a non-managed return risk fuelling rumours concerning hidden agendas of Rwanda and the CNDP, and these can then be manipulated to create ethnic hatred and xenophobia. A consequence of this would be to jeopardise the planned return of over 40,000 refugees after the signature of the Tripartite agreement, scheduled in February 2010.

It is possible that the situation could degenerate in a similar fashion to the “ethnic wars” of the early 1990s, with local conflicts fought between numerous local ethnic militias. Today, the non-integrated armed forces in the province – APCLS, PARECO Lafontaine – have strongly objected to refugee return, although until now, these groups have not led campaigns of ethnic violence.

However, if certain armed groups consider, manipulate others or are themselves manipulated to consider the return movement as an attempt to reinforce the demographic, political and military weight of the Rwandophones in the *petit nord*, the risks of ethnic strife are clear.

On the other hand, the integration of former CNDP fighters into the national army still seems to be fragile. With the end of the Kimia 2 operations against the FDLR, it is conceivable that the CNDP – which sees itself as a force defending a vulnerable ethnic group – could remain an essentially rebel force, and return to violence a means to achieve their aims as they did between 2006 and 2008.

Without the support of external powers – notably Rwanda and Uganda – a serious relapse into wide-scale conflict seems unlikely. Nonetheless, should there be significant discrimination and violence aimed at the returning refugees, and a renewal of tensions between Kinshasa and Kigali, it would not be inconceivable to see some form of Rwandan intervention. On the other hand, should the CNDP recommence its armed rebellion, the government of Kinshasa could once again try to confront it by supporting Mai Mai groups as well as the FDLR.

7. Recommendations

Left unmanaged, the return of the Congolese refugees risks destabilising large parts of North Kivu, re-opening ethnic tensions and unravelling the fragile peace process. The question of refugee return is both sensitive and important, and the mandated authorities – the governments of DRC and Rwanda, plus UNHCR must assume their responsibilities. A number of measures can be taken to manage the process, and reduce the risk of conflict.

- In order to avoid rumours and manipulation, it is essential to have a reliable baseline of factual and verified information. The Congolese and Rwandan authorities and UNHCR should conduct a census in the refugee camps, as well as in the returnee camps in DRC, and establish from where these people have returned.
- Mechanisms of pacification and conflict resolution should be put in place. These should involve customary chiefs, state authorities, local community leaders as well as international organisations, in order to ensure impartiality and credibility. Measures to assist those who lose out in land disputes should also be implemented.
- In the medium term, it would be useful to open a debate on the question of land reform, above all to better protect peasant farmers who depend on the customary land system. Of course, before such a reform could take place, security and the rule of law must first be established.
- The signing of the tripartite agreement between Rwanda, DRC and UNHCR should be encouraged, in order to manage the return of the refugees in a transparent manner. In this context, it is important that UNHCR better coordinates its work between DRC and Rwanda. At the same time, those Congolese refugees not registered by UNHCR, living in Rwandan villages, must also be identified and assisted in their return to DRC.

- Means to establish the identity of those people who have already crossed should be established – involving Congolese and Rwandan authorities, and the international community. Are these people refugees, and are they Congolese? Measures to assist those who are considered economic migrants or stateless should also be put in place.
- The Congolese government should show more leadership concerning the refugee question. The Congolese authorities have the right and the responsibility to control who crosses its border. It is also the responsibility of the government to identify who are its citizens. The government should encourage the return of the refugees, and welcome the returnees by ensuring their rights as Congolese citizens. The government should avoid using xenophobic discourse.

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