

Can Refugee Cessation be seen as a proxy for the end of state fragility?

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The cessation of refugee status results from a judgment that a sufficient change has occurred in the refugees' country of origin that they no longer require international protection. For individual refugees this may leave them in a precarious situation. For states hoping to dispel an image of being economically, politically or socially 'fragile', this judgment is clearly very helpful.

The voluntary repatriation of refugees to their country of origin is often interpreted by the international community as signalling the state's ability to resume responsibility for its citizens. The formal invocation of a 'ceased circumstances' Cessation Clause formalises this interpretation in international law.

It amounts to legal recognition, determined by Tripartite Agreements between countries of origin, countries of asylum and UNHCR, that 'fundamental changes' have occurred in the country of origin such that a refugee 'can no longer ... continue to refuse to avail

himself of the protection of the country of his nationality'.¹ A Cessation Clause is thus understood as proof that profound, stable and durable changes have occurred since the time of the refugees' departure such that the country of origin's capacity to protect its citizens' rights is once again restored.

A declaration of cessation is therefore of immense symbolic importance for fragile states. States recovering from conflict or civil strife can utilise the recognition of stability inherent within the invocation of a Cessation Clause to buttress the claim, for

example, that displaced people no longer have any continuing need for protection either inside, or outside, the country.

The case of Rwandan refugees

The 1994 genocide of Tutsi and moderate Hutu, and subsequent inter-communal and cross-border conflict, which purportedly reached its conclusion in 1998, resulted in over 3.2 million refugees fleeing the country.

In several respects, Rwanda has remained an extremely fragile state ever since, despite some remarkable improvements in basic political and economic indicators since 1994. The government nonetheless faces continuing criticism over its increasingly authoritarian style of governance, and concerns regularly focus on its restrictions on domestic freedom of speech and political association, its harassment and suppression of opposition parties, and the military's aggressive and exploitative conduct within the Democratic Republic of Congo.

Nevertheless, the possibility of invoking a Cessation Clause for Rwandan refugees has been under intense discussion since 2000. By 2010 several countries had decided, in conjunction with UNHCR and the Government of Rwanda, that the refugee status of all Rwandans should be terminated by a generalised Cessation Clause. Following further debate between the involved parties and a chorus of protesting non-governmental organisations, it was decided that Cessation would be invoked in June 2013. This would, however, only apply to those Rwandan refugees who had fled between 1959 and 31st December 1998, as it was felt that the generalised conditions of violence that had resulted in Rwandan refugees fleeing the country up until 1999 no longer posed a threat to these individuals.

These temporal limits have, however, been notably absent in the Government of Rwanda's statements concerning the Cessation Clause. The government has asserted that it must be conforming to certain normative standards required for a positive

assessment of its resumed protective role and capacity, using the Cessation Clause as 'evidence' of this improvement. The President of Rwanda, Paul Kagame, has repeatedly asserted that "eventually no Rwandan shall be called a refugee since there is no longer any reason for this".

Rwandans in exile thus seem convinced that the Cessation Clause, rather than reflecting a desire on the part of the state to re-assimilate Rwandan refugees, is being instrumentalised to bolster Rwanda's international reputation. As the Rwandan state's economic, and thus political, stability rests to a large extent on fluctuating relationships with increasingly disenchanting donor states – who have provided between 50 and 75 per cent of Rwanda's national budget through foreign aid over the last fifteen years – the Government of Rwanda's portrayal of cessation as indicative of full international endorsement of its behaviour is thus unsurprising. As a result, Rwandan refugees have experienced increasing constraints to the international recognition of their continuing protection needs. This may result in them experiencing further displacement, including back to situations of potential persecution.

Despite the Government of Rwanda's assertions to the contrary, many Rwandans still face persecution and thus inevitably will continue to resist repatriation to a state that they do not trust to provide them with protection. Greater efforts therefore need to be made to prevent Cessation undermining the rights and on-going protection needs of Rwandan refugees. Through effective communication to clarify the exact details of the Cessation Clause, and the continuing accessibility of alternative durable solutions for those refugees who feel unable to return to Rwanda, Cessation could be invoked while minimising the negative outcomes.

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1. UNHCR, 'The Cessation Clauses: Guidelines on Their Application', 1999, www.refworld.org/docid/3c06138c4.html