



ARCHDIOCESE OF LUSAKA

18th May 2015

OPEN LETTER TO:

Hon. Dr. Ngosa Simbyakula, PhD, MP
Minister of Justice
P.O. BOX 50106
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LUSAKA



Honourable Minister,

RWANDAN FORMER REFUGEES CRY OUT: PLEASE SAVE OUR SOULS

1. Introduction

In the central teaching of the New Testament Jesus Christ said, among other significant pronouncements, ***“Not anyone who says to me, ‘Lord, Lord’, who will enter the kingdom of Heaven, but the person who does the will of my Father in heaven”*** (Matthew 7: 21).

Towards the end of St Matthew’s Gospel Jesus zeroed in on the practical implications of believing in him and serving God in the following words: ***“I was a stranger and you made me welcome...In truth I tell you, in so far as you did this to one of the least of these brothers and sisters of mine, you did it to me....I was a stranger and you never made me welcome....In truth I tell you, in so far as you neglected to do this to one of the least of these, you neglected to do it to me.”*** (Matthew 25: 36-45)

As a little baby Jesus and his parents had to flee their home land to live in exile in Egypt as refugees from Herod’s despotic regime.

Zambia has an unparalleled record of being a home to thousands of refugees coming to our country from conflict and war in the Southern, Central and even Eastern African Regions in search of peace and security. Refugees have been coming and still continue to come to our country though in much smaller numbers than in the first two or three decades of our Independence. Zambia’s status as a safe haven for refugees has been earned at enormous sacrifice in terms of Zambia’s welfare, security and development. We have endured a lot of suffering including loss of life of our nationals and property because of the

hospitality that we have accorded and still continue to accord our brothers and sisters fleeing from violence and insecurity in their own countries.

We have welcomed refugees because of the value we attach to human life and dignity offering protection to these our most vulnerable brothers and sisters. One can understand why we have awarded ourselves a very high accolade by declaring Zambia a “*Christian nation*”. Unfortunately this hard earned and well deserved record is in very serious danger of being blemished or ruined altogether by the recent developments with regard to the 6,000 or so **RWANDAN REFUGEES** who have endured indescribable hardships and violence in the Congo Democratic Republic and Angola on their torturous journey into exile after the 1994 Rwandan genocide.

2. The Rwandan Refugees Predicament

- Most of these refugees live in Maheba Refugee Settlement in the Northwestern Province, only some 400 or so live in Lusaka as professionals or small scale business people. Unlike other refugees who have come to Zambia and later returned to their home countries the Rwandan Refugees show almost total reluctance to return home because:
- *They believe that notwithstanding Rwanda’s impressive economic advancement thanks to donor funding the country is not a safe place to return to;*
- *They fear persecution in a regime with little or no respect for basic human rights, independent judiciary, free and fair elections and a vibrant civil society to provide checks and balances to the minority regime which is internationally recognised as a refugee producing administration;*
- *They fear abductions and assassinations by Rwandan State Agents as has happened to some of them here in Zambia, South Africa and elsewhere. They are very much aware of the Rwandan Head of State’s threat that anyone opposed to his regime will be pursued and dealt with;*
- Their fear is corroborated by the Rwandans who repatriated and later returned to Zambia, members of their families back in their home country and the numerous human rights reports such as Human Rights Watch, Amnesty International and the 2014 BBC Documentary “**Rwanda, the Untold Story**”;

The Rwandans in exile therefore believe that the Rwandan Government’s efforts to promote their return home are not made in good faith but to ensure that they are put under control and surveillance within Rwanda as potential opponents of the current regime.

3. The Sequence of events

- The Rwandan Government pressurised the highly politicised UNHCR, Zambia and other host countries of Rwandan Refugees to revoke the Rwandan Refugee

Status without either the consultation or the consent of the Refugees on 30th June 2013.

- There were legal interviews to retain the Refugee Status from 2011 onwards but they were so seriously flawed that only a very small number passed. Valid grounds for retaining their Refugee Status were ignored. So most of the Refugees lost their Rwandan Refugee Status and with it their international protection as well as the UNHCR's provisions of their resettlement, health care and sponsorship in secondary schools and higher institutions of learning notably the University of Zambia.
- **Rwandan Government Delegation Visits to Zambia**
They took place in July and October 2013 both to promote repatriation and the issuance of Rwandan Passports for that purpose. Both delegations were met with Rwandan Refugee demonstrations or boycotts.
- **"Go and See, come and tell" Programme**
The Rwandan Government's interpretation was that it was the fault of "hardliners" who were discouraging others from returning home or taking passports. They therefore initiated the "***Go and See, come and tell***" programme meant for refugees to visit Rwanda and return to report on their visit. This didn't work either. Those who went and "*returned to tell*" came back to Zambia and told the story but never went back to Rwanda. This is the case of ***Louis Ukulikiyeyesu*** who went in 2004 and ***Egide Rwasibo*** in 2015.

4. The Rwandan Refugees position on Local Integration

- **The Rwandan Refugees want to live in Zambia in peace.** They very much appreciate the Zambian Government's plan for them to make a home in this country. This plan includes allocating the Refugees plots of land for farming, improved schools, clinics, water supply and roads, assistance to small scale businesses depending on international funding. They want to enjoy these efforts to enable them to settle and participate in Zambia's development **but they are very wary of Kigali's strenuous efforts to repatriate them.**
- Before the Zambian Government issued the statement from the 11th May 2015 Cabinet Meeting published in the "***Daily Nation***" on 14th May 2015 which goes: "***The Zambian Cabinet has formally approved a plan to grant for Rwandan Refugees alternative status after the expiration of their Refugee Status. Rwandan Refugees who fled the war in their country and living in Zambia lost their Refugee Status on 30th June 2013 following the invocation of circumstances cessation clause***" the following Memo was written:
- The Rwandan former Refugees welcome the durable solution of local integration in Zambia. They have consistently refused the durable solution of repatriation to Rwanda for their "***well founded fear of persecution.***"

- Rwanda is still a refugee-producing state in that those leaving after 1998 can be accepted as refugees. The offer of local integration shows that the Zambian Government is listening to Rwandan Refugees and acknowledges their fear of persecution. The durable solution of Rwandan Refugee resettlement was blocked by the UNHCR because of the cessation of Rwandan Refugee status on 30th June 2013.
- **Local integration, however, will not be the durable solution hoped for unless it is given under changed conditions.** *The Rwandan former Refugees have no problem with fellow Rwandan Refugees taking up Rwandan Government Passports to return home voluntarily if they so wish. It is their right to do so. What they are concerned about is that they need Rwandan Passports by Zambian Law to settle permanently in this country.* This law has two potentially damaging implications:

[A] Rwandan Refugees local integration is tied to the possession of a Rwandan Government Passport necessary for Zambian Immigration Permits.

- Possessing the Rwandan Government Passport confirms that the recipient renounces Refugee Status and becomes a “normal migrant” in Zambia like a newly arrived migrant from any other country.
- Possessing the Rwandan Government Passport confirms that the Rwandan “migrant” no longer fears persecution thereby acknowledging that Rwanda is a safe country to return to at any time.
- The Passport which costs US \$100 will need to be renewed three times in the ten-year waiting period to qualify for a Zambian Resident Permit.
- **Failure or refusal by the Rwandan Government to issue or renew a passport will oblige the Rwandan migrant to return to Rwanda within a specified period as an illegal migrant.**

[B] Rwandan Refugees local integration is tied to the requirements of Zambian Immigration Permits

- A self-employed Rwandan Refugee needs US \$25,000 Capital to qualify for a self employment permit.
- As a migrant the Rwandan Refugee will need to show US \$50,000 Capital which at the present rate is K362, 000. Additionally as for the Rwandan Migrant as for a Refugee he or she may not receive an employment permit if the employment offered can be done by a Zambian national.
- Similarly the Rwandan student will need to pay the high cost “economic fee” paid by any foreign student. UNZA, SADC AND Refugee students pay K21, 000 tuition per year for the Natural Sciences Course whereas Foreign students pay K42, 000. **Failure to fulfill these immigration requirements may compel**

the Rwandan migrant to return to Rwanda and nobody will show any concern since the Rwandan migrant already has the passport for return.

- Being a migrant rather than a refugee also raises a further serious complication. Rwandan Business people can be at the mercy of corrupt immigration officials who extort bribes not to arrest and charge those who contravene Zambian Immigration Requirements. The legal penalty can be a fine and removal to Maheba Settlement. Rwandan Migrants will therefore be at greater danger from corrupt officials when the immigration requirements are obviously impossible to fulfill and the penalty is repatriation.

For the above reasons the acquisition of a Rwandan Government Passport for Zambian Immigration Permits under the present conditions is bound to make Rwandan local integration in Zambia uncertain, insecure or unpredictable in the following four ways:

- Rwandan Government Passports may or may not be renewed;
- Zambian Immigration Permits for various reasons may or may not be issued or renewed;
- The many years the Rwandan Migrant may have lived in Zambia may not be regarded because the ten-year period necessary for a Residence Permit will be counted only from the date of the first issue of an immigration permit;
- **The Four-page Rwandan Passport Application** for Rwandan Refugees requires the names and addresses of three relatives inside and three outside Rwanda. This is probably needed for security surveillance but it surely is discriminatory because **the normal Rwandan Passport application form is only one page.**

Many Rwandan Exiles, therefore, consider it inadvisable under present conditions to possess a Rwandan Government Passport, even if it may mean forced return to Rwanda. Forced Return would arouse much concern both in Zambia and abroad because it would be a contravention of Article 33 of the 1951 Geneva Convention ratified by Zambia in 1969, which specifically forbids forced repatriation.

The Former Rwandan Refugees would certainly prefer the return of Refugee Status which will ensure their security. This Status was taken from them by the Tripartite Agreement of the Governments of Rwanda and Zambia and the highly politicised UNHCR in 2003 and made effective on 30th June 2013. If the Rwanda Exiles retain their Refugee Status they will live a secure life in Zambia without fear of forced return to Rwanda. If the Zambian Government removes the reservations of freedom of movement and freedom of employment made when signing the 1951 Geneva Convention the Refugees will live a fairly normal life and able to use their initiative more effectively for national development as happens in other countries in the region.

5. Summary

- The crux of the problem here is the Cessation of the Refugee Status recommended by the UNHCR and effected without the consent of the Refugees by the States which agreed to do so. According to the Inter-Ministerial Meeting in Pretoria in April 2013 some States declined to effect it and others deferred their decision. European States have declined to effect it altogether on the grounds that Rwanda has not made fundamental and permanent changes necessary for the cessation of refugee status.
- To our national shame, Zambia was the first and only country to initiate widespread legal interviews to review Rwandan Refugee Status in 2011 in preparation for the cessation that was deferred a number of times till June 2013.
- The interviews were gravely flawed: *The appropriateness that refugees being interviewed should have legal representation was ignored* and the interviews were so organized that almost all Rwandans failed to convince their lawyer of their *“well founded fear of persecution.”*
- Emphasis was given to the situation *purportedly prevailing in Rwanda* rather than an evaluation of the applicants' statements as per *Guidelines of the 1951 Geneva Convention page 11.*
- *Valid reasons for retaining refugee status were ignored. Rwandan Refugees appealed against the negative decisions and their appeals still lie on the Minister's desk.* This gives us and the Rwandan Refugees in particular the hope that their Refugee Status has not been irrevocably terminated as would happen should they take up Rwandan Government Passports.

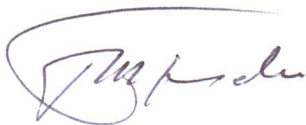
6. Conclusion

- This is the time for our Government to show political will, champion Zambia's sovereignty and safeguard Zambia's good reputation of which are very proud. This is the time for Zambia to once again rise up to the occasion and provide asylum to the Rwandan Refugees. *“Not anyone who says to me, ‘Lord, Lord’...but the one who does the will of my Father in heaven.”*
- THE ZAMBIAN GOVERNMENT CAN THEREFORE AGREE TO CONTINUE THE CESSATION OR REVOKE IT FOR THE TIME BEING WITHOUT THE CONCURRENCE OF THE UNHCR!
- IT IS ZAMBIA AS A SOVEREIGN STATE THAT RATIFIED THE UN CONVENTION THROUGH ITS GOVERNMENT NOT THE UNHCR WHICH HAS NO AUTHORITY OVER THE ZAMBIAN GOVERNMENT.

- SOVEREIGN ZAMBIA SHOULD NOT BOW TO THE POLITICAL CAPRICE OF THE UNHCR (only a department of the UN) OR TO THE RWANDAN GOVERNMENT'S WISHES. ZAMBIA SHOULD STAND ON PRINCIPLES COME RAIN COME SUNSHINE. IF WE DONT STAND FOR PRINCIPLES THEN WE FALL FOR ANYTHING AND EVERYTHING!
- To revoke the Cessation for the time being would give credibility to the **Zambian Government offer of local integration as a durable solution, giving Refugees the assurance of security that they so desperately need.**
- "I was a stranger and you made me welcome." **This Rwandan Refugee issue is a litmus test of our loudly decreed assertion of Zambia as a "Christian Nation"; this is the time to walk our talk!** It would be a great disgrace to our nation if the Government of the Republic of Zambia squandered this chance to put smiles on the faces of our beleaguered Rwandan sisters and brothers and to give them fresh hope for a better future. We owe it to God, the international community and to ourselves.

Finally, Honourable Minister, this is the first open letter I write to your office in my capacity as Archbishop of Lusaka and a member of Zambia Episcopal Conference and in yours as Minister of Justice. However, you are very much alive to the first one I wrote to you when you held the Home Affairs portfolio. On a number of occasions the Catholic Bishops Conference in Zambia has spoken passionately on behalf of the Refugees in general and Rwandan Refugees in particular. This letter follows in the footsteps of the Zambia Episcopal Conference position based on the Social Doctrine of the Catholic Church that is deeply rooted in Holy Scripture. This letter has somehow belaboured the matter to underscore the critical nature of the issue at hand **and the urgent favourable Government action it rightly deserves!** It is my hope and prayer that our Listening Government will heed our call on behalf of the Rwandan Refugees and hear the cry of Jesus Christ in the wailing of the least of our poor sisters and brothers from Rwanda.

Respectfully yours



T-G. Mpundu
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