

UNHCR SPEAKING NOTES – PORTFOLIO COMMITTEE ON HOME AFFAIRS, 10 MARCH 2020

UNHCR in South Africa

The government of South Africa is signatory to the 1951 Convention on the Status of Refugees and its 1967 Protocol. The government holds primary responsibility for the protection and safety of refugees and asylum-seekers within its borders. As such, UNHCR plays a supportive role, with services focusing on technical support and strengthening civil society services.

UNHCR pursues three “durable solutions” for refugees:

1. Repatriation - facilitate the voluntary repatriation of refugees who wish to return home in safety and dignity and we have strengthened our capacity to do so.
2. Resettlement - the movement of refugees from an asylum country to another State that has agreed to admit them. Resettlement depends on the willingness of the resettlement country to accept a refugee for legal stay in its territory – it is not a right. Resettlement is possible for a very small percentage of refugees globally and is considered when all other avenues have been explored and specific protection concerns persist.
3. Local integration - this is UNHCR’s focus in South Africa due to the enabling environment, which presents opportunities for self-sufficiency and inclusion into South African society. Our focus includes technical support to the government to ensure policies, practices and laws follow international standards. UNHCR also supports civil society and partners to provide protection services to refugees and asylum-seekers, including legal assistance, psychosocial counselling, basic assistance and livelihoods.

Protest Situation

UNHCR supports a peaceful resolution of the protest situation, and has been continually engaging with protesters, as well as other members of the refugee and asylum-seeker community, and key stakeholders in government and civil society to find a solution.

UNHCR has remained consistent in its key messages:

- We are concerned about welfare of protesters, sleeping in the streets and inside the church, especially vulnerable women and children.
- We are also concerned about the misinformation and promises that continue to be spread by self-identified protest leaders, which have perpetuated the situation.
- We have been clear that UNHCR cannot offer group resettlement or relocation.
- UNHCR has repeatedly encouraged constructive dialogue to address the issues that protesters have put forward
- We also reinforce the point that refugees and asylum-seekers are not above the law, and must abide by the laws of the country, as does everyone within the borders of South Africa.

Throughout the protest UNHCR and partners have continued to provide assistance through our regular programme, maintaining equal treatment and access to assistance for all refugees and

asylum-seekers. In other words, there is neither special treatment, nor punitive treatment for protesters – they can seek out services on par with all others through established mechanisms.

Considerations

- 1. The actions and demands of this protest group, and specifically its leaders, is not a representation of the broader refugee community.** What we are hearing during our engagement and consultations with refugees and asylum seekers is that while many agree with the challenges put forward by the protesters, they do not agree with the methods the protesters have employed and the demands they have been making. Many refugee community leaders have spoken out against the protest, and have encouraged protesters to return to their communities. Let us remember that many refugees and asylum-seekers take pride in the lives they have built here and South Africa, and many are making positive contributions to their communities and to South African society on a daily basis. They have expressed gratitude for the opportunity to live and raise their families in South Africa, away from the dangers they faced in their home countries.
- 2. We must also bear in mind that the protest group is not homogenous.** The criminal elements in the group have been widely reported. However, we also know that there are those who have been – and continue to be – misled with false information and empty promises about resettlement or relocation to another country. Some of these individuals have remained part of the protest under threat and intimidation by the protest leadership. Some have reportedly been – and continue to be – subject to physical and sexual abuse during their time with the group.
- 3. We also know that at present, the needs within the group vary widely.** Some protesters do in fact have homes to go back to – they are not homeless and they regularly return to their homes, sometimes rotating presence at the protest among family members. They have made a conscious decision to be part of a protest movement, and are not forcibly displaced. On the other hand, others have, over the course of the past five months, given up their accommodation and their jobs, and will genuinely struggle to go back to their communities. Given that many people have been misled, and have engaged in this protest under false promises, or been intimidated or abused into remaining at the protest sites, we believe they deserve to be treated with compassion.
- 4. “Reintegration” means more than removing protesters from the CBD.** It means working towards a resolution that allows protesters to return to communities in a manner that is safe and sustainable, alongside their fellow refugees and asylum-seekers, as well as their South African hosts. UNHCR remains committed to playing its part, by supporting social and legal assistance to the most vulnerable, through its established programming and support to civil society organizations. We cannot assist everyone in the group, but we will continue to provide assistance to the most vulnerable and serious cases.

Note on Repatriation and Non-Refoulement

UNHCR supports Voluntary Repatriation to places of origin that are conducive to safe and sustainable return in dignity. The key word is Voluntary. We recognize that some of the protesters have engaged in criminal conduct and we emphasize again that refugees are not above the law. However, UNHCR would urge stakeholders to be mindful of the principle of non-refoulement, a cornerstone of international refugee protection, which prohibits the expulsion or return of a refugee to the border of a territory where his or her life of freedom would be threatened. It is for this reason that refugees and asylum-seekers who engage in criminal activity are subject to the national criminal justice system of the country where they have sought asylum.