

How voluntary are voluntary returns?

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Abstract: 'Voluntary returns' for rejected asylum seekers, foreign national prisoners, illegal entrants and overstayers are increasingly being promoted by European governments without due regard for the safety and preparedness of the returnee. In addition, the voluntariness of such returns has to be questioned. Among the UK schemes examined here are the Voluntary Assisted Return and Reintegration Programme (VARRP), Assisted Voluntary Return of Irregular Migrants (AVRIM), Assisted Voluntary Return for Families and Children (AVRFC), the Facilitated Returns Scheme (FRS) and the now discontinued 'Explore and Prepare' schemes.

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In September 2010, a row broke out between France's President Sarkozy and the European Commission (EC) over Sarkozy's programme of mass expulsion of Roma to Romania and Bulgaria. Over 8,000 Roma were removed from France in the first nine months of 2010, in an operation which also saw the bulldozing of over one hundred 'illegal' Roma encampments. The EU's justice commissioner Viviane Reding described the expulsions as comparable to Nazi-era deportations. As EU citizens, the Roma have free movement rights across Europe and can be deported only if they represent a serious threat to the interests of the host society. Sarkozy claimed – although it's not clear how serious he was – that the deportations were voluntary.¹

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The Roma deportations represented an extreme and blatant attempt to use the terminology of 'voluntary return' to camouflage illegal actions. But they raise broader questions as to whether current schemes offer a genuine, informed choice or are merely an extension of deportation programmes.

Voluntary return schemes were common in Europe in the 1970s as a means of disposing of unwanted 'guest workers'. The Dutch government introduced a scheme in 1974 to 'reintegrate' guest workers from Turkey, Tunisia and Morocco in their home countries, and similar schemes were introduced in France in 1977 and in Germany in 1983.² The schemes all suffered from a very low take-up rate. The French scheme, for example, failed to attract the unskilled, unemployed workers from Africa, as intended, and requirements that applicants be unemployed, age limits, maximum wages and other restrictions were dropped, so that two-thirds of those using the scheme were employed workers from Spain and Portugal nearing retirement.³ Over the years, the French voluntary return programme was modified, first, to incorporate 'co-development' for the countries of return and, later, to offer an alternative to expulsion for *sans papiers* and others served with an 'invitation to leave the territory' (IQTF); in 2008, one-third of all removals from France were listed as voluntary. But, according to a recent study, the voluntary return programme has never been successful in its aim of freeing jobs for French workers, since the jobs freed have been too low paid or menial and have been taken by new migrants, and its co-development aspirations have never been fulfilled.⁴

The Dutch scheme was discontinued in the 1980s and the German scheme in the 1990s. But voluntary return schemes have made something of a comeback in recent years. Spain introduced a voluntary returns programme for the first time in 2008 to try to repatriate its unemployed foreign workers, mainly from North Africa and Latin America.⁵ The Council of Europe's Parliamentary Assembly recently adopted a report describing voluntary return programmes as 'an effective, humane and cost-effective mechanism for returning irregular migrants'. The report called on member states to use more voluntary return programmes as an alternative to expulsion, highlighting, in particular, the financial savings (a 'voluntary return' with reintegration assistance costs, on average, just one-third of the cost of a forced expulsion and even less if detention costs are taken into account). The report pointed to the UK's programmes as examples of successful schemes.⁶ By 2010, according to the website of the International Organization for Migration (IOM), twenty-six EU member states (all except Estonia) and Norway and Switzerland had voluntary return programmes.

Voluntary return programmes are all administered by or in partnership with the IOM, an intergovernmental body with over one hundred member states and a budget of US\$650 million for 2010,⁷ which sees its role as the global management of migration. The IOM runs voluntary return programmes in destination countries worldwide, including the US and Australia, and also in transit countries such as Belarus, the Western Sahara and Libya. Other functions include refugee resettlement and counter-trafficking programmes and, under its technical cooperation on migration management (TCM) programmes, providing

technical assistance to enable source and transit governments to standardise and improve their border controls, travel documents and detection mechanisms for illegal entrants.⁸ The IOM's operations in Europe are heavily funded by European governments and the EC; anticipated voluntary contributions for 2010 included around US\$19 million from the EC, \$11 million from the Netherlands, the same amount from Germany, nearly \$10 million from Belgium and a massive \$47 million from the UK.⁹

In the UK, the IOM has received around £70 million (over US\$100 million) from the Home Office since 2005¹⁰ (including money awarded to the UK government from the EU Return Fund, its Refugee Fund and its Integration Fund) to operate a number of voluntary return schemes, which, since 1999, have (according to the IOM's website) 'assisted more than 34,000 people to return to some 140 countries'.¹¹

The UK schemes

The Voluntary Assisted Return and Reintegration Programme (VARRP) is designed for asylum seekers, including rejected asylum seekers. It has been in place since 1999 and is co-funded by the European Refugee Fund. Under VARRP, the IOM, working with its UK partner (the charity Refugee Action), provides advice and help with obtaining travel documents and booking flights and financial help with resettlement in the home country to current and former asylum seekers, up to a total of £1,500 per person. The package of help (to set up a business, a job placement, education or training) will be agreed while the applicant is still in the UK. Applicants (who must have made a claim for asylum which is either pending or has been rejected) are expected to leave the UK within three months of their application being approved. They must agree to the information on their file, including medical information, potentially being shared with the UK Border Agency (UKBA) and other UK government departments, agencies, local authorities and law enforcement agencies if needed to help those bodies carry out their functions. By returning, they withdraw their asylum application in the UK and are warned that they may be subject to a re-entry ban to the UK for up to five years. They have to sign an indemnity declaring that the IOM is not liable for personal injury or death during and/or after their participation in the IOM programme.¹²

Assisted Voluntary Return of Irregular Migrants (AVRIM) was a programme for illegal entrants and overstayers, which provided help in leaving the UK (including obtaining travel documents) and reaching a final destination in the home country, but generally did not provide financial resettlement assistance. The scheme was closed at the end of August 2010.

Assisted Voluntary Return for Families and Children (AVRFC) is a new programme which started in April 2010. It is available to any non-European Economic Area (EEA) citizen with at least one child, whether they have ever applied for asylum or not, and to unaccompanied children and consists of a cash relocation grant of £500 per person and a package of reintegration assistance of

up to £2,000 per person. Like the VARRP scheme, it stipulates that participants will generally not be allowed to return to the UK for at least five years.

The Facilitated Returns Scheme (FRS) is a voluntary returns scheme for foreign national prisoners (FNPs) and accounts for nearly one-third of all FNP removals. The scheme was introduced in 2006. Since October 2009, the package given to non-EEA prisoners who agree to leave the UK at the end of their sentence includes a £500 cash payment and a reintegration package worth up to £3,000 (or up to £5,000 for those who leave before the end of their sentence, either under the Early Removal Scheme or by applying to continue their sentence in their home country). The reintegration package is paid in kind and is used to set up a business or to help with education or accommodation. According to Home Office evidence to the Home Affairs Committee,¹³ the scheme, which has cost a total of £4.3 million since its introduction, saves the government an estimated £14 million per year in freed-up prison and detention centre places, as well as the unquantified UKBA caseworking costs and legal aid saved in not having to fight deportation appeals. Those agreeing to return voluntarily under the FRS have as little prospect of return to the UK as those who are deported. Deportees have to wait, on average, ten years before they can apply to have deportation orders revoked, but the Home Office claims that FNPs removed under the FRS are not allowed to return to the UK except in the most exceptional compassionate circumstances.

Assistance does not make for sustainability

Assisted voluntary returns are sometimes presented as a way of achieving justice for those forced out by war or persecution or as ways in which migrants can take back skills learned in the host country for post-conflict reconstruction efforts at home. But studies have shown that such justifications do not match what actually happens to those returned.¹⁴ The assistance that the IOM provides returnees is by its nature very short term and piecemeal. The IOM cannot reverse illegal expropriations or otherwise ensure that justice is done in returnees' home countries, nor can it ensure political stability or personal security for those returning home. Its website, while celebrating individual success stories, acknowledges that it does not monitor voluntary returnees (although, if an individual receives reintegration assistance on return, contact is maintained for up to a year). The governments that fund the voluntary return programmes do not monitor returnees' reintegration and success either. But a 2009 study of forty-eight voluntary returnees to Sri Lanka by the Development Research Centre on Migration (DRC) found that, of the twenty-nine Tamils in the sample, nearly all had suffered racial harassment from police or other officials since their return and four had suffered serious human rights abuses. Forty-four of the forty-eight in the sample had started businesses, but twenty had closed and another twenty provided a living at or below subsistence level. Only four generated a profit above subsistence level.¹⁵ A study of returning refugees conducted by the

European Council on Refugees and Exiles (ECRE)¹⁶ described enormous difficulties for Russians returning from Belgium. There is no government help at all with resettlement, work or housing. Housing was extremely scarce, with waiting lists of decades for municipal housing. As for livelihood, jobs were completely unavailable to Chechens (the main group of emigrants). Setting up a business proved extremely difficult. A micro-credit scheme started by the Danish Refugee Council failed because the loans were too small and had to be repaid too quickly, and no training in starting and running a business had been provided. (Another scheme, run by a German company which trained participants in bookkeeping, was more successful.) Historically, most return schemes linked with investment in small businesses have been viewed as failures.

Safety is not assured

The most important determinant of refugees' ability to return is security in the destination country: political stability and personal security. But in the aftermath of conflict, the different experiences of war and exile among those who stayed and those who fled intensify ethnic, religious or tribal divisions. Frequently, the authorities and the local people in the country of origin are very hostile to returnees, particularly if they are from ethnic minorities. Seeking asylum abroad may be seen as akin to disloyalty, inviting official suspicion and racism. In its 2005 study of voluntary returns, ECRE, which consulted refugee community organisations in five European countries as well as conducting field trips to countries of origin, found that people repatriated from Belgium to Russia with no family to help them were:

beaten up in the streets where they try to sleep at night; they are driven away from entrance halls of apartment blocks where they seek warmth; they are driven away from railway stations and airports, too. Many of them turn into hobos ... and eventually die.

Internally displaced (IDP) Chechens in Ingushetia who were provided with assistance to set up small businesses found their livelihoods destroyed by deportation or by destruction of their businesses within a relatively short time, making the prospects for successful (re)integration remote. Returnees from Western Europe to Afghanistan were perceived as wealthy by the local population and became 'easy prey to all kinds of criminal groups'.¹⁷

Such a combination of difficulties appears to have been behind the Iraqi authorities' refusal to accept three-quarters of the Kurdish passengers on the first forced removal charter flight from the UK to Baghdad in October 2009. The head of immigration services in Baghdad was reported as saying that the Kurds would be at physical risk in Baghdad and he would not be responsible for their safety. It seems wholly unrealistic to expect any Kurd to volunteer for a return to such conditions, yet the government's efforts to induce Iraqi Kurds to return to central Iraq continue unabated. Refugee community groups point out that

repatriation should take place only when democracy and physical, material and legal safety are guaranteed, and they are given no such guarantees under current return agreements and schemes, where they are, they complain, treated like 'exchange goods' between countries of asylum and of origin.¹⁸

Not voluntary

But there is a more fundamental objection to assisted voluntary returns programmes, which is that they are not genuinely voluntary. The UN High Commission for Refugees (UNHCR), in its guidelines on voluntary repatriation, states that the 'principle of voluntariness is the cornerstone of international protection with respect to the return of refugees', and it must be viewed in relation to both: a) conditions in the country of origin (calling for an informed choice); and, b) the situation in the country of asylum (permitting a free choice).

The principle of voluntariness matters most in relation to refugees, who are by definition outside their own country and are unable or unwilling to return owing to the well-founded fear of being persecuted.¹⁹ But, increasingly, refugees are to be found not only among those who claim asylum, but also among those who prefer to remain undocumented and illegal rather than making a claim that could result in summary rejection and removal. Thus, the boundaries between refugees and undocumented migrants are blurred.

Virtually none of the schemes currently operating as 'voluntary return programmes' from Europe meet the criteria for voluntariness. Voluntary return is instead offered as a less painful alternative to continued destitution followed by (inevitable) compulsory return, and it is generally impossible for the returnee to make an informed choice about the country to which they are returning.

The way that voluntary repatriation schemes are presented in the UK to parliamentary committees and to the public – as measures enabling the government to get rid of people who are not wanted – reveals the true rationale of most returns programmes and is the key to the main problem with them. They are generally devised in response to a perceived need to remove excessive numbers of asylum seekers, irregular migrants or FNPs back to countries such as Iraq or Afghanistan, Sri Lanka or Zimbabwe, rather than as a response to the desire of particular communities to return home. The priority is a governmental one of saving money, whether it be on detention costs, as in the FRS, or on asylum and social services support, as in the AVRFC and VARRP schemes.

For example, AVRFC has been put in place as the government seeks to make massive cuts in the support provided to vulnerable groups, such as unaccompanied minors. At present, unaccompanied minors whose asylum claims are unsuccessful are allowed to remain in the UK up to the age of 17 and a half. This is because human rights norms prohibit removals of children where there are no reception and care facilities in the home country. But, for some time, the government has sought ways of removing lone children from the UK at an earlier age to reduce the costs of looking after them. In early 2010, Home Office plans were

revealed to set up a 'reintegration centre' in Kabul so that failed Afghan child asylum seekers could be returned home.²⁰ Having such centres in place makes it easier for the government to begin withdrawing support from children whose asylum claims have been rejected and then to start forced removals. Many children and young people in need of protection, facing the prospect of forced removal and the reality of withdrawal of financial and social services support, will opt for 'voluntary' removal in this situation.

Refugees and other migrants who have been away from their country of origin for some time need thorough, unbiased and detailed information about the conditions that will affect them if they return. Information from UKBA or from the IOM (which runs a number of information projects as part of the voluntary returns programmes) is inevitably tainted in the eyes of refugees as partial, which is why ECRE calls for more refugee community group participation in the information-giving process.²¹ Refugee Action, a charity that has worked with the IOM on voluntary returns since 1997, provides information to asylum seekers considering return, but, while the voluntary return programme remains part of an enforcement strategy (a position that Refugee Action itself condemns), rather than being concerned with durable solutions for refugees, the organisation's association with UKBA and the IOM means that the information it provides, however accurate, is likely to be viewed as suspect.

The UNHCR's second criterion for 'voluntariness' is that the choice to leave must be genuine and not induced. This generally requires that the 'volunteer' has a legal basis for a stay in the host country. A 2003 survey of Afghan attitudes to returning home, prepared for the IOM and Refugee Action, found that immigration status was the most important personal factor affecting the desire for return, with those with secure status most interested in return.²² Settled status gives confidence and the ability to make choices, secure in the knowledge that return to Britain is possible if things do not work out. The groups targeted by the return programmes – asylum seekers and others with insecure status – were least likely to want to return to their countries of origin. 'When consent to return is elicited as a result of lack of effective protection in the host country or because of an imposition of sanctions, this cannot be classified as voluntary repatriation', says ECRE.²³

In other words, repatriation cannot be termed 'voluntary' where the alternative is utter destitution, with denial of accommodation, basic support and the opportunity to work, or the prospect of children being taken into care or months or years in detention. Nor can it be 'voluntary' where the prospect of obtaining recognition as a refugee has become remote because the system for the determination of asylum claims and appeals is deliberately underfunded, depriving increasing numbers of asylum seekers of any legal representation for this supremely important legal decision.

This is the situation that obtains for asylum seekers, particularly rejected asylum seekers in the UK. In ECRE's words, 'the ... Home Office has consistently and for many years resorted to measures that force asylum seekers to agree for

voluntary repatriation ... These include taking away legal rights and welfare payments or denying basic facilities.²⁴

But, for governments and for the IOM, the lack of real choice is seen as a key ingredient to the success of the 'voluntary' return programmes they offer. Assisted voluntary return as an indispensable component of 'migration management' is, in the IOM's view:

clearly interdependent with involuntary return. Numbers returning through AVR are closely linked to the enforcement of return. Acceptance of the AVR option rests on there being no other choice, in light of the temporary nature of the status granted to the individuals in question. The limited duration of temporary protected status, for example, has proven to be an effective inducement to voluntary return.²⁵

Explore and prepare

So, far as the UK is concerned, the only voluntary return schemes that could truly be classed as 'voluntary' were the 'Explore and Prepare' programmes, which funded refugees from certain countries such as Kosovo (1999–2000) and Afghanistan (2002–2008) to go back on exploratory visits for up to a year without prejudice to their entitlement to come back to the UK. These programmes offered people a realistic chance of assessing whether return home was feasible or not and, if not, their continued stay in the UK was assured.²⁶

But there have been very few such schemes. Other voluntary return programmes do not allow return to the country of asylum if things go wrong, forcing the desperate and destitute to gamble everything on a safe return to their country of origin.

The lack of a system of monitoring of returnees, and their inability to return to the host country after voluntary assisted removal, are features that might explain the very low take-up of voluntary return schemes. Zimbabwe is a classic example. Zimbabweans have been in a particularly desperate situation in the UK for some years. Although the Home Office did not enforce removal to Zimbabwe, it refused to grant refugee or humanitarian status to more than a small proportion, despite recognition by the courts of the dangers facing all Zimbabwean deportees on return, with the rest often surviving on the charity of friends. But, despite the increase in the amount of assistance on offer for 'voluntary return' from £4,000 to £6,000 in February 2009, only ninety Zimbabweans had signed up for voluntary return in the first eight months of 2009. The reintegration assistance was changed from being paid 'in kind' to being paid cash in October 2009.²⁷ It is too early to say whether this additional 'bribe' will make a difference to the rate of voluntary return, but it is unlikely; the fear of return outweighs the attraction of the incentive package. An Afghan asylum seeker interviewed in 2003 summed up the widespread disgust at the idea of being paid to go back under a voluntary return scheme: 'It is as if our lives are being bought for £600. If the situation improves, we will not need £600 to go back.'²⁸

References

- 1 See, for example, 'Sarkozy hits back over Roma expulsions', *Independent* (16 September 2010), available at: <http://www.independent.co.uk/news/world/europe/sarkozy-hits-back-over-roma-expulsions-2081334.html>; and 'France defends Roma expulsion policy', *Guardian* (15 September 2010), available at: <http://www.guardian.co.uk/world/2010/sep/15/france-defends-roma-crackdown>.
- 2 See 'Assisted Voluntary Returns (AVR): an opportunity for development?', Briefing No. 20, September 2009, Migration Development Research Centre, University of Sussex, available at: http://www.migrationdrc.org/publications/briefing_papers/BP20.pdf.
- 3 P. Plewa, 'Voluntary Return Programs: can they assuage the effects of the economic crisis?', COMPAS Working Paper 75/2010, Centre for Migration, Policy and Society, University of Oxford (2010).
- 4 *Ibid.*
- 5 According to the Spanish government, which describes the scheme as a success, nearly one-tenth of the target population of 87,000 non-EU migrants had applied in the first year of the scheme. See 'Positive outcome for non-EU workers' voluntary return programme', EIRO online, available at: <http://www.eurofound.europa.eu/eiro/2009/11/articles/es0911029i.htm>.
- 6 Council of Europe Committee on Migration, Refugees and Population, 'Voluntary return programmes: an effective, humane and cost-effective mechanism for returning irregular migrants' (June 2010). The Centre of Studies and Documentation on Migration, Racism and Xenophobia (MUGAK) published a critical response; see *Statewatch News* (4 October 2010), available at: <http://www.statewatch.org/news/2010/oct/04vol-ret-prog.htm>.
- 7 IOM Programme and Budget for 2010, available at: http://www.iom.int/jahia/webdav/shared/shared/mainsite/about_iom/en/council/98/MC_2281.pdf.
- 8 See IOM Technical Cooperation on Migration Management and Capacity Building (TCM), available at: <http://www.iom.int/jahia/Jahia/pid/749>.
- 9 IOM Programme and Budget for 2010, *op. cit.*, p. 85.
- 10 Response to Freedom of Information request, UK Border Agency FOI 13808. The response also details other IOM projects funded by UKBA, including irregular migration management in countries as diverse as Angola, China, Djibouti and Libya, strengthening the capacity of the Nigerian immigration service, reception for forced returns in Somaliland and voluntary returns in Kyrgyzstan, 'sensitisation' in the DRC, and the Calais project, which involves voluntary returns and 'tackling migratory flows at source and transit points'.
- 11 See the IOM UK website, available at: <http://www.iomlondon.org/>.
- 12 Application form for VARRP, available at: <http://www.iomlondon.org/doc/varrp/VARRP%20Application%20Form.pdf>.
- 13 Lin Homer to the Home Affairs Committee (4 February 2010), available at: [http://deposits.parliament.uk \(DEP2010-0354\)](http://deposits.parliament.uk (DEP2010-0354)). The removal statistics do not break down 'voluntary removals' from other removals.
- 14 The 'restoration' argument falters on the evidence that most returnees never get back to their previous home because it has either been destroyed or expropriated, while the lack of mechanisms for matching returnees' skills to the needs of reconstruction renders the 'human capital' argument invalid. See B. Blitz, R. Sales and L. Marzano, 'Non-voluntary return? The politics of return to Afghanistan', *Political Studies* (Vol. 53, no. 1, 2005), pp. 182–200.
- 15 See note 2 above.
- 16 European Council on Refugees and Exiles (ECRE), 'Increasing refugee participation in the field of voluntary return' (2005), available at: <http://www.ecre.org/files/ECRE%20Vol%20Ret%20Handbook%20051.pdf>.
- 17 *Ibid.*, p. 62.
- 18 *Ibid.*, p. 71.
- 19 Convention Relating to the Status of Refugees, Geneva, 1951 (as amended by the 1967 Protocol), Article 1A(2).

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- 23 ECRE, 'Increasing refugee participation', op. cit., p. 30.
- 24 *Ibid.*, p. 21.
- 25 IOM, 'Assisting voluntary return', available at: <http://www.iom.int/jahia/Jahia/assisting-voluntary-return>.
- 26 Even these schemes were, however, somewhat compromised in that they took place in a climate of increasing pressure to return, where humanitarian leave was not being renewed and forced removals were taking place.
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