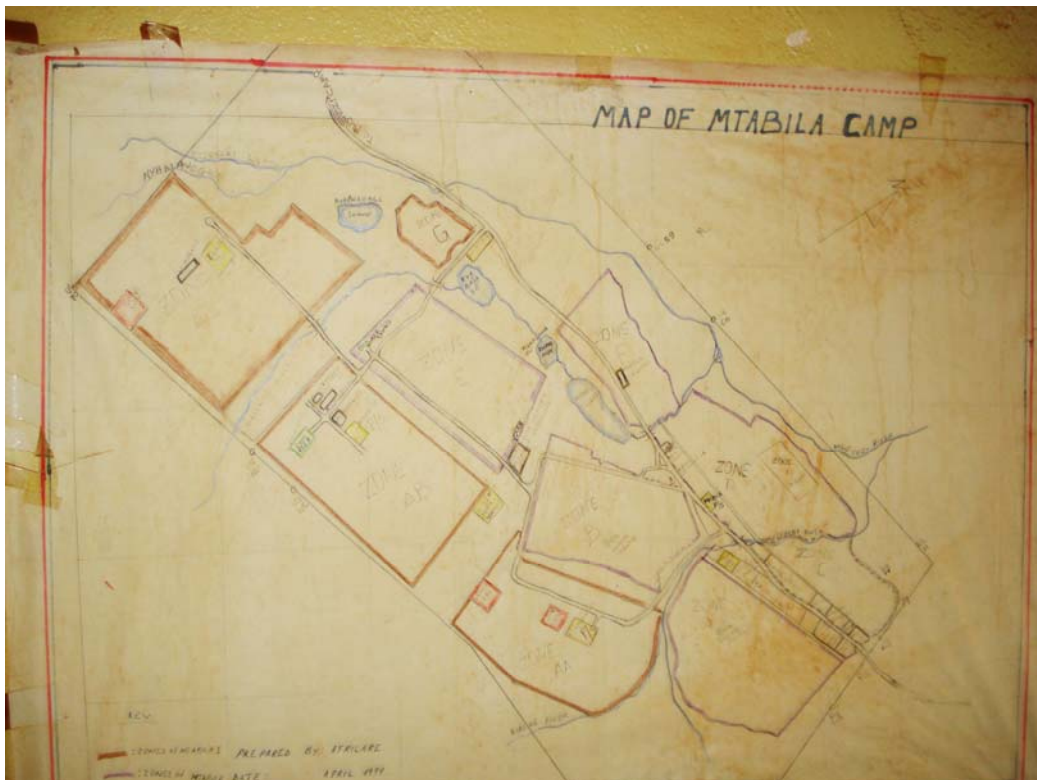


# “I don't know where to go”: Burundian Refugees in Tanzania under Pressure to Leave



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Centre for the Study of  
Forced Migration



International Refugee  
Rights Initiative

## **Background to the Paper**

This paper is the result of a coordinated effort between staff of the Centre of the Study of Forced Migration at the University of Dar es Salaam (CSFM) and the International Refugee Rights Initiative (IRRI).

The field research was carried out by Dr. Opportuna Kweka, Lecturer, and Juliana Masabo, Assistant Lecturer at CSFM and the paper was drafted by Dr. Lucy Hovil, Senior Researcher, Citizenship and Displacement in the Great Lakes, International Refugee Rights Initiative and Dr. Opportuna Kweka. Olivia Bueno and Deirdre Clancy of IRRI and Juliana Masabo and Dr. Khoti Kamanga of CSFM reviewed and edited the material.

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Cover photo by O. Kweka

## Summary

"I didn't repatriate because I don't know where to go. I was born in Tanzania and I do not know Burundi. My parents died in the camps. We were moved from villages to Nduta camp in 1997 and now we have been moved here from Nduta camp. My husband was born in Mishamo. My relatives have taken the land. I do not know where our farm is. How will I know? We heard from the radio that the situation is not good and we are waiting for the election in 2010." (Refugee woman, Mtabila camp, 7 August 2009 – as quoted on the front page.)

On 8 May 2009, the United Nations High Commissioner for Refugees (UNHCR) Representative in Burundi announced at a press conference in Bujumbura, "[w]e are in the final year of repatriation."<sup>1</sup> This statement reinforced growing pressure on refugees living in Tanzania to return to Burundi and imposed a time limit on a profoundly complex and sensitive process affecting all Burundian refugees living in Tanzania. It also added strain on already limited resources and a tense political environment in Burundi.

Burundian refugees in Tanzania generally fall into three categories: those who fled in 1972 and have been living in settlements and designated villages; those who fled in the 1990s and have been living in camps that have been steadily closed down leaving only one, Mtabila, open; and self-settled refugees who are outside of the official assistance structures. All are coming under considerable pressure from the government of Tanzania and UNHCR to return. Only the first category has been offered an alternative – they are currently being given the option of applying for naturalisation – albeit one that has its own presenting problems. Mtabila camp, which currently houses approximately 35,000 refugees, is due to close at the end of September, and those from the 1972 group living in settlements who have not applied for naturalisation have been told they must leave the country by the end of the year. Once the settlements and camps are closed, refugees who have not received naturalisation will officially have nowhere to go and will, instead, be forced to become so-called "irregulars". This raises serious concerns regarding their future protection.

In particular, there has been growing concern that the "repatriation" process is resulting in forced expulsion:<sup>2</sup> while refugees have been under pressure to return for a number of years, this pressure has increased considerably over the past months. The fact that few are being offered an alternative to repatriation – and are showing extreme reluctance to return – raises not only serious questions with respect to the legality of the current effort, but also the durability and effectiveness of this solution.

In light of these developments, in early August the Centre for the Study of Forced Migration (CSFM) and the International Refugee Rights Initiative (IRRI) undertook an emergency mission aimed at clarifying this situation – looking at the particular problems associated with the planned closure of Mtabila camp and at the prospects for durable solutions for Burundians in Tanzania more broadly. The mission built on research and a working paper published by IRRI, CSFM and the Social Science Research Council (SSRC) in late 2008, ["Going Home or Staying"](#)

<sup>1</sup> UN Integrated Office in Burundi (BINUB), « Le HCR affirme que le dernier camp des réfugiés burundais en Tanzanie sera fermé à la mi-juin 2009, » 8 May 2008.

<sup>2</sup> For example, research currently being undertaken by IRRI and Rema in Burundi (forthcoming). See, too, Zachary Lomo, "Tanzania: Forcible Repatriation Threat for Burundian Refugees," 21 May 2008.

[Home: Ending Displacement for Burundian Refugees in Tanzania](#)<sup>3</sup> which examined the initiative to offer Burundian refugees who fled in 1972 the two alternatives of naturalisation or repatriation.

Findings show that the majority of Burundian refugees *want* to go home: they are tired of being labelled “refugees”, of not having access to freedom of movement and political rights.<sup>4</sup> However, they still have concerns about the safety and feasibility of return and want to be allowed to decide when to return, and to do so in such a way that offers the best protection for themselves and their families. As a matter of law in cases where refugees genuinely would not be safe upon return, protection must continue to be offered.

This situation leads to two questions: first, why are refugees reluctant to return? And second, what is an appropriate lawful and workable response that balances the Tanzanian government’s desire to end displacement, the implications of wide-scale return on Burundi’s vulnerable transition out of war, and the individual rights of refugees?

In response to the former question, the findings suggest that foremost is the challenging environment in Burundi. Those who have already returned to Burundi are confronting huge problems.<sup>5</sup> Burundi has limited resources for reintegration, and many social services are not adequately available; many are unable to secure land, and many have either been stranded in transit camps or housed temporarily on a small portion of their own land for months or even years, with no access to livelihoods and decreasing resources. Refugees are fully aware of this situation: the realities of repatriation have filtered back to Tanzania and offer a massive disincentive to return. Inextricably linked to this, refugees are keenly aware of the political implications of their return.

Given this context, and in answer to the question of what policy should be pursued in relation to those who are reluctant to return, it is clear that those Burundians who had been granted refugee protection should continue to benefit from that status, barring a decision to remove that status through the application of the cessation clauses provided for in Tanzanian and international law.<sup>6</sup> In other words, legally they do not have to leave, and any returns should be done voluntarily. Returns that are forcible or carried out following undue pressure on refugees may constitute a violation of the fundamental right of refugees to non-refoulement and to the principle of voluntary repatriation, which is enshrined in the African refugee law framework.<sup>7</sup>

Therefore any coerced approach to return is neither legal nor practical – it is neither in the best interests of refugees, nor of stability in the region. Repatriation is a process that needs careful

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<sup>3</sup> Centre for the Study of Forced Migration, the International Refugee Rights Initiative, and the Social Science Research Council, “Going Home or Staying Home: Ending Displacement for Burundian Refugees in Tanzania,” November 2008.

<sup>4</sup> CSFM, IIRRI and SSRC, November 2008.

<sup>5</sup> As evidenced by other research currently being carried out in Burundi by IIRRI in conjunction with Rema.

<sup>6</sup> Cessation refers to the application of Article 1(c) of the 1951 Convention relating to the status of refugees which refers to the circumstances under which application of the convention may cease. In particular, Article 1(c)(5) refers to ceased circumstances. However, even where such a finding of ceased circumstances is made, refugees must have a chance to argue for continued protection. This is particularly important in cases where cessation may be applied en masse to a group. UNHCR guidelines make clear that individualised screening must be conducted in such circumstances to identify ongoing protection needs.

<sup>7</sup> The right not to be returned to a country where his or her life and/or freedom may be threatened is the most fundamental right of refugees, provided for in Article 33 of the 1951 Convention. Further protection is provided for in the 1969 OAU Convention, which provides in Article 5(1) that the “essentially voluntary character of repatriation shall be respected in all cases.”

managing if it is to protect the rights of refugees and host communities on both sides of the border – and, in particular, if it is to contribute to, rather than undermine, security in both Burundi and Tanzania and the wider region. Given that the Burundian government is struggling to cope with the current number of returnees, serious consideration needs to be given to the implications of current pressures towards further return, from the potential for fresh flight to Tanzania or other neighbouring states to the possibility of destabilising what is already a fragile transition out of decades of war. **In this context, both the timing of the current repatriation operation, as well as the possible alternatives to return, need to be explored expediently.**

The findings point to a number of recommendations:

- The government of Tanzania and UNHCR need to take urgent action to ensure that the rhetoric of respect for the principle of non-refoulement is implemented by all actors in the course of the repatriation procedures.
- The government of Tanzania and UNHCR must urgently clarify procedures and options for Burundians who are unwilling to repatriate and who do not have rights to Tanzanian citizenship, including those whose applications for naturalisation might be unsuccessful.
- Currently, a considerable number of applications for naturalisation from the 1972 refugee population have been negatively recommended. The government of Tanzania needs to carefully consider the implications if these cases should be rejected.
- The government of Tanzania and UNHCR must address concerns within some government offices that granting naturalisation to a large number of refugees will have negative implications on security and resources such as land.
- The relocation of those who are successful in applying for naturalisation has the potential to be profoundly traumatic. Therefore, the government of Tanzania and UNHCR should have a clear strategy for both the timing of this exercise and for the way in which it is to be carried out. There should also be further discussion regarding whether or not relocation really is in the best interest of Tanzania and those who are currently refugees.
- The governments of Tanzania and Burundi and UNHCR need to recognise the limited capacity for reintegration on the Burundian side, and to ensure that the pace of the repatriation and the resources devoted to facilitate it on the Burundian side are conducive to return in safety and dignity.

"I fled to Tanzania in 1994... In the camp I refused to contribute to the rebel movement. I was working as a store keeper. The rebels asked me to supply them food, about three bags per week, but I refused to do so, and I was therefore regarded as a traitor. They planned to kill me. I sought refuge from the International Committee of the Red Cross and reported at the police post. They arrested the perpetrator and he was jailed at Mwisa, but then he was released and repatriated to Burundi. When they were repatriating, they warned me that I should never return to Burundi, and if I do I will be killed. I also know that my land is now occupied by a soldier." (Refugee man, Mtabila camp, 8 August 2009)

## Introduction

As a peaceful country in the midst of a volatile region, Tanzania has long been host to large numbers of refugees. As of January 2009, Tanzania was host to 321,000 officially recognised refugees from Rwanda, the Democratic Republic of Congo, Burundi and elsewhere, down from about 700,000 in 2000.<sup>8</sup> Tanzania has been lauded for its history of progressive refugee policies and its use of solutions such as offering citizenship to certain refugees, including the Somali Bantu and, more recently, Burundians who fled to Tanzania in 1972. Overall however, Tanzania's refugee policy has become increasingly restrictive: severe limitations have been placed on refugee freedom of movement, for example, with a 1998 law requiring refugees to stay within four kilometres of the camps. Over the last decade, hostile rhetoric and the setting of deadlines for return have characterised a series of repatriation efforts aimed at forcing Rwandan and Burundian refugees to go "home". In 1996, for example, Tanzania deployed military force against Rwandan refugees attempting to avoid repatriation by fleeing deeper into Tanzania.<sup>9</sup> Against this historical background and the context of announced "deadlines" for return, refugees are profoundly uncertain about the tenure of their stay in Tanzania and the treatment that they are likely to receive from the government if they do not return to Burundi.

## The naturalisation process

Approximately 222,036 Burundian refugees are living in settlements in Tabora and Rukwa regions.<sup>10</sup> Refugees in the settlements – areas specially designated for refugee residence and out of which movement is restricted – are generally those who fled, or whose families fled Burundi, in 1972. These refugees have, over the last year, been offered the option of naturalising as Tanzanian citizens or repatriating to Burundi. A final cut-off date for the process has been announced as the end of October 2009 when the settlements will be closed.<sup>11</sup> In a regional context, these refugees are fortunate in the sense that the naturalisation option, which is being explicitly made available to them through a special scheme, is a unique innovation in the region.<sup>12</sup> However, research carried out by IRRI, CSFM and the SSRC last year revealed numerous problems with the implementation of the scheme. In particular there was a lack of recognition within the process that refugees had rights in Tanzanian and international law to continue to seek protection as refugees if they did not wish to seek Tanzanian citizenship or

<sup>8</sup> Numbers according to UNHCR website, [www.unhcr.org](http://www.unhcr.org).

<sup>9</sup> For more details on this exercise see Beth E. Whitaker, 2002. "Changing Priorities in Refugee Protection: the Rwandan Repatriation from Tanzania." UNHCR, Working Paper No. 53.

<sup>10</sup> SA3 Ltd, 2007. "Study of Tanzania's Old Settlements Hosting the 1972 Burundian Refugees." SA3 Ltd, December.

<sup>11</sup> Interview with government official, Bujumbura, 17 June 2009.

<sup>12</sup> Although refugees independently may fulfill criteria for lodging naturalisation applications in the same manner as other immigrants, in some countries refugees are specifically excluded from access to naturalisation processes.

repatriate, especially in the absence of any declaration of cessation.<sup>13</sup> Furthermore there was a question as to whether a significant number of the group were already Tanzanian citizens by operation of Tanzanian law and therefore should not have been subject to the procedure. Finally there were numerous procedural issues within the operation of the scheme which raised potential rights violations.

Serious questions also were posed about the circumstances and legality of the relocation process to which naturalised refugees from the settlements who had arrived in 1972 were expected to be subject. To force refugees to move from the location in which they have lived, farmed and buried their dead for over three decades to a completely unknown new area, was seen by the refugees to be tantamount to a new form of displacement. In particular, they expressed concerns with regard to whether they would be permitted to access land if naturalised – indeed this was the primary livelihood concern for refugees. The August research reinforced the fact that there is still an expectation that refugees will have to relocate, although there was little indication of how this was going to happen in practice. Self-settled refugees (most of them in villages in Kigoma region) had not been included in the naturalisation and repatriation scheme, and their future was highly uncertain. Recent research conducted by IIRI in Burundi found increasingly concerning reports of forced expulsion of such “irregulars”.<sup>14</sup>

The 1972 Burundian refugee community living in the settlements and who had registered for naturalisation are currently being processed, with 50,626 in Tabora (Ulyankulu settlement) and 138,478 in Rukwa region (Katumba and Mishamo settlements).

In Ulyankulu, the team was informed that 71% of the application forms for naturalisation have been reviewed by the district and regional Security and Defence Committees and have been sent to the Minister for Home Affairs. The remaining 20,000 applications from Ulyankulu and all of Katumba and Mishamo are still being reviewed by the committees. Of these, an initial 3,568 individuals were approved by the Minister in July 2009. However, the team learnt that most of the applications sent on to the Minister are likely to have been negatively recommended: although the formal decision still rests with the Minister, the recommendations of the committee are likely to be taken seriously. According to some of the respondents, reasons cited for negative recommendations include “big family size” and “not co-operative”, which are irrelevant to the threshold criteria set for naturalisation under Tanzanian law. **To reject applications on the basis of factors such as family size not only threatens to derail the entire process, but goes against the law.** Although discretion does rest with the Minister with respect to the ultimate grant of a certificate of naturalisation, many of the refugees interviewed would appear to fulfil the threshold criteria, and basic principles of administrative law must be respected.

More importantly the suggestion that such a large proportion of applications may be rejected is extremely concerning in the light of the fact that the only other option for this group currently being acknowledged by the government is repatriation, an option clearly rejected by this group by their making of applications for naturalisation and expression of a desire to reside permanently in Tanzania. The Tripartite Commission on Repatriation (including representatives of Burundi, Tanzania and UNHCR) in its 21 August meeting noted that repatriation would be

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<sup>13</sup> Centre for the Study of Forced Migration, the International Refugee Rights Initiative, and the Social Science Research Council, “Going Home or Staying Home: Ending Displacement for Burundian Refugees in Tanzania,” November 2008.

<sup>14</sup> Research conducted in Burundi in August 2009 included testimonies from a number of previously self-settled refugees who described how they had been forced to leave their homes and return to Burundi (findings forthcoming in November 2009).

facilitated for these refugees, “since rejection for naturalisation does not negate access to other durable solutions.”<sup>15</sup> An exclusive focus on repatriation, without reference to the possibilities of resettlement to a third state or continued stay in Tanzania, violates key refugee protection and human rights principles.

Another dimension to the prospective mass rejection of applications is the fact that by operation of Tanzanian law many in this group may, in fact, already be citizens of Tanzania. This is a complex area of Tanzanian law<sup>16</sup> but it highlights the need for a clear and individualised examination of each person’s situation against the background of access for the refugees to information and advice on all their rights and entitlements.

Although the Refugees Department in the Ministry of Home Affairs continues to push for the naturalisation process to proceed as planned, another government official explained that there is some antagonism in other sections of government towards the current scheme. For instance, concerns have been expressed by regional commissioners that the scheme would create a “Burundian enclave” in Tanzania and that the group would maintain strong relationships and communication with those who repatriate to Burundi. This fear is linked to a broad apprehension around the alleged expansionist tendencies of Burundians and Rwandans, given serious land shortages in those countries. Finally, others argued that by their nature Burundians are people who are combative, prone to revenge and hate and that giving them naturalisation could destabilise Tanzania. **These xenophobic sentiments show the extent to which the offer of citizenship to this group is profoundly fraught and is being attempted in a context of considerable hostility to the foundation of the scheme itself.** However, security concerns, where legitimate, need to be addressed.

It also implies that there has been inadequate sensitisation both within the government itself and with the Tanzanian population around a programme that has been widely touted by the government of Tanzania and its international partners as a progressive and innovative approach to durable solutions. It also highlights concerns that citizenship as a legal status may not translate automatically into social acceptance or access to rights.

Linked to this is the ongoing demand that refugees who receive naturalisation be relocated elsewhere in Tanzania, an issue that continues to be highly contentious. The reasons given for relocation are primarily twofold: that the regions hosting refugees face a shortage of land; and that naturalised refugees should not be allowed to live too close to the borders as this will present a security risk.<sup>17</sup> In the case of the former, it is precisely because land is a critical issue in Tanzania generally that wide scale relocation needs to be handled carefully, or reconsidered. Furthermore, any forced relocation may violate the rights of those naturalised. Although governments can relocate citizens in certain circumstances, these are highly restricted in international law. To follow a grant of nationality immediately with severe restrictions on movement, risks not only a violation of rights, but also creating a tiered notion of citizenship. **To effectively create different classes of citizenship in this way within Tanzania both violates Tanzanian law and jeopardises broader notions of citizenship, and its rights and obligations, within the country.**

<sup>15</sup> Joint communiqué of the 14th meeting of the tripartite commission concerning the situation of Burundian refugees living in Tanzania, 21 August 2009.

<sup>16</sup> Tanzanian law applies the *jus soli* principle, for example, allowing those born on its territory to access citizenship by birth with limited exceptions but at the same time prohibits dual nationality. See “Going Home”, annex, 2008.

<sup>17</sup> Linked to this argument is that if they are not dispersed around Tanzania they would create a strong enclave in local elections.

Furthermore, it is clear that the logistics for relocating approximately 190,000 newly naturalised Tanzanians (assuming that the majority are successful in their applications) is going to require careful planning and funding. While, according to some government officials, funding is not a problem – UNHCR apparently has 12.1 billion dollars ready for relocation – the release of this funding is dependent on regional governments in Tanzania creating budgets which reflect the expected influx of new citizens. However, we understand that regional governments have been reluctant to do this as it would indicate acceptance of the scheme. Regardless, the current plan is that some of the refugees will be taken to places that they have chosen while others who have either not specified where they want to go or who have chosen locations that are considered not to have adequate available land will be allocated new homes by the government. It is expected that this process will chose regions and districts with low population density. Furthermore, to ensure that refugees move, the government plans to give out citizenship certificates only after the new citizens have moved to their respective new areas. The revised timeframe for the entire relocation process is now 2009-2011. **Given that some local government officials are reluctant to engage with the scheme, it is unclear whether those with newly acquired citizenship will be able to access land or will face other barriers to integration.**

Serious questions remain regarding both the motivation behind relocating this group of refugees, and the process itself.

### The repatriation process

“My mother was Tutsi and my wife is a Hutu. I have not gone back because I was born in Congo my father ran in 1972. He died in 1993 when he went back to Burundi his brother in law, my uncle is the one who killed him... Those of 1972 who have gone back were told that there are peace villages but these villages are not there.” (Refugee man, Mtabila camp, 8 August 2009)

As of 21 August 2009 an estimated 17,000 refugees had repatriated.<sup>18</sup> The repatriations process for this group is scheduled to conclude by October 2009. This appears to be an unworkable objective by all calculations, given the situation in Burundi, the available resources, and the major questions which surround the legality of aspects of the scheme itself as it is currently unfolding.

At the same time, those who fled in the 1990s have been the subject of a massive repatriation effort and the progressive closure of camps. They have not been given the option of applying for naturalisation, and the third “durable solution” of resettlement is not being considered.<sup>19</sup> A total of 38,361 Burundians refugees are left in Mtabila camp, which includes those who were moved from the other 11 camps as they were closed.

<sup>18</sup> Joint communiqué of the 14th meeting of the tripartite commission concerning the situation of Burundian refugees living in Tanzania, 21 August 2009.

<sup>19</sup> As noted in “Going Home”, currently there is no screening for resettlement, which took place earlier on in the process: approximately 11,305 Burundian and Congolese refugees have been resettled to third countries. A total of 1,791 Burundian, Congolese and mixed nationalities refugees are in Kanembwa in Kibondo district in Kigoma region waiting to be resettled: of these 539 are Burundians, 176 mixed nationality and 1,076 are Congolese.

Although UNHCR officials have informed advocates such as Zachary Lomo<sup>20</sup> and IRRI that they will not endorse forced repatriation and that the status of any refugees who wish to stay will be negotiated with the government of Tanzania, there are a number of issues that are undermining the confidence of refugees in the process. With only approximately 5,000 of the prospective 30,000 returnees from Mtabila having returned to Burundi as of 21 August 2009<sup>21</sup> the imposition of a 30 September deadline (extended from the initial deadline of 30 June) seems to preclude the possibility of return in conditions of safety and dignity.

Interviews with refugees in and around Mtabila camp show that as the initial deadline of 30 June approached, they came under strong pressure to repatriate and there were reported incidents of human rights violations.<sup>22</sup> Through interviews with the Ministry of Home Affairs, UNHCR, implementing partners and government leaders in Dar es Salaam, Kigoma and Kasulu, as well as interviews with refugees within Mtabila camp, a number of concerns emerged.

The research team, for example, saw evidence of huts having been burnt within the camp as part of the “camp consolidation” which is officially done for camp management and security reasons after repatriation, whereby camp structures are, literally, closed down in order to ensure that no-one is able to stay on the land. However, there were different reports about whether or not there were refugees still living in the houses at the time of the burnings, whether their belongings were destroyed, or whether they were empty houses. Furthermore, the Camp Commandant asserts that there were weapons in the houses, which is why they were burnt.<sup>23</sup> Not surprisingly, officials and refugees differ in their version of events and a question mark remains over what took place.

In addition, the closure of all social services including schools, hospitals, markets, shops and the ban on social gatherings was announced during the team’s visit, although the team found that basic food and medical services continue to be provided to the refugees, and church services are still carried out on Sundays. In addition, while technically refugees are not allowed to cultivate or conduct any business, in reality cultivation is continuing – mostly in zones that were closed in the camp consolidation process. The team also found some refugees selling things in the market although those activities have been prohibited. **The imposition of such prohibitive measures – even where they are not being fully implemented – creates a situation of fear and forces refugees to act illicitly. In addition, the closure of services may constitute a violation of refugees’ social and economic rights, and imposition of these conditions in an effort to “encourage” repatriation may amount to constructive refoulement.**

“One man living in Mtabila camp talked of how he survived a massacre of 400 people in 1993 and fled to Tanzania. He went back to Burundi in 1995 but fled again to Congo after he realised that the perpetrators wanted to kill him. While in Congo he received a phone call from one of the killers warning him not to return and not to testify against them. He could not continue to live in Congo for the fear that the killers might find him so he moved to Muyovosi in 1996. After the closure of Muyovosi, he moved to Mtabila. He is therefore afraid that if he returns he will be killed.” (Interview with refugee man, Mtabila camp, 7 August 2009)

<sup>20</sup> Doctoral student, University of Cambridge, UK

<sup>21</sup> Joint communiqué of the 14th meeting of the tripartite commission concerning the situation of Burundian refugees living in Tanzania 21 August 2009.

<sup>22</sup> See Daniel Neumann, “Coercion and Intimidation in the Voluntary Repatriation of 37,000 Burundian refugees from Mtabila Camp, Tanzania.” Fahamu, June 2009.

<sup>23</sup> Interview with Mtabila Camp commander 7 August 2009.

Meanwhile, there is limited engagement by all actors with why this “remnant” – as well as other Burundian refugees remaining in Tanzania – is refusing to repatriate, despite the huge push factors that have been created around them. A number of reasons came through in the research, the majority of which related to the current situation in Burundi:

- **Conditions in Burundi.** Many are waiting to see how problems relating to re-accessing land in Burundi are developing before they return. Others no longer know where their land is. Current research being conducted in Burundi by IRRI on the returns process has revealed the considerable challenges facing those who return: some have been waiting for over two years to have access to land and are effectively destitute; others are being moved to “peace villages” where there is extremely limited infrastructure and the land is in some cases barren; more generally many of the food and non-food items promised in Tanzania have not materialised.<sup>24</sup> The treatment of returnees in Burundi is therefore a disincentive.
- **Political stability in Burundi.** Many refugees said they are waiting for the 2010 elections in Burundi to pass before assessing the safety of return: historically, elections in Burundi have often led to violence. In particular, it is also alleged that some of those in the camp are followers of Agathon Rwasa (leader of the now legal political party, *Forces nationales pour la liberation*, which forms the primary basis of opposition to the sitting *Conseil national pour la défense de la démocratie - forces pour la défense de la démocratie* (CNDD-FDD) in elections anticipated in the middle of next year in Burundi), and are concerned that they may face hostility from the government on this basis.
- **Individual security concerns.** Individual profiling has not been done to ascertain whether certain individuals have specific reasons to refuse to repatriate. For instance, interviewees talked of situations in which they know the identity of those who committed atrocities and fear for their safety if they return. In addition, those who did not contribute to any political party rebel movement while in exile claimed in some cases that they would be targeted upon return.
- **Trauma of war.** Those who witnessed or survived killings, rape and sexual abuse, and other serious violations, often cite the trauma of these events as a bar to return.
- **Resettlement.** Some continue to hope for resettlement, despite the fact that this option is not being discussed at the moment for this group.
- **Unaccompanied minors.** Children who lost their families during the war and who lived under foster families in exile are reluctant to return to a situation in which there is chronic uncertainty: they do not know their parents’ home village and their foster families are not ready to go with them.
- **Mixed marriages (Burundian and Tanzanian).** Refugees married to Tanzanians were, not surprisingly, reluctant to return to Burundi. They also may have rights to reside, and even to be recognised as citizens, in Tanzania.
- **Hope for naturalisation.** Those who were part of the original group who fled in 1972 and, for one reason or another, have landed up in the camps and therefore been excluded from the naturalisation process offered those in the settlements, are hoping that they might be included in the naturalisation scheme.

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<sup>24</sup> Findings forthcoming from the International Refugee Rights Initiative and Rema.

Although UNHCR reported to the Tripartite Commission that they had conducted a verification and profiling exercise of the remaining Mtabila population,<sup>25</sup> the field research team found resistance to full examination of remaining cases. Refugees interviewed reported that they were not allowed to put forward their own situations, supported by the fact that one UNHCR official who was interviewed<sup>26</sup> was of the opinion that there was no justification for conducting individual profiling and the government position that they should repatriate on the basis of the fact that there is peace in Burundi should be the accepted assessment. It was claimed that any attempt to conduct a profiling exercise would be interpreted as an opportunity for the refugees to simply delay the repatriation process further.

Meanwhile, UNHCR has been providing incentives including adding bicycles to the repatriation package, and is also encouraging “go and see come and tell visits” and mass information campaigns in the camp about the situation in Burundi. But this has had little impact: during July, only 289 individuals from 108 families in Mtabila registered to repatriate.

### **Self settled refugees**

As of 2003, there were 15,185 Burundian refugees officially settled in designated villages in Kasulu. Current numbers, however, are not known. Significantly, these persons – many of whom are from the original 1972 group – have not been offered participation in the naturalisation scheme. Meanwhile, it remains unclear what will happen to self settled refugees, with government concerns that those who are living in undesignated villages are becoming increasingly “invisible” and, therefore, hard to locate. In 1990, the refugee department office in Kigoma recorded 250 families of Congolese refugees in Kaseke village; in 2007, none of them were found.<sup>27</sup>

All of the self-settled refugees interviewed by the team said that they want to stay in Tanzania: many have lived in Tanzania all their lives, and they have built up businesses and homes in the area. Yet increasingly they are coming under pressure to “return” to Burundi. Furthermore, recent research in Burundi indicates that a number of self-settled refugees have been forced to leave their homes and move to Burundi, in some cases with the alleged assistance of unidentified armed militias. The Tripartite Commission identified the need to begin identification procedures for this group, and exploration of the possibilities for durable solutions – but only after the ongoing procedures for camp and settlement refugees. Although the need to prioritise given limited resources is understandable, the intense pressure being experienced by this group needs to be urgently addressed.

### **UNHCR and the government of Tanzania: conflicting interests**

Related to all this, government of Tanzania officials talked of their frustration that, at the end of the day, the country is not benefitting from hosting refugees – and, furthermore, that it has been pushed to naturalise tens of thousands of refugees without considering the local community in Tanzania and the future of the country.<sup>28</sup> The government officials interviewed complained that

<sup>25</sup> Joint communiqué of the 14th meeting of the tripartite commission concerning the situation of Burundian refugees living in Tanzania 21 August 2009.

<sup>26</sup> UNHCR staff in a group discussion with staff from humanitarian agencies in Mtabila refugee camp, 7 August 2009.

<sup>27</sup> Interview with MHA official, Kigoma 2007.

<sup>28</sup> Key note speech of the Prime Minister of the United Republic of Tanzania at the Second United National High Commissioner for Refugees Dialogue on Protection Challenges, 10 December 2008.

UNHCR had not arranged for any tangible benefit to Tanzanian communities who for decades hosted hundreds of thousands of refugees. Some complained that the only beneficiaries were the Japanese companies selling land cruisers. As it was reported, for example, Tanzanian women in Kigoma living alongside refugees still do not have access to clean water, and forests have been cleared for land for cultivation by refugees, and for building materials and firewood.

It is easy to oversimplify what is undoubtedly a highly complex situation. At the same time, it is understandable that the government of Tanzania should want to protect its own interests, and that it is feeling somewhat exploited by an international community that has put considerable pressure on it to host hundreds of thousands of refugees and which now shows every sign of donor fatigue. The lack of infrastructural benefit to Tanzania that is being revealed as the camps are “dismantled” shows major shortcomings in the settlement/camp-based approach to hosting refugees, as it so often leads to so much waste. Therefore the current push to end displacement for refugees in Tanzania needs to be done in such a way that not only protects the rights and dignity of refugees, but also that recognises the need to offer benefits, where possible, to host communities.

## **Conclusion**

Repatriation is one of three “durable” solutions and is premised on notions of voluntariness in the absence of the application of cessation. The current situation in Tanzania, whereby refugees are coming under considerable pressure to return to Burundi, seriously calls into question the extent to which current repatriation is voluntary. Certainly, many will return home. However, both the timing in which this happens and the circumstances under which it takes place are critical for the protection of returnees. Furthermore, any aggressive pursuit of repatriation is likely to not only undermine the protection of refugees, but also to have a suboptimal geopolitical outcome in the long term. Searching for solutions that are genuinely durable is in the best interest of both the Tanzanian and Burundian governments – as well as the international community. With such a strong emphasis on repatriation – and repatriation in a hurry – there is a danger that Burundi’s fragile transition to sustainable security will be jeopardised. And if war re-erupts in Burundi, the implications would be profound not only for Burundi and Tanzania, but for the region as a whole.

### **About the Centre for the Study of Forced Migration**

The Centre for the Study of Forced Migration (CSFM), established in 1995, is situated in the Faculty of Law, University of Dar es Salaam. The Centre is multidisciplinary in character and draws member from the Faculty of Law, the Faculty of Arts and Social Sciences and the Institute for Development Studies. Among the activities of the Centre are research, teaching, curricula development and preparation of teaching aids and materials on forced migration, service delivery/outreach, and dissemination of humanitarian law. CSFM also plays an advisory role to government and lobbies for appropriate law reform on issues related to forced migration.

### **About the International Refugee Rights Initiative**

The International Refugee Rights Initiative is dedicated to addressing human rights in conflict and displacement in Africa. IRRI grounds its research and advocacy in the rights accorded to the displaced in international human rights instruments and strives to make these guarantees effective at the local level. Based in New York and Kampala, IRRI acts as a bridge between local advocates and the international community, enabling local knowledge to infuse international developments and helping local advocates to integrate the implication of regional and global policy in their work at home.