

**Evaluating Repatriation as a Durable Solution to Burundi's Protracted Refugee Situation**

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## **Acronyms and Abbreviations**

AU	African Union
BFR	Burundian Former Refugee
CIREFCA	International Conference on Central American Refugees
CPA	Comprehensive Plan of Action
CRRF	Comprehensive Refugee Response Framework
DRC	Democratic Republic of the Congo
EAC	East African Community
FPB	Popular Forces of Burundi
ICARA	Conferences on Assistance to Refugees in Africa
IDP	Internally Displaced People
NGO	Non-Governmental Organization
OAU	Organization of African Unity
PRS	Protracted Refugee Situation
RPF	Rwandan Patriotic Front
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees

## **Abstract**

Repatriation, or the return of refugees to their countries of origin, has taken precedence as a durable solution to protracted refugee situations (PRS). Repatriation is the most common solution to refugee cases, but modern, aggressive repatriation schemes have had dubious efficacy in preventing PRS from recurring.

Using the case of Burundian refugees in Tanzania, this study explains why repatriation has taken precedence over other solutions to PRS. This is done by analyzing academic texts, documents from refugee organizations and the author's experiences abroad.

This research concludes that aggressive repatriation occurs for a variety of reasons which reap short-term political and economic gains at the expense of durable solutions. It proceeds to evaluate current efforts to make repatriation more durable, as well as proposing new solutions to protracted refugee situations.

## **Methodology**

This paper draws from theoretical literature on refugee issues, including conflict and refugee law, rights and politics. It supplements these works with analyses of reports, data and studies commissioned by the UNHCR, refugee-centric non-governmental organizations (NGOs) and government agencies. Additionally, the author conducted three weeks of field research in Dar es Salaam and Kigoma, Tanzania, in order to gather observations and background interviews useful in interpreting reports and literature. The author's words are his own, and any travel or other expenses relating to this study came from private funds.

## **Introduction**

The post-Cold War era has seen the rise of protracted refugee situations (PRS), which the United Nations High Commissioner for Refugees (UNHCR) defines as situations of “25,000 persons or more who have been in exile for five or more years in developing countries” (Loescher et al. 2008, 21). Since the 1990s, sub-Saharan Africa has hosted the largest number of PRS, with one of the largest of these being refugees from the small Central African nation of Burundi exiled in Tanzania. Under pressure to solve this PRS, between 2002 and the present the UNHCR has attempted to repatriate the majority of these refugees.

Repatriation, or the voluntary return of refugees to their countries of origin, is listed by the UNHCR as a “durable solution” to refugee situations, able to permanently reduce refugee populations and solve PRS. Along with the two other durable solutions of resettling refugees abroad or locally integrating them into host countries, durable solutions promise to close refugee camps, reduce material burdens on host countries and the UNHCR and ultimately put an end to PRS, a phenomenon that has made the UNHCR notorious for the alleged “administration of human misery” (Loescher et al. 2008, 11). But the complexity of solving this PRS, from trends in global refugee policies to the political situation in Burundi, has so far thwarted these efforts.

Tanzania has a long history of hosting Burundian refugees, who have fled civil war and genocide since their country’s independence. However, since the end of the Cold War Tanzania has increasingly pushed to become a refugee-free country, both by restricting refugees’ rights and movement and pushing for massive repatriation movements (Harild, Niels ; Christensen, Asger; Zetter 2015, 98). As part of an agreement between the UNHCR and Tanzanian and Burundian governments, between 2002-2013 over half a million Burundian refugees were

repatriated from Tanzania (Giannese 2013). However, recent political unrest in Burundi has caused a massive resurgence in refugees, sending over 430,000 back to Tanzania and undoing most of the progress of the 2002-2013 repatriations (UNHCR n.d.).

To understand why this repatriation movement failed – and why current calls for Burundians in Tanzania to repatriate are equally misguided – requires an understanding of the history of refugee policy both globally and in Tanzania. These failures are indicative of refugee policies in which truly durable solutions are secondary to political considerations, in which refugees are considered as threats and burdens, if considered at all. It has not always been this way.

The post-WWII era saw the creation of the United Nations and its 1951 Convention Relating to the Status of Refugees. This convention and its 1967 Protocol Relating to the Status of Refugees, which remain the basis of international refugee law, were informed by conceptions of conventional interstate warfare, involving definitive beginnings, ends and actors. It assumed both that refugees would have a functioning country to return to upon the cessation of hostilities and that they would wish to return. In particular, post-independence African countries, inspired by pan-Africanist ideals and anticolonial solidarity, developed liberal refugee policies culminating in the Organization of African Unity's (OAU's) own Refugee Convention of 1969, which broadened the definition and protection of refugees under the 1951 Refugee Convention. During the Cold War, the OAU's generous policies allowed for Burundians fleeing their country's 1972 genocide for Tanzania to locally integrate and become citizens, an advantage this group still retains over Burundian refugees arriving in the 1990s under less-favorable terms (Hovil 2009, 3).

The 1951 Convention also placed a significant burden on “countries of first asylum,” the first countries in which refugees seek protection under international law. Countries of first asylum are legally prohibited from repatriating refugees without evaluating their cases to determine if they must be afforded protections under international law. If they are granted refugee status, the host country cannot expel them from its borders. While this generally helps refugees and localizes refugee situations, it also tends to insulate the “Global North” from responsibility. While in its preamble the Convention acknowledges that “the grant of asylum may place unduly heavy burdens on certain countries” and calls for burden-sharing to assist countries of first asylum, which are often poor, burden-sharing is still a matter of budgeting rather than international law (UNHCR 1967, 13).

Nevertheless, the Cold War balance of power, including the West’s “Chaos to Communism” theory, sought to bolster newly-independent Western-allied African governments which, even if brutal, ensured state stability and thus prevented PRS resultant from state failure. Moreover, refugees from Cold War conflicts were “perceived as products of the superpower rivalry and proxy conflicts, and were treated as pawns, if not strategic trophies, by receiving countries,” with refugees prioritized as living indictments of the opposing “Evil Empire” in the bipolar world of the time (Loescher et al. 2008, 44).

These paradigms, favorable to refugees, began to change amidst the drawdown of the Cold War and changing economic and political trends from the late 1970s through the early 1990s. An uptick in warfare, largely within Iran, Iraq, Turkey and Sri Lanka generated massive flows of refugees to Europe during a time of economic recession following the sustained postwar boom. Between 1983 and 1990 Europe experienced an increase in spontaneous asylum seekers from 70,000-200,000 per year (Loescher et al. 2008, 45). Due to a decreasing Cold War

prerogative for accepting refugees, the cultural and ethnic origins of these arrivals and a fear-mongering press, the stage was set for a general backlash against refugee flows from undeveloped to developed countries. As Slaughter and Crisp write, “Rather than being considered as victims of external aggression, occupation and foreign domination, refugees were increasingly regarded as a source of political instability and social tension” (Loescher et al. 2008, 126). Though these trends were not driven in response to African refugee flows, they significantly changed refugee policy and the fates of refugees themselves on the continent.

The fall of the Soviet Union initiated a chain of events that led to both a massive increase in African refugee crises and their durations. No longer prizes in the “Great Game” between the West and Communism, many African governments experienced deep cuts in external political, military and financial support, as well as demands for democratization. Instances of state failure spiked throughout Africa in the 1990s as decrepit governments, cut off from superpower support, fell to violent regime changes and outright dissolution of the central government. Notably, declining U.S. support for the regime of Somali dictator Siad Barre led to his overthrow in 1991 and chaos throughout the country (Cohen 2002). The combination of decreasing external interest in African affairs and the ever-greater challenges posed by state failures came to a head during the infamous “Black Hawk Down” episode of 1993 in Mogadishu, in which dozens of UN peacekeepers were killed and wounded during a botched raid in support of humanitarian operations (Loescher et al. 2008, 217). This event shocked the West, caused a U.S. withdrawal from Somalia and directly led to Western reluctance to intervene in the Rwandan and Burundian genocides the following year, as well as other African conflicts throughout the 1990s (Williams 2011, 236).

Post-Cold War state failures, combined with Western aversion to intervention in African conflicts and antipathy toward refugees, enabled the creation of African PRS as we know them today. Between 1998 and 2008, the average duration of refugee situations doubled, leaving the majority of refugees in PRS and stretching the intent of refugee protections under international law (Loescher et al. 2008, 3). Additionally, between 1980 and 2000 the number of migrants in developed countries more than doubled from 48 million to 110 million (Loescher et al. 2008, 45). The West, watching the rise of PRS in Africa and facing increasing anxieties and antipathy toward refugees at home, has since sought to redirect Sub-Saharan African refugee flows, damming them near their countries of origin to prevent migration further north into developed Western countries. Under the guise of promoting “African solutions to African problems,” the West began implementing restrictive asylum policies and calling for African countries to host the lion’s share of their neighbors’ refugees (Loescher et al. 2008, 58). In exchange, Western countries promised greater burden-sharing through an increasingly overextended UNHCR and its network of refugee camps.

Burden-sharing between wealthy Western countries and impoverished African host countries has been complicated for many reasons, chief among them the debate as to whether refugees are inherently “burdens” at all. After all, for decades during the Cold War African governments welcomed refugees as assets in their struggles for political and moral legitimacy. Moreover, donor countries point out that, when empowered to be self-sufficient, refugees can have a net positive financial impact, producing tax revenue from economic activity and foreign exchange from NGO and multilateral activity in-country (Graveline and Noyes 2017, 2). While post-Cold War paradigms are characterized by host country demands for burden-sharing, donors

claim that it is disingenuous to label refugees as burdens when host country policies restrict them from working and becoming self-sufficient in the first place.

This is the broad, global setting for the repatriation scheme between the UNHCR, Tanzania and Burundi that began in 2002. Decades of war in Burundi had produced one of the largest refugee populations in the world (second only to Afghanistan), and sent most asylum-seekers across the border to Tanzania (UNHCR 2008). But with greater burdens and little solidarity or promised funding from the West, Tanzania eventually grew weary of hosting Burundian refugees and in the mid-1990s began restricting their freedoms and potential for naturalization (International Refugee Rights Initiative 2012, 1).

The tensions between Western donor states and Tanzania, coupled with their mutual tensions toward refugees, effectively eliminated the durable solutions of resettlement and local integration, leaving only repatriation as a hope for solving Burundi's PRS. To repatriate Burundi's refugees in Tanzania, in 2002 the UNHCR created a tripartite agreement between itself and the governments of Burundi and Tanzania. In tripartite repatriation schemes, the UNHCR brokers and supervises an agreement in which originating countries are meant to provide a secure environment for their refugees to return to, while host countries and their security forces organize and execute the physical movement of refugees to their homelands, some of whom have never set foot there. Though tripartite agreements were originally conceived in response to the demands of refugees who wished to return to their countries of origin but lacked the means, in Burundi's case the model was reinterpreted as a vehicle for host countries to empty and ultimately close their refugee camps, with voluntariness as a secondary concern (Stein and Cuny 1991).

This repatriation agreement was believed to be a relatively quick and cost-effective solution to PRS that would serve as a model throughout East Africa, and early results seemed to indicate success. Between 2002 and 2008, the UNHCR repatriated 357,000 refugees from Tanzania to Burundi in this manner (UNHCR 2008). In the process, it closed six refugee camps, leaving the Mtabila camp in Tanzania's Kigoma region as the only remaining camp for the 46,450 Burundians who fled their country in the 1990s. The UNHCR prided itself in "bringing a closure to this long-drawn-out displacement chapter," and continued its plans to close Mtabila, its last camp for this PRS (UNHCR 2008).

Soon afterward, the Tanzanian government ramped up pressure for Mtabila's closure, and began cutting services, restricting movement and halting development within the camp (Hovil 2009, 10). Even members of the 1972 group of Burundian refugees, historically privileged with free movement, were told they would be forcibly repatriated if they had not yet applied for citizenship. In August 2012, Tanzania secured UN support to declare the "cessation," or removal, of official refugee status from the majority of Burundians in Mtabila (International Refugee Rights Initiative 2012, 3). Cessation is permissible under international law for a select few reasons, with Tanzania citing the restoration of freedom and security in the originating country, Burundi, as justification. Now labeled by the UN as Burundian Former Refugees (BFRs), by October the Burundians of Mtabila were being trucked across the border by the UNHCR in conjunction with Tanzanian police and soldiers.

In a UN report on the removal, a section titled *Removal of agitators and reinforced security measures* acknowledged that there were indeed instances of violence during repatriation operations, but dismissed the instigators as agitators operating without the support of the majority of BFRs (UNHCR 2012, 1). The camp's closure otherwise continued in an orderly

manner through the official closure date of 31 December, with 2,700 Burundians still deemed as at-risk refugees transferred to Tanzania's only remaining refugee camp, Nyaragusu, mostly housing refugees from the DRC.

However, the durability of this repatriation scheme was tested amidst rising levels of violence in Burundi. Fundamental concerns of Burundi's security had been overlooked or, when acknowledged, compensated for with UNHCR promises of aid and security benefits upon repatriation (UNHCR 2016, 31). But this security proved illusory when in April 2015, in a move widely condemned as unconstitutional, Burundian President Pierre Nkurunziza announced his intent to run for a third term in office, a decision which sparked riots that were violently suppressed by security forces. A subsequent coup attempt further destabilized the country, contributing to a massive outflow of refugees (UNHCR 2016, 6).

By overlooking political and security concerns in Burundi, the tripartite agreement may have exacerbated underlying tensions within the country through the influx of repatriated refugees competing for land and work (Hovil 2009, 36). Moreover, the UNHCR and Tanzania may have violated the 1951 Refugee Convention's Non-Refoulement Clause, which prohibits the forced repatriation of refugees deemed at-risk in their originating countries. In any case, the assertion by the tripartite commission that freedom and security had been restored in Burundi proved premature and dangerous for repatriates.

Between April 2015 and October 2017, 234,110 Burundian refugees fled to Tanzania, necessitating the reopening of three refugee camps, including Mtendeli, shuttered just three years prior. Catching the UN off guard, this situation sent UNHCR staff hurrying to accommodate the new arrivals, as one of the reopened camps possessed insufficient access to water and another only had enough for 15,000 refugees. Refugees from this crisis constitute almost 60 percent of

the number of Burundian refugees repatriated since 2002, undoing over a decade of work. Yet already, Tanzanian President John Magufuli is calling for the UNHCR to begin another round of tripartite repatriations. In August 2017, the Tanzanian Minister of Home Affairs said “Failure to repatriate the refugees, I will consult with the Minister for Defense to release military trucks that will ferry the refugees to Burundi,” and President Nkurunziza also asked refugees to return (Lifang 2017).

The UNHCR’s repatriation of refugees from Tanzania to Burundi between 2002 and the present has served as a case study in changing international norms between the West, African countries and refugees. The fall of the Soviet Union significantly lessened the strategic value of African countries for Western foreign policy, leading to decreased Western intervention in the affairs of African countries and a proliferation in state failure events such as the 1993 Burundian genocide. The collapse of many African states has led to a drastic increase in protracted refugee situations, during a time in which Western countries tended to see refugees as potential threats to their security and economies rather than victims of Soviet-backed political persecution. The West, watching the rise of protracted refugee situations in Africa and facing increasing antipathy toward refugees at home, has since sought to keep refugee flows contained near their countries of origin. While this policy had the potential to be in-line with the general preference for intrasystem solutions to African problems, the inadequacy of Western burden-sharing compared to host country demands led to tensions resulting in the general expulsion of refugees from Tanzania via a tripartite repatriation agreement (Zartman 1967, 558).

This introduction gives a broad overview of why protracted situations exist and why aggressive repatriation increasingly seems like the only option for refugees. However, seeing refugee policy in terms of decades-long trends obscures the decision-making power of individual

actors in PRS – East African governments chief among them. While talking about PRS in global and collective *we* terms, African governments are often sidelined as corrupt and ineffective (Milner 2009, 5). While this is often true, it overlooks the significant decision-making capabilities of even *de jure* states, which can benefit or doom durable solutions to PRS.

This paper attempts to show how and why East African governments make decisions on PRS, and what role repatriation plays within these decisions. These decisions are influenced by global trends, but more so by a sense of state insecurity that throughout history has alternately both benefitted and vilified refugees. It begins by explaining theory behind modern PRS, arguing that refugees are housed in states of exception that are antithetical to the goals of the 1951 Convention, not only reducing their rights as refugees but their hopes of regaining rights as citizens of any country. It then explains this by analyzing historical solutions to PRS, which have invariably involved refugees as political actors playing a role in their own fates. It claims that refugees' political rights are not only beneficial to their well-being, but crucial to crafting any durable solution.

These historical solutions to PRS are then contrasted with modern refugee politics, for which durable solutions to PRS are an afterthought. Repatriation in the Burundi-Tanzania PRS is being conducted for every reason besides its durability, and is making the same mistakes that led to the failure of the 2002-2013 repatriation. While maintaining PRS makes the status quo fundamentally unstable, East African governments are more afraid of the potential instability it may take to durably solve PRS. Finally, this paper states that in such a restrictive political environment for refugees, a push for genuinely durable solutions is not imminently feasible, and even modest efforts toward them can be derailed with little notice or reason. In the short term, durability for refugees must be rethought as durability for solutions themselves, and multilaterals

must push for efforts that both help refugees and have staying power despite turbulent, restrictive politics. While repatriation as it is practiced is not durable, solutions must focus on making the best of a bad situation.

There is currently little overlap between the interests of refugees and those of East African governments. Therefore, the overarching question of this paper is not *how do we solve PRS*, but *how could it be in the best interests of African governments to do so?* The situation needs more compromise solutions which can start the slow process of bridging these divides.

## Literature Review

### **Refugee Camps as States of Exception**

Humans are both animal and political, a dichotomy identified by the philosopher Giorgio Agamben with the terms “*zōē*” and “*bios*,” respectively (Agamben 1998, 1). We are not complete unless our base material needs are complemented by our rights and freedoms as humans, enforceable as citizens of nation-states. Throughout most of the 20<sup>th</sup> century, nations created refugees through the denial of the rights of citizenship to specific residents; yet such refugees fit well within international legal frameworks and the status afforded by the United Nations High Commissioner for Refugees. Though refugees’ *bios* were in temporary limbo, refugee status was a means of preserving both *zōē* and *bios* for return and reintegration upon resolution of the initial conflict.

However, since the end of the Cold War refugee situations have become increasingly protracted due to rising instances of state failures (Loescher et al. 2008, 26). When a country’s residents are not only denied basic rights, but such rights are *prima facie* unenforceable due to chronic state failure, the resultant refugee situation has a high likelihood of becoming protracted. Contrary to the intent of foundational international refugee law, such PRS confuse concepts of citizenship and create a status that has variously been called “liminality,” “transient permanency” or “warehousing of refugees” (Anderson and Malkki 1996, 4; Martin 2015, 10; Loescher et al. 2008, 30). The commonality among these labels is the recognition that refugees’ citizenship may never be restored. This liminal outcome is expressly counter to the UNHCR’s three durable

solutions to PRS of resettlement abroad, integration into host countries or repatriation to originating countries.

Thus refugee in PRS may be permanently separated from their *bios* and left as *homo sacer*, a term originally used in ancient Greece to denote those stripped of political life, such as convicts (Agamben 1998, 8). These *homo sacer* live in “bare life,” *zoè* without *bios*, could be legally killed by anyone and had to seek refuge in exile outside the walls of the city. However, with the proliferation of nation-states, there is technically no lawless exterior to which *homo sacer* may be exiled. In the modern context the lawless exterior is internalized into nation-states as “states of exception,” or physical places of lawlessness, which are paradoxically instituted by law (Agamben 2012, 32). An extreme example would be CIA “black sites,” areas appropriated by the U.S. government to enable itself to torture suspected terrorists (as *homo sacer*) (Wadiwel 2017, 18). In the case of refugees, the rise of PRS has both been a cause and a symptom of refugee camps increasingly taking the form of states of exception.

### **How States of Exception Take Shape in PRS**

At first, it would seem the 1951 Refugee Convention precludes refugees from being emplaced in anything taking even the remotest form as a state of exception. Rights afforded to refugees, including rights to work, uninhibited travel and courts are explicitly counter to the characteristics of states of exception (UNHCR 1967, 22). However, Arendt points out the fundamental paradox of human rights: because there is no higher sovereign authority than states themselves, there is no polity capable of enforcing human rights standards (Arendt 1958, 230). Human rights by birth are indefensible without civil rights guaranteed by citizenship in a

sovereign nation. The experience of World War II, in which Germany denaturalized millions of Jews and others to facilitate their extermination, proved the primacy of state-sanctioned civil rights over supposedly universal human rights. In World War II, even optimism in the sufficiency of human rights proved deadly, as states were complacent in the face of massive denaturalizations (Arendt 1958, 292).

Somers calls into question the very concept of rights, stating that they are anything but natural. Instead, she posits that rights are fictions sustained by the interaction of civil society, government and markets (Somers 2008, 36). In this framework, citizenship is a *de jure* status that becomes meaningless without *de facto* inclusion into society, predicated on the balance of the three previously mentioned institutions. Martin applies a similar framework in her analysis of Palestinian refugee camps in Lebanon, in which she complicates Agamben's concepts of *zōē* and *bios* by claiming that market-driven forces introduce *gradations* of citizenship:

“We can thus explain how citizenship understood as protection generated through a national belonging can change and turn into a flexible concept that excludes citizens or includes noncitizens according to market and political calculations” (Martin 2015, 16).

Understanding citizenship not as an incorruptible protection but as a spectrum establishes a continuum between the statuses of citizen and refugee, meaning the triad of civil society, government and markets proposed by Somers similarly determines the rights afforded to refugees. However, this paper argues that to the extent that countries restrict refugees to camps, camps take the shape of states of exception distinct from the circumstances of even the most marginalized local citizen. Thus relationships between civil society, government and markets affect refugee rights by increasing or decreasing the role of camps as states of exception.

To understand this process requires adapting Somers' language with relation to PRS. In PRS, this paper argues that civil society is taken to mean the host community surrounding the refugee camp. Variations in host community tolerance of refugees can have a tremendous impact on the degree of social exclusion faced by refugees and their perception as *homo sacer*. The host government, on the other hand, is able to set legal and geographic restrictions on refugees and camps, greatly determining the severity of the state of exception. And market forces may be interpreted as the ebbs and flows of international aid, including their application through multilaterals depending on these funds such as the UNHCR. Aid flows can determine the degree to which refugees are afforded basic protections under international refugee law, some of which guarantee a degree of political life counter to the state of exception. Market forces also include the state and local economies of refugee-hosting communities. When refugees are enabled to work and otherwise be self-sufficient, market forces can turn in their favor; when encamped and denied work, market forces may turn against them as burdens.

The following is a compiled list of factors cited by scholars as influencing refugee policy, both globally and in East Africa in particular. It is organized according to Somers' triadic framework of society, markets and government, which she claims determine the gradations of one's citizenship. This is not an extensive list, as there are doubtless many more factors both in literature and the particulars of any situation. Nor is it necessarily feasible to rank these forces by importance. These factors are also highly interrelated, blurring distinctions between Somers' categories. Nonetheless, understanding these factors can help us understand what must be changed to allow a permissive political environment for solving PRS.

## SUPPORTS RESTRICTIVE REFUGEE POLICY

## SUPPORTS OPEN REFUGEE POLICY

SUPPORTS RESTRICTIVE REFUGEE POLICY	SUPPORTS OPEN REFUGEE POLICY
<p><b>Civil Society:</b></p> <ul style="list-style-type: none"> <li>• Refugees from domestic conflict<sup>1</sup></li> <li>• High refugee population<sup>2</sup></li> <li>• Low perceived refugee suffering</li> </ul>	<p><b>Civil Society:</b></p> <ul style="list-style-type: none"> <li>• Refugees from liberation/anticolonial struggles<sup>1</sup></li> <li>• Low refugee population<sup>2</sup></li> <li>• High perceived refugee suffering</li> </ul>
<p><b>Market:</b></p> <ul style="list-style-type: none"> <li>• Low donor burden-sharing<sup>3</sup></li> <li>• High conflict duration (donor fatigue)<sup>4</sup></li> <li>• High economic liberalization<sup>5</sup></li> <li>• Lack of uncultivated arable land<sup>6</sup></li> </ul>	<p><b>Market:</b></p> <ul style="list-style-type: none"> <li>• High donor burden-sharing<sup>3</sup></li> <li>• Low conflict duration (donor fatigue)<sup>4</sup></li> <li>• Low economic liberalization<sup>5</sup></li> <li>• Abundance of uncultivated arable land<sup>6</sup></li> </ul>
<p><b>Government:</b></p> <ul style="list-style-type: none"> <li>• Democracy<sup>7</sup></li> <li>• State instability<sup>8</sup></li> <li>• High chance of reprisal against host country<sup>9</sup></li> <li>• High originating country support for returns<sup>10</sup></li> </ul>	<p><b>Government:</b></p> <ul style="list-style-type: none"> <li>• Autocracy<sup>7</sup></li> <li>• State stability<sup>8</sup></li> <li>• Low chance of reprisal against host country<sup>9</sup></li> <li>• Low originating country support for returns<sup>10</sup></li> </ul>
<p><small><sup>1</sup>Milner 2009, 25 <sup>2</sup>Milner 2009, 26 <sup>3</sup>UNHCR 2010, 24; Loescher et al. 2008, 229 <sup>4</sup>Loescher et al. 2008, 228 <sup>5</sup>Milner 2009, 14</small></p>	<p><small><sup>6</sup>UNHCR 2010, 26; Kuch 2016, 470 <sup>7</sup>Milner 2009, 34; Loescher et al. 2008, 38 <sup>8</sup>Milner 2009, 26 <sup>9</sup>Milner 2009, 32 <sup>10</sup>Nkundikije 2017</small></p>

Factors supporting open refugee policies support the framework of the 1951 Convention and its protocol. Factors supporting restrictive refugee policies produce states of exception, further alienating refugees from host communities and durable solutions. Thus while the specific effects of various restrictive policies can be difficult to pinpoint in the short term, this paper argues that restrictive policies in general promote the encampment of refugees and their status as *homo sacer*.

### The Role of the UNHCR in States of Exception

There is significant debate over the extent to which the UNHCR is a cause of these states of exception as opposed to merely their administrator. In the example of Kenya responding to

Somali refugees in the 1990s, the Kenyan government initially refused to recognize their refugee status, and was blamed for significant human rights abuses (Loescher et al. 2008, 220). However, rather than building a governmental capacity to respond to refugees in accordance with international law, the Kenyan government sought to outsource responsibility for refugees, a policy which has been termed “abdicationism.” Through its abdicationist policy, the Kenyan government was able to successfully depoliticize the lives of refugees, creating states of exception in a process the UNHCR was overly willing to facilitate and administer. The Kenyan government has since had little incentive to build its own capacity to deal with refugees, and depends on the UNHCR’s administration of the country’s states of exception. This arguably encourages government securitization of refugee issues, as in Kenya the most efficient way to deal with refugees is to round them up and either emplace them in the UNHCR camps or deport them (Loescher et al. 2008, 219). In either case, this paper argues that governments are encouraged to create states of exception for refugees if they are assured the UNHCR will both facilitate the process and accept responsibility for an issue that was previously within the political domain of the state.

The UNHCR has been both praised and criticized for acting as an “extra-territorial entity” fulfilling formerly state functions (Loescher et al. 2008, 137). According to Malkki, “refugees hate host countries and lionize the UNHCR,” with some refugee women even declaring “the UNHCR is my husband now” (Loescher et al. 2008, 131, 132). However, others state that the UNHCR spreads itself thin without a clear demarcation of the limits of its mandate (Loescher et al. 2008, 137). Arendt’s point that there is no higher power than the sovereign and thus no guarantor of human rights underscores the limits of the UNHCR’s mandate: while the

UNHCR can provide material and social freedoms, it does not have the power of states to guarantee rights.

This point is especially important in considering the inherent limitations of the UNHCR and its partner NGOs as non-political actors. No matter how state-like the UNHCR may appear, the apolitical nature of global humanitarian organizations is deeply troubling given that “since the causes of protracted refugees are inherently political, durable solutions must ultimately be sought in the political sphere” (Loescher et al. 2008, 141). Indeed, the inability of humanitarian actors to engage in politics has further depoliticized refugees, not just as *homo sacer* but in the eyes of the global community and the solutions it seeks. The depoliticizing of refugees by apolitical actors is counterproductive to intelligent decision-making, as it “erases the specific, historical, local politics of particular refugees” in favor of the simplistic narrative of a “universal suffering” (Anderson and Malkki 1996, 13).

Thus the process of depoliticizing the refugee extends from the institution of bare life in camps to whitewashing the complex webs of politics and violence that cause them to leave their home countries. Refugees are infantilized, both figuratively by stripping them of their *bios* and rights to work and free movement, and literally – UNHCR and NGO depictions of refugees disproportionately represent children, and women with children (Anderson and Malkki 1996, 10). However, depoliticizing and infantilizing refugees has financial advantages for international humanitarian organizations, often willing to depict refugees in whatever manner proves most convincing to donors. This gives apolitical solutions staying power despite their disadvantages.

As explained in a later chapter, the African state failure events of the 1990s, as well as the impotent Western responses to them, were characteristic of a general political disengagement from the continent by developed countries in the post-Cold War era (Moss 2011, 121). In the

absence of anti-Communist rationales for supporting African governments, aid levels dropped precipitously, permitting governments to fail and enabling PRS. This is not to praise the US and other Western countries for having propped up brutal dictatorships such as Mobutu's Zaire or Barre's Somali. It is only to prove that, given a compelling rationale, the West had been willing to take the necessary risks to engage in the kind of political and military aid necessary to prevent state failure and PRS. Though it sounds counterintuitive, when discussing decisive solutions to humanitarian crises, risky and political "humanitarian interventions" by military forces may be considered the gold standard, and protracted, apolitical solutions may be considered the safe-yet-ineffective alternative.

In fact, even as Africa fell off the West's foreign policy radar in the 1990s, humanitarian intervention in the form of decisive military action became the gold standard for solving other foreign crises, including in Iraq, Bosnia, Kosovo and East Timor (Loescher et al. 2008, 128). The military resolution of each of these conflicts enabled "large-scale and relatively speedy [refugee] repatriation movements to take place." Yet in the post-Cold War era, African humanitarian crises were instead met with apolitical humanitarian aid, which was accused of, among other things, "fueling war economies and of being opaque, selfish and ineffective" (Williams 2011, 253). Under the obfuscating mantra of "African solutions to African problems," the distribution of aid was further abdicated from the level of governments and devolved to a hodgepodge of non-governmental and multilateral actors beholden to yet unable to meaningfully influence the politics of recipient countries (Williams 2011, 254). Without decisive, political solutions to political problems, "humanitarian assistance and development policies in Africa's conflict zones were rarely tied to effective conflict resolution strategies" (Williams 2011, 253). Yet the slow-motion failures of well-intentioned humanitarian aid, as well as the "care-and-maintenance" of

PRS are still far less risky for donor countries than high-profile military or political interventions. This is as true today, in which the high-profile deaths of four US servicemen in Niger cast intense scrutiny over US operations in Africa, as it was in Somalia in the wake of the disastrous “Black Hawk Down” operation of 1993.

### **Perceptions of Refugees as “Free Radicals”**

Within the family of nations, territory and soil are inexorably linked to identity and belonging. This sedentarist view is seen as an invention of the modern nation-state, which encourages us to see those unlinked to their territorial soils as aberrations (Malkki 2001, 61). For one to be “uprooted” from his territory (i.e. forced to leave under duress) is seen as such a potentially traumatic event that displacement is seen as a pathological phenomenon (Malkki 2001, 62). This is as true today in the post-9/11 era as it was after the Second World War, in which refugees were characterized as “amoral, without any sense of personal or social responsibility” (Cirtautas 1957, 70, 73). Without viable homelands to return to, refugees are viewed as potential free radicals unrooted in any moral system. The violent act of uprooting one from his homeland is internalized as a pathology within refugees themselves. This paper concurs with Malkki, who states: “...our sedentarist assumptions about attachment to place lead us to define displacement not as a fact about sociopolitical context but as an inner, pathological condition of the displaced” (Malkki 2001, 64). The pathologization of the trauma of displacement further depoliticizes refugees, reducing complex displacement events to the trope of “universal suffering” mentioned earlier.

While imagining refugees as “uprooted” can lead them to being overly securitized, treated as undue threats, refugees have adopted such language to describe themselves. Liisa Malkki’s book *Purity and Exile* explores the differing identities between Burundian refugees in Tanzania who were isolated in refugee settlements and those who attempted to integrate into Tanzanian cities (Anderson and Malkki 1996). While refugees in the former group vilified the governments of Burundi and Tanzania, seeing their position as a temporary roadblock on their way to eventually overthrow the government in their home country, refugees in the city just wanted to get on with their lives.

While “uprootedness” is indeed a phenomenon among refugee populations, this example suggests that it can be ameliorated through better integration into host communities, and worsened (even becoming a threat) via isolation in camps or restrictive settlements. Thus the relationship between encampment and security is paradoxical – refugees are encamped if perceived as threats, but isolation in camps perpetuates uprootedness and radicalization. It is important to note, however, that radicalization does not necessarily translate to a restoration of *bios* in restrictive camps; for all the radicalism of the settlement refugees in Malkki’s study, their dreams of revolution were never realized (and most were eventually granted Tanzanian citizenship, a peaceful restoration of *bios* that did not come from rebellion).

## **Conclusion**

What researchers call “open” refugee policies support hosting refugees in accordance with the UN’s 1951 Convention Relating to the Status of Refugees – whose goal is to restore refugees the protections of state – in effect restoring their *bios*, or political life. In promising

refugees not only protections for their safety, but freedom of speech, movement and work, the Convention operates by preserving both refugees' physical selves (*zoè*) and *bios* for eventual return to their countries of origin.

Restrictive refugee policies chip away at the freedoms guaranteed by the Convention, increasingly reducing refugees' *bios* and leaving them in bare life, or *homo sacer* devoid of political life. However, de jure restrictive policies alone are not capable of separating refugees' *zoè* and *bios*, nor is this compatible with the principles of a functioning nation-state. Bowing to social, market and governmental forces including the need to appear legitimate and sovereign, policymakers in host countries institute restrictive refugee policies by leveraging refugee camps as makeshift states of exception, legally enforced places of lawlessness.

As administrator of the camps, the UNHCR is accused of facilitating the production of states of exception. In acting as a quasi-state providing refugee services, the UNHCR enables refugee-hosting countries to abdicate their responsibilities under international law. But while the UNHCR may be able to provide for refugees' physical needs, it is unable to provide durable protections of state, and is thus a poor substitute for refugees seeking full rights of citizenship. States reducing refugees to *homo sacer* is not only detrimental to refugees' freedoms, but reduces states' impetus to act in solving PRS. PRS invariably have political causes, but these causes cannot be addressed if refugees are considered non-political beings under the UNHCR's "care-and-maintenance" model. Finding solutions to PRS requires significant political will, but UNHCR warehousing of refugees effectively subsidizes the cost of maintaining PRS, making it "cheaper" than the political and financial costs of solving them.

Host countries use the issue of security to justify their warehousing of refugees. While refugees are perceived as "uprooted" free radicals with potential to cause instability in weak host

governments, refugees' radicalism paradoxically increases in proportion to their isolation. Malkki's case study of Burundian refugees in Kigoma, Tanzania suggests that refugees empowered to be self-sufficient just want to get on with their lives, while isolated refugees harbor resentment against both their originating and host countries. The literature cited here sets the stage for understanding historical solutions to PRS by showing not just that refugee policies have become more restrictive, but how this restrictiveness takes shape, and why solutions which have worked in the past are not necessarily practicable today.

## Analyzing Historical Solutions to PRS

### **Introduction**

Within the UN's definition of the East African sub-region, plus the DRC, nine out of 19 countries have generated protracted refugee populations since their independence ("UNHCR Population Statistics - Data - Overview" n.d.). As all of these refugee populations were caused in large part by armed conflict, it follows that the resolution of armed conflict is the prerequisite for any durable solution to PRS. But merely correlating the end of armed conflict with drops in protracted refugee populations says little about how these conflicts began and ended, and why some resolutions proved more durable than others. To understand historical solutions to PRS requires an understanding of the conflicts that caused them, and the roles refugees played in their resolutions.

Of the nine East African countries that have generated protracted refugee populations, only Mozambique and Uganda no longer have them. Both of these countries' refugee situations were solved by wars in which refugees played crucial roles as part of broader political frameworks. This section first explores the different frameworks used by the UNHCR to solve PRS, concluding that solutions will always be political and must tie solving PRS with broader political goals. It then attempts to use conflict as a prism for understanding the historical extents to which East African refugees have been politically engaged in solving their PRS in the absence of effective UNHCR frameworks. It argues that the perception of refugees as apolitical, passive beings is a fairly recent invention, ungrounded from historical solutions to PRS. This section

does not advocate for conflict, but only uses its relationship with refugees to counter assumptions that fuel the current status quo.

### **Contextualizing Refugees in Broader Political Frameworks**

Loescher et al identify two main types of multilateral refugee response frameworks (Loescher et al. 2008, 175–76). The *political engagement model* seeks to build long-term political support for solving conflicts, with PRS situated as one of many issues to be solved. The *programmatic model* seeks to establish a series of programs to ameliorate PRS as an isolated issue, with funding secured in a small number of high-profile summits. The political engagement model showed great success in its major applications in Central America (CIREFCA, 1987-1994) and Southeast Asia (Indochinese CPA, 1988-1996). However, the programmatic model, which was most significantly applied to solving African PRS, has largely failed.

The International Conferences on Assistance to Refugees in Africa (ICARA) were two UNHCR-facilitated conferences convened in 1981 and 1984 to build dialogue between African host countries and wealthy donor countries. However, divergent goals hamstrung the conferences, with African host countries asking for financial burden-sharing, and wealthy countries demanding to see long-term plans leading to durable solutions before writing checks (Loescher et al. 2008, 166). As these conferences amounted to one-off pledge drives, differences between donor and host countries could not be meaningfully resolved, and calls for aid went underfunded and earmarked with no parties satisfied.

The UNHCR's 2004 Comprehensive Plan of Action (CPA) for Somali Refugees was nonetheless based on the same failed programmatic model of the ICARA initiatives (Loescher et

al. 2008, 177). The Somali CPA sought to work with countries hosting Somali refugees to create specific projects to submit for funding in Geneva. The lack of UNHCR priority paid to this CPA, as well as the lack of any uniting political framework led the project to lose momentum and be indefinitely postponed by 2006.

However, the International Conference on Central American Refugees (CIREFCA) of 1989, though not involving African countries, still serves as a successful model that may be applied in East African PRS. Alexander Betts of Loescher et al states that CIREFCA succeeded due to the following principles of the program, which starkly contrast with the programmatic solutions attempted in African countries (Loescher et al. 2008, 178–81):

- The issue of PRS was not dealt with in isolation, but incorporated into other state interests such as security, migration, peacebuilding and development.
- Linkages between the UNHCR and other UN agencies enabling the mobilization of all available resources.
- The long-term devotion of UNHCR leadership to CIREFCA.
- Active participation of host, originating and regional governments.
- The location of the CIREFCA process in the region of concern.

The purpose of the 1989 UNHCR-facilitated conference was not to immediately solve or fund Central America's PRS and internally displaced people (IDP) issues, but to build political momentum for long-term planning (Loescher et al. 2008, 168). In fact, conference planners warned that discussing fundraising at such an early phase could doom the initiative. CIREFCA eventually found durable solutions for nearly 150,000 refugees, most via repatriation.

## **War as an Example of Refugee Politicization**

Yet there have been few if any examples in East Africa of effective multilateral efforts to solve PRS via the political engagement model. In the absence of these efforts, political solutions to East African PRS have intertwined refugees and rebel groups, to both refugees' benefit and detriment. In discussing the relationship between rebels and refugees, it is first important to note that neither the UN's 1951 Convention nor the OAU's 1969 Convention afford refugee status to those who take up arms against their host or originating states. Second, the securitization of refugees as potential threats for both originating and host countries has become a convenient tool for further marginalizing refugees, the vast majority of whom do not participate in armed conflict (Milner 2009, 75). To avoid potentially vilifying the vast majority of those with refugee status under international law, this paper will use the term "exiles" to refer to a variably mixed group of refugees and rebels stemming from the same political cause. When refugees are discussed as having participated in warfare, their refugee status is ascribed as only being valid until performing actions which would remove them from the protections of international refugee law.

The conflicts that cause PRS are invariably political, and rebel groups may become involved with PRS as outgrowths of the same conflict (Loescher et al. 2008, 143). Indeed, in 1963 an OAU subcommittee explicitly advocated arming refugees of anticolonial struggles as a solution to the PRS caused by these conflicts (Milner 2009, 23). Newly independent African states, seeking to gain international legitimacy and redirect scrutiny from their domestic affairs, hosted refugees and rebels alike from anticolonial wars, risking cross-border incursions from South Africa and Portuguese-controlled territories (Milner 2009, 10, 28).

Eventually, East African countries' strategy of hosting rebels alongside refugees paid off with the end of Portuguese rule in 1975, Rhodesian rule in 1980 and South African apartheid in 1994. These victories enabled the voluntary repatriation of 500,000 refugees from Portuguese territories alone, and altogether constituted one of the most massive repatriation movements in post-independence Africa (Milner 2009, 25). However, even as anticolonial rebels were lauded for their struggles and independent African governments took pride in hosting refugees from such conflicts, exiles from intra-African conflicts were generally treated with suspicion (Milner 2009, 20).

Given their contrived colonial-era borders, weak institutions and autocratic rule creating a climate of state insecurity, recently-independent African governments were only comfortable maintaining refugees' political lives insofar as their politics supported African state legitimacy. But as civil war became more prevalent throughout the continent, refugees' political contentions with individual African states threatened to undermine the sovereignty of African states at large. The maintenance of African state legitimacy thus demanded the depoliticization and enforcement of states of exception for refugees from civil wars, while anticolonial refugees tended to be granted asylum in much less restrictive circumstances (Milner 2009, 20).

Tanzania's decision to host ousted Ugandan President Milton Obote and 20,000 other exiles from Idi Amin's 1971 military coup is the exception that proves the rule (Honey 1979). While African notions of state sovereignty generally persisted even after coups, Obote, as Uganda's founding father, symbolized the legitimacy of the post-independence African state even more so than state sovereignty under Amin (Williams 2011, 194; Honey 1980). Tanzanian President (and fellow founding father) Julius Nyerere's decision to aid Obote and his exiles was

therefore made by the same calculus that otherwise portrayed other refugees as potential threats against state legitimacy.

This PRS and its resolution via the Kagera War of 1978-1979 led to a chain reaction throughout East Africa, in which armed exiles both ameliorated and caused PRS. Hoping to gain experience for a future invasion of their home country, Rwandan Tutsi exiles joined future Ugandan President Yoweri Museveni in the Ugandan Bush War against the reinstated President Obote (Mcknight 2015, 26). Future Rwandan President Paul Kagame, a Tutsi refugee himself, became a senior officer in Museveni's army. After Museveni took power, the prevalence of Rwandan rebels and refugees in his country and administration led to popular challenges to the legitimacy of his government, leading him to pressure Rwandans to return to their originating country. The invasion of Kagame's RPF rebel group into Rwanda escalated the tensions that led to the Rwandan genocide of 1994, in which hundreds of thousands of Tutsi and moderate Hutu were killed or displaced. Kagame accused Zairian President Mobutu Sese Seko of being unable to control Hutu exiles in his country's Eastern regions, whom Kagame perceived as a threat to Rwandan security. With the weak Zairian state unable or unwilling to suppress Hutu rebels in its East, Kagame invaded Zaire, crushing Hutu rebel groups and ousting Mobutu in the First Congo War. These massive East African state failure events, in which refugees played key roles, set a powerful negative precedent for refugees in the eyes of the region's political leaders. Case in point was Tanzania's decision to repatriate – many say refoul – over half a million Rwandan refugees in 1996, for fear of conflict with the Rwandan state (“International Cooperation in Forcing Rwandese Refugees Back from Tanzania - Democratic Republic of the Congo | ReliefWeb” 1996).

This is by no means an exhaustive nor original history of East African conflict. However, it exposes crucial and perplexing issues in modern-day discussions of durable solutions to PRS. War does not fit within the UNHCR's three durable solutions, and this paper absolutely does not advocate for war as a solution to PRS. However, the fact that attempts to solve East African PRS, including successful ones, have involved warfare challenges the present-day status quo in multiple different ways.

First, warfare can be seen as an extreme exercise of relative political agency by refugees. *Relative*, because it must be compared with other options refugees have at their disposal; possessing *political agency* insofar as it enables refugees to determine their own actions regarding their circumstances. Warfare, while extreme, must be seen as a historical yardstick of the political force with which solutions to PRS were attempted. This suggests that, historically, attempts to solve PRS were viewed largely if not entirely in political, rather than financial terms.

Second, if engagement in warfare can be said to be the furthest extent to which refugees may exercise relative political agency, the housing of refugees in restrictive circumstances resembling states of exception is an extreme constituting the complete absence of political agency. In discussing historical answers to PRS, attempts have ranged from totally concentrating refugees into camps devoid of political life to handing them weapons to fight in their originating countries. There is therefore a spectrum of political agency as exercised by refugees in various PRS throughout history.

Third, political actors in PRS are limited in their capacities to deal with refugees and other exiles along this spectrum. For instance, the UNHCR's mandate as a non-political entity prohibits it from empowering refugees with political agency capable of contradicting national sovereignty. This obviously precludes the UNHCR from sponsoring a war to end a PRS, but also

from engaging in many of the political battles necessary to instill the pressure necessary to break the status quo. As stated by Newman and Troeller,

“There is a gap between the humanitarian domain and the political domain, with actors in the former sometimes endowing their principles with a ‘sacred’ aura in opposition to the ‘profane’ arts of negotiation and compromise practiced by actors in the latter” (Loescher et al. 2008, 380).

In summary, whereas refugees used to be considered as important political actors within broader conflicts, political trends have since relegated refugees to their own, isolated realm of policy, administered within the limited scope of the UNHCR as opposed to the expansive scope of governments and revolutionary movements. Far more than preventing them from becoming actors in conflict, this securitization of refugees has cut them off from playing any meaningful role in their own durable solutions.

The political engagement model of solving PRS becomes less feasible in proportion to refugees’ isolation, both individually and in the policy realm. When large refugee populations become *homo sacer* unable to contribute to the political calculus of East African states, the question is then not *how* to solve PRS, but *why* states would be interested in solving PRS in the first place. These *why* factors are increasingly rare, and even recent successes in solving PRS, such as Tanzania’s naturalization of 1972 Burundian refugees, are not indicative of any deviation from this trend.

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## Integration in Tanzania

In 2014, Tanzania made the historic decision to grant citizenship to 162,000 Burundian refugees who had fled their country's 1972 genocide (UNHCR 2014). While completely excluding Burundian refugees fleeing later violence, and so continuing to leave Burundi with a large protracted refugee population, this decision nonetheless effectively ended the PRS for Burundi's 1972 group of refugees in Tanzania. However, the degree to which this example is applicable to any other PRS is extremely debatable, and it may be best interpreted as an exception that proves the rule of growing restrictiveness in East African refugee policy.

This decision can be best seen as a holdover from the more open Cold War era of refugee politics. Amelia Kuch identified other reasons for Tanzania's openness to Burundi's 1972 refugees, summarized as follows (Kuch 2016, 470):

- Tanzanian President Julius Nyerere's genuine commitment to ideals of pan-Africanism.
- Synergies with Tanzania's villagization policy, characterized by massive relocations of people into collectivized agricultural settlements.
- An abundance of undeveloped arable land for refugees to cultivate and boost the Tanzanian economy.
- Tanzania's relative economic stability.
- The autocratic nature of the Tanzanian state preventing xenophobic sentiment.

Broader political trends may have also been at work. Though Burundi's 1972 genocide was a domestic conflict, the colonial origins of Burundi's ethnic conflict may have made the

acceptance of refugees an indictment of colonialism rather than the African state. In any case, the 1972 group of Burundian refugees was received under a relatively open refugee policy enabling them to be self-sufficient and relatively self-governing. While their isolation in remote settlements, restricted movement and limited rights bear characteristics of a state of exception, the refugees' modest freedoms nonetheless permitted them a degree of agency that enabled their development as communities. Thus the decision to naturalize the 1972 group in 2014 was not reflective of modern refugee policy or a greater trend toward integration as a durable solution, but rather decades of development started under completely different political circumstances.

There are arguably three lessons to gain from this. First, the majority of refugees who have spent decades in host countries prefer to become citizens of the host country rather than voluntarily repatriate (Kuch 2016, 468). Second, depending on local circumstances such as access to undeveloped arable land and economic opportunities, open refugee policies permit refugees to be assets rather than burdens (Graveline and Noyes 2017, 2). This undercuts host countries' burden-sharing rhetoric based on refugees restricted to camps devoid of economic opportunity. Third, the recent naturalization of 1972 Burundian refugees is not indicative of any trend toward further integration or naturalization of refugees in East Africa.

### **Integration in Uganda**

The case of Tanzania differs significantly from Uganda, which hosts more refugees than any other country in Africa, maintaining an open refugee policy that aims to take full advantage of the economic benefits of hosting refugees (Linda Givetash 2015). Since independence, Uganda has housed refugees in "zonal" settlements instead of camps. Similar to Tanzania's

treatment of 1972 Burundian refugees, zonal settlement differ from camps in encouraging self-sufficiency through economic opportunities such as farming, and maintaining more open relations to the surrounding region, known as a refugee-affected area (Mulumba 2014, 5). Since the country's 2006 Refugees Act, Ugandan refugees have also had significant freedom of movement and commerce throughout the country (Ahimbisibwe 2016, 743).

Despite the abundance of studies on the openness of Uganda's refugee policy, there is much less information on why this policy exists in Uganda while other East African countries have become more restricted. Some scholars say this is because Uganda has a long tradition of welcoming refugees; the modern Ugandan state was founded by refugees and rebels who had fled to Tanzania, and Ugandan President Yoweri Museveni was himself a refugee. However, African countries have historically been stereotyped as having cultures naturally open to refugees, and this may simply be an outgrowth of that stereotype, one which is nonetheless insufficient to explain the continent's shift toward restrictive policies. Additionally, while Uganda may see the economic benefits that refugees provide to host countries, this would not explain why Uganda is alone in doing so while other East African countries continue to opt for economically inefficient encampment policies over zonal settlements.

The answer perhaps lies in the autocracy and longevity of Museveni's rule, traits associated with more open refugee policies (Milner 2009, 34). Ruling since 1986, Museveni is the only East African head of state in power since the Cold War. Though Uganda ranks just below Tanzania and Kenya in democracy indices, the duration of Museveni's regime, its Cold War origins and his personal history as a refugee indicate his autocratic rule as the differentiating factor for Uganda's open refugee policy (The Economist Intelligence Unit 2017, 7). Museveni's favorable refugee policies have been further enabled by the low population density of Uganda's

refugee-hosting Northern region, the region's relatively abundant arable land and refugees' self-sufficiency (Taylor et al. 2016, 3).

Therefore, the two most successful recent examples of refugee integration in East Africa, of 1972 Burundian refugees in Tanzania and Uganda's open refugee policy, are holdovers from the Cold War era facilitated but not originating in the countries' favorable geographic and economic circumstances. And while Tanzania's integration of 1972 Burundian refugees was specifically a one-time act, Uganda's generous policy also shows signs of fraying. Struggling to host over 1.3 million refugees primarily from recent conflicts in South Sudan and the DRC, the UNHCR has only raised five percent of its 2018 budget for Ugandan operations as of February 13 (UNHCR 2018c, 1). Although in theory Uganda's refugees will become self-sufficient, the initial costs of settling massive influxes of refugees is putting a significant strain on available resources that is not being met by the international community (Hattem 2017).

The timing of Uganda's refugee crises could not be worse, as Tanzania was in the midst of a pilot program to study the benefits of integrating refugees via the UNHCR's Comprehensive Refugee Response Framework (CRRF), which seeks to tie refugee aid with aid to local hosting communities. Between September 2016 and June 2017, Tanzania worked to develop and implement a CRRF pilot program that sought to better integrate its refugees as practiced in Uganda (UNHCR 2017). However, in late 2017 Tanzanian regional and district commissioners on a trip to Uganda to learn from its refugee program were not convinced of its benefits (UNHCR 2018a, 3). Not coincidentally, the UNHCR reported a 61 percent funding shortfall from its target for Uganda operations in 2017 (UNHCR 2018b).

Though Uganda has been historically hailed as a model refugee host country, even its refugees' capacity for self-sufficiency is not enough to compensate for the lack of burden-

sharing for initial refugee settlement costs. With the UNHCR's 2018 funding shortfall for Uganda on track to repeat the failures of 2017, Uganda's settlement model is imperiled. Moreover, this paper suggests that Uganda's open refugee policy has only made it this far due to the longevity and autocracy of the Museveni regime, and that Uganda's next leadership change will see Uganda becoming as restrictive as its neighbors. Just as Tanzania's integration of 1972 Burundian refugees was based on an anachronism, so is Uganda's open model. Despite the benefits to both host countries and refugees for open, settlement-based refugee policies, the future of refugee integration as a durable solution to PRS looks grim.

## **Conclusion**

Of the durable solutions to East African PRS that history offers, few seem replicable today. The political engagement model and settlement-based integration strategies are proven solutions lacking the requisite political will to be realized. While incorporating refugees as political actors in solutions to their PRS has led to great success in Central America with CIREFCA, Southeast Asia with the Indochinese CPA and East Africa during Cold War and independence conflicts, refugees have become increasingly seen as liabilities to weak states whose governments face insecurity from democracy and economic liberalization.

As products of state failure, refugees challenge the legitimacy of East African states by their very existence; their acceptance is therefore perceived as a rebuke to both the originating and host countries. This is true when refugee situations give rise to militarized exiles who fight their originating countries, such as occurred in the Kagera War, Rwandan Civil War, and Congo Wars and cross-border skirmishes throughout the region. But by their uprootedness refugees

threaten the legitimacy of East African states even when wholly peaceful, as with present-day Burundian refugees in Tanzania.

This gives rise to a paradox, in which the solution to PRS (as ever) is restoring refugees their political agency, but even this threshold of politicization is seen as a threat to host and originating countries. The status quo, though perpetually unstable, is more acceptable to East African governments than the instability risked in a determined effort to solve PRS and achieve durable solutions. History provides answers, but no steps to achieve them.

## **Modern Repatriation Politics in the Burundi-Tanzania PRS**

### **Tanzania's Political Motivations in the Burundi-Tanzania PRS**

The following is the same list of factors affecting refugee policy as shown in the literature review. Highlighted are the criteria which best describe Tanzania's political environment regarding its Burundian PRS, according to the nature of the PRS, the author's observations in-country and economic and political indices (Mbani 2018; The World Bank 2016; "2017 BURUNDI REGIONAL REFUGEE RESPONSE PLAN Funding Snapshot as of 05-Dec-17 Funding Level" 2017; Okiror 2017; AFP 2017; "Economic Data and Statistics on World Economy and Economic Freedom" 2013). Despite the limitations of such a subjective indexing, this chart helps to break down Tanzania's refugee policy into political considerations which may be addressed individually.

SUPPORTS RESTRICTIVE  
REFUGEE POLICY

SUPPORTS OPEN  
REFUGEE POLICY



SUPPORTS RESTRICTIVE REFUGEE POLICY	SUPPORTS OPEN REFUGEE POLICY
<p><b>Civil Society:</b></p> <ul style="list-style-type: none"> <li>Refugees from domestic conflict<sup>1</sup></li> <li>High refugee population<sup>2</sup></li> <li>Low perceived refugee suffering</li> </ul> <p><b>Market:</b></p> <ul style="list-style-type: none"> <li>Low donor burden-sharing<sup>3</sup></li> <li>High conflict duration (donor fatigue)<sup>4</sup></li> <li>High economic liberalization<sup>5</sup></li> <li>Lack of uncultivated arable land<sup>6</sup></li> </ul> <p><b>Government:</b></p> <ul style="list-style-type: none"> <li>Democracy<sup>7</sup></li> <li>State instability<sup>8</sup></li> <li>High chance of reprisal against host country<sup>9</sup></li> <li>High originating country support for returns<sup>10</sup></li> </ul>	<p><b>Civil Society:</b></p> <ul style="list-style-type: none"> <li>Refugees from liberation/anticolonial struggles<sup>1</sup></li> <li>Low refugee population<sup>2</sup></li> <li>High perceived refugee suffering</li> </ul> <p><b>Market:</b></p> <ul style="list-style-type: none"> <li>High donor burden-sharing<sup>3</sup></li> <li>Low conflict duration (donor fatigue)<sup>4</sup></li> <li>Low economic liberalization<sup>5</sup></li> <li>Abundance of uncultivated arable land<sup>6</sup></li> </ul> <p><b>Government:</b></p> <ul style="list-style-type: none"> <li>Autocracy<sup>7</sup></li> <li>State stability<sup>8</sup></li> <li>Low chance of reprisal against host country<sup>9</sup></li> <li>Low originating country support for returns<sup>10</sup></li> </ul>
<p><sup>1</sup>Milner 2009, 25 <sup>2</sup>Milner 2009, 26 <sup>3</sup>UNHCR 2010, 24; Loescher et al. 2008, 229 <sup>4</sup>Loescher et al. 2008, 228 <sup>5</sup>Milner 2009, 14</p>	<p><sup>6</sup>UNHCR 2010, 26; Kuch 2016, 470 <sup>7</sup>Milner 2009, 34; Loescher et al. 2008, 38 <sup>8</sup>Milner 2009, 26 <sup>9</sup>Milner 2009, 32 <sup>10</sup>Nkundikije 2017</p>

By and large, Tanzanian refugee policy falls on the restrictive side of this spectrum. The only two of these factors supporting open refugee policies are Tanzania's state stability and the low chance of the Burundian PRS leading to interstate conflict. However, both of these criteria are still highly debatable. While Tanzania is a relatively stable country that has historically proven capable of integrating large refugee populations, this stability has enabled a democracy which has grown concomitant with its xenophobia toward refugees (Kuch 2016, 471).

And though Burundian refugees in Tanzania have not proven to support conflict in their originating country, it was not long ago when Burundi launched cross-border raids against these refugees (BBC 2002). Moreover, members of the Imbonerakure militia, loyal to the Burundian president Pierre Nkurunziza, have infiltrated Tanzanian refugee camps to sow fear and disorder amongst Burundian refugees (Sperber 2016). While this is not an overt attack on the Tanzanian state per se, it increases the perception of refugees as bringing security risks into the country.

Therefore, even Tanzania's state stability and the absence of reprisal against the Tanzanian state itself are highly tenuous, leaving Tanzania with virtually no political reason to support refugees.

### **Burundi's Political Motivations in the Burundi-Tanzania PRS**

Burundi's political motivations as an originating country are harder to pinpoint. At the surface, it may seem to benefit the Burundian state to be free from potential dissidents, and thus against its interests to promote refugee returns. Furthermore, while refugee returns have historically been key elements of peace treaties to end wars in originating countries, Burundi's current conflict is one-sided. Though there are over 430,000 Burundian refugees, the largest rebel group, the DRC-based Popular Forces of Burundi (FPB), is estimated to have only between 300-500 fighters (*Daily Nation* 2017). By-and-large, Burundian refugees are not organized into political or armed groups that may constitute a security threat. This means that nothing is forcing the Burundian government to negotiate a peace process, reducing the impetus for durable solutions for refugees.

So it seems counterintuitive that Burundi's president has been adamant in encouraging refugees to repatriate. On 20 July 2017, President Nkurunziza left Burundi for the first time since the 2015 elections to visit Tanzania and encourage Burundian refugees there to return home (Amnesty International 2017b, 5). This visit was successful in encouraging Tanzanian President John Magufuli to push more aggressively for repatriation, with Magufuli stating "I urge Burundians to remain in their country, I have been assured, the place is now calm" (Okiror 2017). However, refugees continued to flee violence in Burundi, and the UNHCR remained adamantly opposed to encouraging repatriation (UN News 2017).

There is little literature on why a country which persecutes its own people would urge them to return home. However, just as countries have historically hosted refugees based on their benefits to state legitimacy, countries may demand their refugees return for the same reason. In his constitution-defying move to run for a third term in office, Nkurunziza suffers from illegitimacy that can only be ameliorated by appearing to run an effective state (Amnesty International 2017a). Although his claims of peace in Burundi are demonstrably untrue, Nkurunziza must make these statements in order to appear as a diplomatic, legitimate head of state. Having secured Magufuli's backing, it appears this strategy is working.

The politics of the East African Community (EAC) may also contribute to the rapport between Nkurunziza and Magufuli. Burundi depends on the port of Dar es Salaam for its imports and exports, a fact Tanzania has leveraged to enlist Burundi as an ally in EAC political battles against Kenya, Rwanda and Uganda (Institute for Security Studies 2016, 2). Nkurunziza's legitimacy is therefore important to both his administration and Tanzania, contributing to Tanzania's firm agreement with Burundi's demands for repatriation.

However, encouraging repatriations as a show of legitimacy is risky, given the failure of the previous repatriation effort due to political instability, land disputes and poverty. This begs the questions as to whether Nkurunziza is sincere in his demands for refugees to repatriate, and if this repatriation will constitute a durable solution. One way of analyzing this question is by assessing whether or not a mass repatriation of refugees is feasible.

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## **Can Burundi Absorb Returnees? Does it Matter?**

Given large population growth amongst its refugee populations abroad, Burundi may never realistically be able to sustainably resettle its refugees as Nkurunziza has called for. Despite being the third most densely-populated African country at 403 people per km<sup>2</sup>, about 90 percent of Burundians depend on land-extensive agriculture for their livelihoods, including 77 percent depending on subsistence agriculture (USAID 2017). Moreover, only about 47 percent of Burundi's land is arable, further restricting the land available to refugees, who are mostly farmers themselves (World Bank 2014). If not a direct cause of the 2015 wave of Burundian refugees, land scarcity and disputes at least greatly facilitated the creation of a perpetually liminal refugee population unable to fully reintegrate into Burundian land and society for lack of space.

Throughout its history, conflict in Burundi has been intimately associated with access to scarce land. Between 2002 and 2013, repatriated Burundians struggled to integrate into a country which seemed unable and unwilling to absorb them. In a darkly prescient study entitled "Two People Can't Share the Same Pair of Shoes," researchers studying repatriated Burundians in 2009 stated the following:

"What is clear, however, is that Burundi is currently in a fragile transition from decades of war to one of stability and peace, and the way in which land is distributed is a critical indicator of the success and durability of this transition" (Hovil 2009, 36).

Returning refugees, often lured by the Burundian government with promises that they would receive their ancestral lands, found that during their exile their lands had been

appropriated by the government or other farmers. Returnees found themselves landless, unable to petition the government for their land back and threatened by the communities which had appropriated their lands.

Although precise records do not exist, UNHCR and NGO staffers believe that the majority of Burundian refugees in Tanzania from the 2015 wave had already been refugees at least once before. Given no change in Burundian land policy since the 2002-2013 repatriations, there is no reason why those repatriated since 2015 would be any more durably integrated in Burundi. The question remains how Nkurunziza believes Burundian refugees can be repatriated without leading to further crises.

One possibility is that the outcome for refugees does not matter, so long as Nkurunziza (and now Magufuli) can continue to talk tough on refugees, characterizing them as responsible for their own misfortunes. Thus the dialogue shifts from questioning the legitimacy of a government to challenging the legitimacy of one's refugee status. This is reflected by Tanzania's 2017 decision to revoke prima facie refugee status for those fleeing Burundi, meaning they will no longer immediately be recognized as refugees and must go through a more complicated refugee status determination process.

Labelling refugees as illegitimate not only redirects scrutiny that would otherwise go to governments, but justifies poor, non-durable outcomes to repatriation. Repatriated Burundian refugees, lured by assurances of land and assistance, have complained of effectively becoming second class citizens in their home country, cut off from land and government services (Hovil 2009, 34). Yet they themselves are often the subject of ire for chaotic reintegration schemes, even receiving death threats from neighbors, while government demands for repatriation receive less scrutiny.

Maintaining such a permanently liminal refugee population could also benefit the Burundian government by enabling it to keep tabs on (and imprison) dissidents, and reducing the likelihood that rebel groups form outside its borders. Regarding the former, though it is illegal under international law to return a refugee to a country in which they face threats due to their political beliefs, widescale demonization of refugees and pushing for returns increases the likelihood that those who face threats will be swept up in waves of returns, repatriated with varying degrees of voluntariness. Regarding the latter, though rebel opposition is currently small, the FPB has actively recruited from Burundian refugees in the DRC, and the longer refugees remain in exile, the more opportunities there are for opposition groups to coalesce (Loescher et al. 2008, 73; Anderson 2017).

Lastly, it is possible that the coming wave of repatriations may simply be re-shuffled from Tanzania to other host countries, most likely Rwanda and Uganda. Given the lack of biometric registration for current refugees, it would be difficult to prove how many arrivals in these countries had previously been encamped in Tanzania. However, the previously mentioned difficulties in reintegrating refugees in Burundi suggest that returnees would have to go somewhere, with Rwanda and Uganda being likely destinations.

Though during his visit to Tanzania Nkurunziza called for Burundian refugees in general to return, he has made no such high-profile visit to Rwanda or Uganda to make the same appeals. Rwanda has yet to revoke *prima facie* refugee status for fleeing Burundians, and while Uganda revoked their *prima facie* status in 2017, it still regularly grants them asylum and generous freedoms (UNHCR 2017, 1). Additionally, neither Rwanda or Uganda have pressed for tripartite repatriation of Burundian refugees. Tanzania is thus positioned to pressure its refugee population to leave while other countries are still accepting them, which may lead to no net reduction in

refugee populations. Since this theory cannot be substantiated with current data, researchers must take advantage of the rollout of biometric refugee registration to track individual refugee movements between camps and countries.

## **Conclusion**

Consistent with history, the politics governing refugee policy in the Burundi-Tanzania PRS seem to concern all but the interests of refugees themselves. In looking at the social, market and governmental forces that determine the openness of countries' refugee policies, we see that Tanzania matches most of the criteria associated with more restrictive policies. The size, duration and little perceived suffering of this PRS, in addition to its lack of funding and high originating country support for returns, sets the stage for a refugee policy characterized by restrictive encampment and hasty repatriation.

Burundi's motivations as an originating country are more difficult to ascertain or prove. However, questions of state legitimacy are paramount, as Nkurunziza believes pressing for refugees to return and "rebuild the country" can build his reputation as a conciliatory, legitimate head of state. Burundi's relationship with Tanzania has proven useful, as Tanzania has an interest in supporting Nkurunziza as an ally in the EAC, while his appeals for repatriation justify Tanzania's tough stance on refugees.

Though both countries encourage repatriation, this leaves the question of what makes the current tripartite repatriation plan any more durable than the most recent one, which took place between 2002-2013 and failed upon the 2015 crisis in Burundi. The same issues of political instability, land disputes and poverty await repatriates from the most recent wave of refugees.

This allows for the possibility that repatriates will continue to remain a liminal population, at risk of exile or internal displacement at the outset of any political turmoil. It is also possible that returnees will merely be reshuffled to Uganda or Rwanda. Regardless of the true intent and strategy behind Nkurunziza's calls for refugees to return, the durability of the current tripartite repatriation scheme is not a primary concern, and it appears poised to repeat the same failures of the last effort.

Fortunately, the UNHCR is implementing biometric refugee registration procedures, which will be able to better track refugee movements and shed light on downstream effects of refugee policies (UNHCR 2018). In speaking with UNHCR staffers, the author was surprised to learn that no accurate statistics existed that could determine how many times an individual had been registered as a refugee, or where they had been registered previously. If Burundi's refugee policy intentionally or unintentionally creates a permanently liminal refugee population, or merely reshuffles refugees to its neighbors, this must be known and prevented.

## **Conclusion: Compromise Solutions to the Burundi-Tanzania PRS**

### **Introduction**

In discussing solutions to PRS, literature often ignores governmental actors, dismissing them as ineffectual and predatory (Milner 2009, 5). However, even the weakest states hold considerable veto power over any internationally-backed initiatives within their borders. As researcher Cassandra Veney states,

“...even in poor countries the state is more than able to exercise sovereignty by deciding who to let in, who to keep out, how to treat those who are let in, and who to kick out when they are no longer wanted” (Veney 2007, 65).

As discussed in a previous section, there are many reasons why states are reluctant to restore refugees their full rights of citizenship. However, even modest initiatives to make PRS bearable, or set the stage for durable solutions in the future, can be derailed by a single “no” from the involved state.

In the Dadaab camp in Kenya, an innovative method for building cheap and sturdy housing for refugees was scrapped when government inspectors noticed they were better than the houses of average Kenyans (Rawlence 2016, 113). In Burundi, President Nkurunziza rebuffed an African Union (AU) initiative to send peacekeepers to the country to provide security and prevent atrocities, damaging the AU’s credibility and enabling the present refugee crisis (McCormick 2016). And in Tanzania, the government recently cancelled a relatively successful

UNHCR effort to support refugee-hosting communities and build cooperation between locals and refugees (UNHCR 2018b, 3).

Even trying to improve PRS indirectly, or by setting a modest course toward durable solutions in the future, is no guarantee that an involved government will permit the effort to continue. Governments' ability and tendency to say "no" to international initiatives in-country is as much a function of their need to demonstrate sovereignty and legitimacy as it is about the particulars of any initiative. Governments' relative ease of establishing refugee policy through veto rather than positive efforts reinforces the permanent liminality of refugees in PRS, in which the duration of the situation does not build toward long-term projects for durable solutions or even improved living conditions.

It is not feasible to expect the political environment to change in favor of open refugee policies and political engagement in the near future. The two glimmers of hope for open refugee policies in East Africa, Uganda's settlement policy and Tanzania's naturalization of 1972 Burundian refugees, are relics of past refugee policies that do not represent a general trend toward openness. The spectrum of solutions to this PRS is truncated, and feasible "solutions" must focus on making the best of a bad situation, hopefully planting the seed for durable solutions further in the future. In the absence of durable solutions for refugees, solutions themselves, however small, must become "durable" – against turbulent politics, budget cuts and outright cancellation by involved governments.

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## Improving Repatriation from the Host Country

Repatriation is the preferred solution for the vast majority of refugees in PRS (UNHCR 2004a, 9). However, as established in previous sections, repatriation as practiced today in the Burundi-Tanzania PRS is not durable, and follows the same logic that led to the failure of the 2002-2013 repatriations. Nonetheless, given that Burundi and Tanzania continue to press for repatriation, steps must be taken to reduce the harm done by these fundamentally non-durable programs. While the UNHCR has published significantly on how to smoothly facilitate repatriations, including its 264-page *Handbook for Repatriation and Reintegration Activities*, these solutions must be adapted and interpreted for use in restrictive and uncertain political environments (UNHCR 2004a, 6). Short-term solutions should be built under the presumption that they could be cancelled at any time, and so must minimize potential damage to people and investment. Compromise solutions to improve repatriation outcomes should:

- Work within current restrictive refugee policy.
- Require little planning or investment.
- Be able to be cancelled at a moment's notice with few direct negative repercussions to people, mission and investments.

The first steps to minimize the harms of non-durable repatriations can be taken while refugees are still encamped in their host country. Through pamphlets, workshops and “go-and-see visits” to originating countries, the UNHCR has always sought to provide refugees with as much information as possible regarding potential returns (UNHCR 2004a, 28). Though all of

these measures are already implemented in Tanzanian camps, refugees' decision-making capabilities are hindered by host and originating pressure to repatriate, including disinformation and harassment, as well as the gulf between repatriated refugees and those who remain in the camps. Under these circumstances, accurate, comprehensive information flow to refugees must take an outsized importance.

Information flow to refugees can be improved in multiple ways. First, while go-and-see visits permit refugees to set foot in their originating countries and make more informed judgments about repatriation, these visits can be difficult to organize, piecemeal and misleading in that they only reveal a small time and space of the country refugees hope to return to. For example, one go-and-see visit in 2004 for Burundian refugees visited one province of Burundi, lasted three days, consisted of ten refugees and was one of only four planned for the year (UNHCR 2004b). These measures are helpful but insufficient, especially when countrywide violence can spill into otherwise peaceful-looking regions.

Crisp and Long argue that go-and-see visits should be supplemented by "come-and-tell" visits, in which repatriates are invited back to the camps to speak about their experiences (Crisp and Long 2016, 147). While the UNHCR has facilitated these visits in various African PRS, they remain uncommon compared to go-and-see visits, but have the potential to solve many of their problems. Refugees from different provinces, demographics and experiences would be able to provide a more nuanced picture of the situation back home. Given the small scale of previous go-and-see visits, come-and-tell visits also have the advantage of enabling a small group of returnees to speak to thousands of refugees, which is much easier than organizing mass visits to the originating country. While refugees who went on go-and-see visits have been invited to speak publicly about their trips, their experience pales in comparison to that of returnees who

have spent years forging new lives in the originating country. Even if they are pressured to return and their repatriation is not necessarily durable, this knowledge could go a long way in improving refugees' outcomes, and establish linkages between new returnees and those who have already settled. Importantly, it can be implemented in-line with current restrictive refugee policies, requires little investment and may be enacted or halted without adverse effects, making it durable amidst turbulent refugee politics.

Crisp and Long go one step further in arguing refugees should themselves play a significant role in monitoring repatriations and the information flow between returnees and current refugees. He argues that tripartite commissions, which organize repatriations by uniting the originating country, host country and UNHCR, should instead be *quadripartite* commissions, in which refugees themselves are responsible for negotiating conditions for return, monitoring return and ensuring that repatriation from start to finish is safe and voluntary (Crisp and Long 2016, 146).

As far as the author is aware, no such formal commission has yet been formed anywhere, and so history provides no guidance in how such an agreement would be implemented. Though under better circumstances quadripartite repatriation could empower refugees, giving them a place at the negotiating table alongside governments, it is unlikely that today such a scheme could actually empower refugees over the objections of host and originating countries. However, refugee leadership could fill the gaps between repatriated and current refugees, by establishing regular communication between these two groups, monitoring conditions and perhaps taking charge of go-and-see and come-and-tell visits. Refugees may still unfortunately have little power to change the course of the policies that determine their fates, but anything they can do to play a

role in executing these policies and adapting them to their needs would be helpful to both them and the involved governments.

Many of these proposed responsibilities are already held in some capacity by the UNHCR, but to build refugee buy-in and self-governance the UNHCR should, when possible, afford as many responsibilities as possible to refugees themselves while retaining its role as facilitator. While officially creating a quadripartite agreement may intimidate involved governments, it may build more durable outcomes with little threat to state policies or legitimacy.

### **Improving Repatriation from the Originating Country**

Since there is much literature on the difficulties Burundian repatriates face in accessing land, including lack of title, conflicts with neighbors and an inefficient and backlogged claims agency, it is not enough to hope refugees can return to being self-sufficient farmers in the near or even long term (Hovil 2009, 7). While the UNHCR is working with the Burundian government to improve its land claims process, this remains an incredibly complicated issue on which there has been little progress, and returnees need more than the promise of land to become durably settled.

So it seems counterintuitive that to start their new lives in Burundi, the UNHCR gives families only \$40 per adult and \$20 per child (UNHCR 2017a, 3). While little information exists on how this money is used in Burundi, similar cash issued to Somali refugees returning to Kenya is often gone before refugees even return home (Sieff 2017). With caloric needs unmet, refugee families often rack up debt to pay for food while still encamped, and use this money – ostensibly

for them to get back on their feet upon repatriation – to instead pay off pre-existing debt. Since as of October 2017 Burundian refugees in Tanzania were receiving on average only 72 percent of their caloric needs, further research must assess if a similar situation is unfolding upon their repatriation (UNHCR 2017b, 3). In short, during the fragile initial days of these refugees’ repatriation and integration they are given almost no financial support, and what little they have may be gone before they are even settled.

While resettlement packages are a standard part of repatriation agreements, Burundi’s poverty, high population density and land-extensive agriculture make this support even more important to ease the integration strains which contributed to the failure of the 2002-2013 repatriations. In analyzing return packages for returnees during this period, Hovil et al noted,

“Those who were part of the official repatriation exercise were given a return package at the point of entry in Mabanda. However, this package has varied significantly over time and between different groups of returnees. It seems that many of the initial returnees received almost no assistance – which, inevitably, had a major negative impact on reintegration and discouraged those still in Tanzania from returning” (Hovil 2009, 21).

Stronger return packages may increase durable returns, reduce conflict over land and make successful reintegration less dependent upon bureaucracy. If implemented properly, they may fulfill this paper’s criteria for working well in restrictive environments by encouraging repatriation in line with current policy, requiring little planning or investment in comparison with land tenure programs and being able to be cancelled with little investment wasted. However, repatriation packages that are too large may engender resentment against returnees from local communities, often impoverished themselves and resentful of benefits provided to their new

neighbors (Macauslan and Riemenschneider 2011, 65). Return packages should be increased, but carefully and responsive to local communities' responses.

One way of accomplishing this may be by reinventing the UNHCR's Comprehensive Refugee Response Framework (CRRF), a program envisioned in 2016 that seeks to better integrate refugees by funding development opportunities for local host communities (UNHCR 2018a). Rather than funding refugees in isolation from host communities, CRRF seeks to combine humanitarian and development aid to address refugee and host community issues in tandem, thereby engendering support for refugees and more open policies. As noted previously, the Tanzanian government recently cancelled its CRRF program for Burundian refugees despite its popularity within local host communities, a decision this paper argues was due to the Tanzanian government's view of refugees as threats to state legitimacy.

However, CRRF could be repurposed for originating countries, providing development assistance to Burundian communities accepting returnees. Even the UNHCR's *Handbook for Repatriation*, written before the development of CRRF, acknowledges the need to support returnee-hosting communities in originating countries in tandem with individual return packages (UNHCR 2004a, 75). Implementing CRRF-like programs for returnees in originating countries, as opposed to refugees, would in theory not be subject to the same governmental anti-refugee rhetoric CRRF has faced in host countries. While more politically complex than the other compromise solutions discussed in this section, CRRF for returnees in originating countries could be a reasonable next step in making non-durable repatriation less so.

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## Conclusion

The current repatriation of Burundian refugees in Tanzania is not durable, makes the same mistakes as the failed 2002-2013 repatriations and shows no signs of stopping. Even short of durable solutions, any positive effort to improve conditions for refugees runs the risk of being shut down by partner governments, who only need to say “no” to derail any initiative in their territory. What is needed are compromise solutions which are durable in and of themselves, able to be enacted within restrictive and unpredictable political environments. These solutions must be in-line with governments’ current refugee policies, dependent on little planning or investment and suffer few consequences for being cancelled.

Compromise solutions to improve fundamentally non-durable repatriation must be implemented before and after refugees return to their originating countries. Before, refugees must have more information than ever at their disposal about the conditions they may face upon return. This can be better accomplished by increasing “come-and-tell” visits, in which already-repatriated refugees visit refugee camps to discuss their experiences with potential returnees. Additionally, if the political environment permits it, refugees themselves should take responsibility for negotiating conditions for return, monitoring return and ensuring that repatriation from start to finish is safe and voluntary. Facilitated by the UNHCR, refugee leadership could form a fourth party to repatriation agreements, making them quadripartite. Both of these efforts are consistent with current restrictive refugee policy, but can make the best of a bad situation by adapting policy to better fit refugees’ needs.

Upon return to their originating country, refugees must be given stronger, more comprehensive return packages. Poverty among returnees makes for greater stress while

integrating into local communities, and fuels a seemingly intractable conflict over land.

However, return packages must be issued with respect to potential resentment from locals who are not similarly supported. The UNHCR should consider adapting CRRF for use in originating countries, where it may show greater success due to the lack of national difference between the refugee and host community populations.

These solutions are not perfect, but they are theoretically feasible within the current political environment. Hopefully in the near future, there will be no need for compromise on durable solutions to PRS. But until then, any policy that may improve the outcomes of refugees in PRS should be welcome.

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