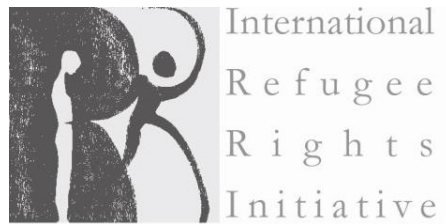


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**From refugee to returnee to asylum seeker:
Burundian refugees struggle to find protection in the Great Lakes region**

A Briefing Note

This briefing tells the story of a small number of Burundian refugees and asylum seekers who have fled into a second phase of exile, despite having been considered to be no longer in need of protection as refugees in Tanzania. As former refugees living in Tanzania's Mtabila refugee camp, they were forcibly returned to Burundi (or left in advance) at the end of 2012. Unable to find security in Burundi, a number of them fled once more, this time to Uganda's Nakivale refugee settlement in Isingiro district. Here, as asylum seekers in a new cycle of exile, they report that they are eking out a precarious living, without adequate access to humanitarian assistance and with little confidence that their claims for protection will be successful.

Although asylum seekers are, as a matter of policy, eligible for assistance, many in this group indicated that they were not receiving any. Those who were granted refugee status reported that they were able to access limited humanitarian assistance. Almost all in this group are still waiting for an official response, even as they understand that their claims have been or will be rejected. Most of the asylum seekers told IRRI that they had received verbal indications that they had "failed", but it is unclear whether formal decisions had been made as no written response had been provided to the asylum seekers. Many fear that their admission that they were previously recognised as refugees elsewhere, or any suspicion to that effect, is motivating the negative responses toward the group.

The situation is complex and fraught and facts are hard to verify. Information from other Burundian refugees suggests that there may be up to 2,000 Burundians in Nakivale settlement who were previously refugees in Mtabila camp and who returned to Burundi in connection with the late 2012 operation. IRRI spoke to more than 25 individuals who admitted to being part of this group – but almost none appear to have revealed this information to the authorities, whether governmental or UNHCR. While UNHCR asserts that a number of Burundians have had their claims for asylum accepted, our team found no one recently arrived from Mtabila who had been accepted. They told us that they believed that suspicion of their Mtabila origins would be enough to ensure rejection.

This finding raises difficult questions, not least for protection advocates: asylum seekers were clear that they were revealing information to IRRI that they would not want to reveal to the authorities. Indeed, the greater the clarity that emerges regarding who has come from where,

the more questions are likely to be raised about this group generally. Having followed closely the situation both in Burundi and Tanzania, IRRI is acutely aware of the vulnerabilities that exist: the stakes are painfully high for a community that has resisted return so vociferously for over a decade.

More broadly, in light of the scale and investment that was made over the course of a number of years in the Mtabila assessment and return operation both by UNHCR and the government of Tanzania, IRRI recognises that a claim that thousands are now seeking asylum once more in yet another country in the region is both controversial and sensitive. It is also a claim that is difficult to substantiate and around which various interests will be differently enmeshed. UNHCR has stated clearly, for example, that its “information and statistics do not support the assertion” that large numbers of those arriving in Uganda may have previously been in Mtabila.¹ Based on the information provided by refugees and asylum seekers both in Nakivale and elsewhere in Uganda, however, IRRI believes that it is highly likely. Information from our local partners monitoring the returns process in Burundi is also consistent with the pattern and nature of the experiences that were recounted to us in Nakivale.

Overall, the stories told by these asylum seekers underscore the realities of living in a region that has consistently been unable to find a comprehensive solution to the plight of refugees. They reveal a Tanzanian government fatigued with hosting refugees for decades; a Burundian government that has failed to establish and implement equitable structures for the distribution and reclamation of land and to create an inclusive polity in which opposition is tolerated; and a Ugandan government reportedly concerned about granting refugee status to asylum seekers whose status has been examined multiple times. The wider context in which this story is unfolding is one in which repatriation and return—including forced return in the context of cessation—is being strongly emphasised across the region for protracted refugee situations to the detriment of those for whom return is not possible. As a result, while closing Mtabila camp and emptying it of refugees might have made it *look* like the problem had been resolved for the government of Tanzania and the international community, in reality it may have only displaced it elsewhere in the region.

Burundi is undergoing the long and painful task of reconstruction after decades of violence, political turmoil and displacement.² More than half a million displaced Burundians have returned over the past few years, some after more than three decades in exile. Their return is seen as a success by external actors, including the United Nations High Commissioner for Refugees (UNHCR), which has described it as “one of the most successful operations on the African continent”.³ The fact that so many people have returned symbolises optimism for the

¹ Written correspondence from UNHCR, on file with IRRI.

² For more background, see IRRI and Rema Ministries, “‘Two people can’t share the same pair of shoes’: Citizenship, Land and the Return of Refugees to Burundi.” Citizenship and Displacement in the Great Lakes region, Working Paper 2, 2009. See also Lucy Hovil, “Preventing re-displacement through genuine reintegration in Burundi.” *Forced Migration Review* 41, December 2012.

³ UNCHR Press Release, “Nduta Burundian refugees relocated as camp closes,” 19 December 2008, available at www.unhcr.org/494b7e302.html.

country's future. However, despite this optimism, tens of thousands remain in exile resisting return, and thousands more who did return have been compelled to flee again. The story of the Burundian refugee community resonates with the situation of Rwandan refugees in the region who are experiencing great fear and uncertainty as they face revocation of their refugee status. Although there has been a commitment to pursue comprehensive solutions, the fact that repatriation is the only option that is being made visible to refugees at the moment in many places exacerbates the concern that in practice sufficient protective alternatives may not be available. In Uganda, for example, there is no information yet available on how cessation exemption procedures for Rwandan refugees will be implemented.

This briefing is based on interviews conducted during a visit to Nakivale settlement between 29 April and 2 May 2013 with 30 Burundian asylum seekers who stated that they had previously resided as refugees in Mtabila camp in Tanzania. Other Burundian refugees (who had not previously resided in Mtabila) were also consulted. According to information received from reliable refugee sources, these were among a group of about 2,000 Burundians believed to be living in Nakivale who were removed from Mtabila last year and returned to Burundi. The total figure of former Mtabila refugees in Nakivale is likely to be significantly higher: IRRI was told that refugees from this group were continuing to arrive on an almost daily basis at the time of the visit.

Background to the repatriation from Tanzania's Mtabila camp

Since the signing of a tripartite agreement between the governments of Burundi and Tanzania, and UNHCR, all of those who fled Burundi for Tanzania in the 1990s have been coming under increasing pressure to return:⁴ "First the government was asking us nicely to return to Burundi... Then in 2012 they became much more fierce... they told us that this time anyone who refused would be killed. The camp commandant even started burning houses."⁵ In August 2012, the government of Tanzania, with the support of UNHCR and the cooperation of the government of Burundi, paved the way to legally deport those who continued to resist voluntary repatriation. They did this through the invocation of cessation, one of the mechanisms in refugee law through which refugee status can be withdrawn in certain circumstances, and through the conduct of individual assessments to determine whether the refugees continued to require international protection. At the end of the assessment, 38,050 were declared to have lost their refugee status.⁶ There were problems with the process,

⁴ See IRRI and Rema Ministries, "Resisting Repatriation: Burundian Refugees Struggling to Stay in Tanzania," September 2011; and the Centre for the Study of Forced Migration and IRRI, "I Don't Know Where to Go: Burundian Refugees in Tanzania under Pressure to Leave," September 2009.

⁵ Interview with Burundian man (asylum seeker), Nakivale, 30 April 2013.

⁶ Figure according to the government of Tanzania, "The Government of Tanzania Determined to Close Mtabila Refugee Camp in Kigoma," not dated, available at <http://www.moha.go.tz/index.php/component/content/article/82-news-and-events/181-the-government-of-tanzania-determined-to-close-mtabila-refugee-camp-in-kigoma>.

however, and ultimately it is not clear that all those who were in need of protection were properly identified.⁷

Finally, at the end of October 2012 the Tanzanian army moved in and started to load the now former refugees onto trucks and take them to Burundi. Some of those interviewed had stories to tell of rough handling by the Tanzanian army, of families being separated in the chaos, and of being forced onto trucks without the opportunity to pack their belongings.⁸ Most worryingly, all of those interviewed talked about at least one refugee being killed in the process and of many others being beaten. Given the level of fear and confusion that must have existed, it is difficult to ascertain the accuracy of these accusations, but the allegations were certainly consistent. One man described the process in this way: “a number of refugees were killed – the army shot them so that people would agree to leave Mtabila... The soldiers took everything in the house, even our shoes.”⁹ Another man said, “On the day [of repatriation] the refugees were told, ‘if you don’t get onto the lorries you will die.’ ... They would hit you with a stick and you would run like a dog to get onto the truck.”¹⁰

One woman spoke of how her husband had been forcibly repatriated several days before her: “He had been caught by Tanzanian government security people during daytime as he returned home from looking for food. He had been badly beaten and dumped on a truck, seriously injured.” She was then also beaten and returned to Burundi several days later. At the time of the interview, her husband was apparently still seriously sick and unable to work as a result of his injuries.¹¹

During the course of the relocation, Burundians talked of how they had their ration cards and documents taken away and were made to sign a form stating that the process had been voluntary: “we were forced to sign a paper acknowledging we were no longer refugees and that we had returned voluntarily.”¹²

Mtabila camp is now officially closed. While the majority were relocated to Burundi, interviewees talked of how some of the 38,050 Burundian refugees who were stripped of their refugee status had “disappeared” into Tanzania, and others had fled to neighbouring states. There was also mention of the fact that some refugees had been taken by the authorities to Nyarugusu camp – a camp in Tanzania that primarily houses Congolese refugees – prior to the closing down of Mtabila. According to UNHCR, 2,715 refugees who had been recognised as

⁷ See IRRI’s report on the process, International Refugee Rights Initiative and Rema Ministries, “An urgent briefing on the situation of Burundian refugees in Mtabila camp in Tanzania,” August 2012, available at <http://www.refugee-rights.org/Assets/PDFs/2012/Mtabila%20FINAL.pdf>

⁸ Lucy Hovil and Theodore Mbazumutima, “Tanzania’s Mtabila camp is finally closed,” Pambazuka News, 13 December 2012, available at <http://www.pambazuka.org/en/category/features/85766>.

⁹ Interview with Burundian man (asylum seeker), Nakivale, 30 April 2013.

¹⁰ Interview with Burundian man (asylum seeker), Nakivale, 30 April 2013.

¹¹ Interview with Burundian woman (asylum seeker), Nakivale, 1 May 2013.

¹² Interview with Burundian man (asylum seeker), Nakivale, 30 April 2013.

being “in need of continuing protection” as a result of the assessment process were relocated in this way.¹³

Arrival in Burundi

On arriving in Burundi, the returnees were taken to reception centres in the south of the country. Most were given a cash grant of 10,000 Burundian francs at the border, and a further 40,000 once they arrived in their respective villages, as well as one month’s supply of food.¹⁴ They were then offered transport to take them to their chosen location in Burundi, although for those going to locations further away there was often a considerable wait due to logistical constraints.

At an economic and logistical level, it seems that many local government officials in the receiving areas did what they could to assist those returning. However, the strain created by the return of these refugees encapsulates many of the post-conflict issues facing Burundi: the country is recovering from decades of civil war and has already received approximately half a million returnees in the past eight years with all the political, security and economic implications that entails. Even before this latest group, resources were already stretched to breaking point.

In this context, there were two significant – and interlinked – concerns expressed by those interviewed. The first was the issue of access to land. Many of those interviewed talked of how they had tried to regain access to their land and had found others now living on it.¹⁵ Land in the country is at a premium and concerns about conflicts over land ownership have been central to discussions on the viability of return.¹⁶ As a 48-year old man said, “I have not been to Burundi since I was eight years old. I have no land and nowhere to start.”¹⁷ Or as a widow said, “I went to the village to look for my husband’s son, but found he was dead. There was no land, no relatives and no-one to assist me.”¹⁸

Second, however, the majority of those interviewed described a more sinister political dynamic – sometimes, but not necessarily, related to their efforts to access their land – in which they were harassed and harmed by security elements. They spoke of how they had been stigmatised by their reluctance to return “home”, which had led to the assumption that they were connected to the opposition *Forces nationales de libération* (FNL), one of the main political

¹³ Figure according to UNHCR, UNHCR Press Release, “UNHCR to help more Burundian Refugees home before Mtabila closes,” 9 August 2012.

¹⁴ At the time of writing, 10,000 Burundian francs were equivalent to US\$6.50 USD, and 50,000 to US\$32.50.

¹⁵ For an in-depth discussion on the complexity of land reclamation issues, see IRRI, REMA Ministries and the Social Science Research Council, “Two People Cannot Wear the Same Pair of Shoes,” 2009.

¹⁶ Ibid.

¹⁷ Interview with Burundian man (asylum seeker), Nakivale, 30 April 2013.

¹⁸ Interview with Burundian woman (asylum seeker), Nakivale, 30 April 2013.

opposition groups in Burundi and a former rebel army.¹⁹ One man quoted a Burundian army official at the reception centre as saying, “Don’t expect us to help you. You were very stupid. You wanted to stay in Tanzania. You were building an army to come and attack us. We shall bring back all the others, even from other countries.”²⁰ The association of returnees with the FNL is not without a basis: FNL activity in the camps was documented during the war and also was alleged during previous IRRI research on the situation in Mtabila.

More specifically, asylum seekers referred to harassment by the *imbonerakure*, officially the ruling CNDD-FDD party’s youth league, but understood by interviewees as an unofficial government militia-cum-security and intelligence force in Burundi. As one man said, “In Burundi they call us members of FNL and we can be killed. We fear the *imbonerakure* who have killed some returnees.”²¹ A number of sources have documented the creation of trained and armed youth wings to carry out violence by political parties and there are reports of intimidation and harassment of the opposition and, to a lesser extent, of government activists by the opposition.²² In 2012, increased attacks and killings were carried out on FNL members and former members “notably through the *imbonerakure* youth wing and the National Intelligence Service (SNR).” These targeted prominent members of the FNL as well as the rank and file.²³

From the moment of their return, many of those interviewed told of how they had been watched by security. One woman described how, as soon as they arrived in Burundi, her husband began to experience harassment from the *imbonerakure*. He was accused of fighting the government of Burundi from Tanzania and threatened with death. They fled again as a result. Another woman, a mother with four children, told the story of what happened to her family after returning to Burundi:

First we were taken to Musenyi which is a transit centre. We were given 10,000 Burundi francs and then taken to Kayogoro where my husband was born. We stayed there for three weeks, but then people started following us and my husband was accused of being part of the FNL. We were attacked twice and the last time he was beaten and tortured and I was raped at gunpoint. My husband was taken that night and I have never seen him since.²⁴

She then fled with her children through Rwanda, walking most of the way to Nakivale.

¹⁹ The *Forces nationales de libération* (FNL) was one of the rebel groups fighting during the 1990s. It finally signed a ceasefire in May 2008 and its leader, Agathon Rwasa, returned to Burundi and it has registered as a political party. Some of the FNL rebels have been integrated in the national army and police with the rest demobilised, ushering in new hope for sustainable peace after years of civil war.

²⁰ Interview with Burundian man (asylum seeker), Nakivale, 30 April 2013.

²¹ Interview with Burundian man (asylum seeker), Nakivale 30 April 2013.

²² See for example, Jean Claude Nkundwa, “Burundi at crossroads: tensions are rising ahead of the 2015 elections,” 23 October 2013, available at <http://www.insightonconflict.org/2013/10/burundi-at-crossroads/>; IRIN, “Analysis: Burundi’s bumpy road to the 2015 polls,” 1 November 2012; Human Rights Watch, “You will not have peace when you are living,” May 2012.

²³ Human Rights Watch World Report 2012, page 92.

²⁴ Interview with Burundian woman (asylum seeker), Nakivale, 30 April 2013.

One man described how he was arrested out of the transit camp in Rutana where he had been taken, and had been accused of being a member of FNL: “in Burundi if you are not a member of CNDD-FDD [the ruling party] then you are not a human being.” He then escaped to another location in Burundi with two of his children where some friends hid him for a month, before returning to Tanzania and eventually making their way into Uganda.²⁵ Another man told of how he had had his repatriation money of 40,000 Burundian francs stolen by the *imbonerakure*.²⁶

For many, harassment by security agents started once they tried to reclaim their land. Thus while land shortages might be the presenting issue for some, it was impossible to disassociate land from political and security dynamics. One woman, who had fled Burundi in the 1990s, told of how she had been taken back to Burundi from Mtabila in December 2012. When she returned to her husband’s land to reclaim it, however, she found that a house had been built on it and people were living there. Her husband took the matter up with the authorities and they lived in a rented shack while they waited for a decision. However, one night around 1:00 a.m. her husband was arrested by six unidentified men. She raised the alarm and they left without him. They then returned a few days later and succeeded in taking him away. She has not seen him since and has been unable to find out where he was taken. As a result, she decided to flee to Uganda with her three children and her sister. She passed through Rwanda into Uganda – she said she had heard positive stories about Uganda, and “in Rwanda they don’t like refugees.” They were helped by local people on the way. But since arriving in Nakivale she has had her asylum application turned down and is receiving no assistance.²⁷

Whatever the impetus, it is clear that many have fled Burundi once more. Many said they had heard that Nakivale in Uganda was receiving refugees, and decided to travel there. Most came using a combination of public transport and walking, crossing over the border either from Rwanda or Tanzania. One woman spoke of how she walked from Burundi through Rwanda to Uganda with her three children because she did not have enough money to pay for transport, working along the way to buy food.²⁸ Many told stories of local Ugandans helping them with their journeys; and of Congolese refugees in Nakivale helping them when they arrived.

Reception in Nakivale

At the time of the visit, the environment in Nakivale was already highly charged as a result of strong resistance by many Rwandan refugees, also staying in Nakivale, to the possible invocation of the cessation clause. Prior to the beginning of the Mtabila arrivals in November 2012, there were approximately 5,000 Burundian refugees and 1,000 asylum seekers registered in Nakivale,²⁹ and it is understood that all Burundians arriving in Uganda have had their cases individually screened. UNHCR has told IRRI that “[m]any Burundian asylum seekers have been

²⁵ Interview with Burundian man (asylum seeker), Nakivale, 30 April 2013.

²⁶ Interview with Burundian man (asylum seeker), Nakivale, 1 May 2013.

²⁷ Interview with Burundian woman (asylum seeker), Nakivale, 30 April 2013.

²⁸ Interview with Burundian woman (asylum seeker), Nakivale, 1 May 2013.

²⁹ Email correspondence with official, on file with IRRI, 12 August 2013.

interviewed by the Refugee Eligibility Committee, many granted status and relocated to the settlement – a few others who have been rejected for diverse reasons have appealed to the Refugee Appeals Board”.³⁰

There is an increasing perception, however, that those who were formerly in Mtabila—or suspected of being so—will not be successful. Interviewees indicated that since early May Burundians were being increasingly refused asylum. Official statistics were requested from both UNHCR and the government of Uganda in order to cross check this information, but the relevant statistics were not provided by the time we launched this report. Indeed, the majority of those who were interviewed by the research team stated that they had had their cases rejected. As one man said, “I don’t know of any Burundians [who were in Mtabila] who have passed [through the REC]. They said they do not want Burundians.”³¹ The situation then became more strained. One former Mtabila resident described it as follows; “there was no welcome and no registration. Officials told us that there is no assistance for Burundians. They said *‘hakuna msada kwa Warundi* [There is no assistance for Burundians] Burundi is at peace, go back!’ ... Burundians are being chased away by settlement officials all the time. I have not seen any UNHCR person come to help me. We are trying to survive by working for other people in the camp but there is very little work.”³²

Nevertheless it appears that most were allowed to lodge applications for asylum and given asylum seeker documents. Despite UNHCR reports that “many” Burundian refugees were granted status, only two of those interviewed by the visiting team had been successful in their applications for asylum.³³ The majority understood that their applications had been rejected, and that their asylum seeker documents – which are only valid for three months – were beginning to expire by the time of the interviews. Although the asylum seekers did not report any appeals to our team, UNHCR state that appeals have been filed.³⁴

At every level, therefore, their predicament in Nakivale appears to be precarious. As one man said, “Conditions are so bad here that when someone dies they are just buried behind the toilets at the reception centre.”³⁵ One interviewee showed the visiting team a shed more than a kilometre away from the reception centre with no walls, approximately seven by ten meters, claiming that 225 Burundians, most of whom he said were former residents of Mtabila, were living there. There was no sign of sufficient nearby latrines and washing facilities to cater for 225 people.³⁶ One man reported that a Ugandan government official had told him “if you do not return to Burundi by yourselves you will be like *kibati*”³⁷ in 2007 and 2010.”³⁸ However, as

³⁰ E-mail correspondence with UNHCR, on file with IRRI.

³¹ Interview with Burundian man (asylum seeker), Nakivale, 30 April 2013.

³² Interview with Burundian man (asylum seeker), Nakivale, 30 April 2013.

³³ At least one of these had arrived from Mtabila well before the current influx.

³⁴ Written correspondence from UNHCR, on file with IRRI.

³⁵ Interview with Burundian man (asylum seeker), Nakivale, 30 April 2013.

³⁶ Interview with Burundian man (asylum seeker), Nakivale, 1 May 2013.

³⁷ *Kibati* refers a camp near the main Nakivale settlement which hosted about 7,000 Rwandan and Burundian asylum seekers, most of whom had also previously sought safety in Tanzania. See Human Rights First, “A Decade of

one asylum seeker said, “We are not getting any assistance here, but at least here they aren’t burning houses like they did in Mtabila.”³⁹ UNHCR, however, contends that the asylum seeker reports of such dire conditions are exaggerated, noting that the reception facility had been refurbished this year and that sanitation had been improved and that all asylum seekers have access to running water.⁴⁰ Our visiting team, however, observed a lack of running water and unhygienic conditions at the reception facility and indeed the almost all latrines had been locked to prevent their use. Although improvements may have been made after our visit, the fact that the facility had been newly painted indicates that the refurbishment occurred prior to our visit.

Just prior to publication, email correspondence with contacts in Nakivale suggests that there have been some improvements in the situation of water and sanitation at the Reception Centre, and that approximately 25 Burundian families have been granted refugee status. However, we were not able to ascertain if any of those granted refugee status were part of the group from Mtabila.

Moving around the region looking for safety

The current predicament of these asylum seekers is clearly untenable: with their applications for refugee status apparently turned down by the Ugandan government (apart from any who have subsequently been successful), these individuals are operating in an ever decreasing space for protection. It is unlikely that any of those interviewed would have *chosen* to live in a shed in Nakivale if they thought they had a better alternative. They have been moving around the region for years, if not decades, in search of safety and an opportunity to belong, and right now Nakivale looks to be their best option. As one young woman with three children said, “No-one wants us in their country.”⁴¹

The story of one young man interviewed in Nakivale encapsulates many of the local, national and regional dimensions that underlie the current predicament in which these asylum seekers find themselves. He was born into a Burundian family exiled in Rwanda in 1976 where he lived until the 1994 genocide when his family had to flee to Tanzania after his father was killed. The family was then moved to three different camps, before being accepted for resettlement and transferred to Kanembwa camp. However, when Kanembwa was closed down he was moved to Mtabila ultimately being forced to return to Burundi as part of the repatriation: “there was no time or opportunity to pick up our things. We left all our documents and belongings in the house” – including the documents showing he had been accepted for resettlement.⁴² In Burundi he and his family were unable to claim their land as someone else was living on it and they

Unrest: Unrecognised Rwandan Refugees in Uganda and the Future of Refugee Protection in the Great Lakes,” 2004. Some of this group was reportedly later forcibly repatriated.

³⁸ Interview with Burundian man (asylum seeker), Nakivale, 1 May 2013.

³⁹ Interview with Burundian man (asylum seeker), Nakivale, 1 May 2013.

⁴⁰ Written correspondence from UNHCR, on file with IRRI.

⁴¹ Interview with Burundian woman (asylum seeker), Nakivale, 30 April 2013.

⁴² Interview with Burundian man (asylum seeker), Nakivale, 30 April 2013.

were threatened with death and intimidated: “in Burundi there is no place for those who have nowhere to go.” He was also accused of being FNL. Apparently one security person told him: “This is not like Tanzania, we shall finish you!” He then fled to Rwanda and then sent for his family who joined him and they travelled into Uganda and to Nakivale.⁴³ He has now had his application for asylum turned down and he does not know where else to go. He is 37 years old and has been displaced all his life.

The security situation in Burundi has improved dramatically since the signing of a peace agreement, the Arusha Accord, and a huge number of refugees have returned in recent years, including some high level political activists. Indeed, UNHCR reports that since a Tripartite Agreement was signed on 27 March 2013 between the governments of Burundi and Uganda, and UNHCR,⁴⁴ that they have received over 200 applications from Burundian refugees in Uganda for voluntary return. At the same time, however, repatriation for some does not necessarily mean it is possible for all. The country is feeling its way through a fragile transition towards sustainable peace after decades of conflict: its economy is in tatters, it is demobilising thousands of former rebels and mopping up the excesses of war, and it is trying to reconstruct governance and judicial institutions that are critical to the running of the country. In these circumstances, it is clear that there will be some for whom return is not safe.⁴⁵

Conclusion

Finding the way ahead for this group of asylum seekers – and for others in a similar situation in the region – is a considerable challenge. The solution involves negotiating a path through a complex blend of national post-conflict tensions in Burundi, regional political inflexibility, and deeply challenged international protection structures. Most of all, the findings show that pushing large-scale repatriation initiatives in the face of consistent opposition from the refugee population, and in the absence of viable and flexible alternatives, is not just misguided but ineffective. The fact that a significant number of those forcibly returned in late 2012 to Burundi after a massive UNHCR/government of Tanzania operation have now found their way to Uganda—and we do not know how many have fled elsewhere across the region—is in itself an indication that something is not working in the current approach. Ultimately, refugees will not acquiesce in processes that they do not believe will secure their safety: they will try to find their own solutions.

Although prioritising return may make sense in the context of the right to return and the fact that many in exile long for “home”, adopting a narrow version of repatriation as traditionally understood without sufficient attention to either its sustainability or the provision of workable alternatives is leaving a remnant of refugees and asylum seekers in a perpetual state of exile – unrecognised as refugees and unable to access protection as such.

⁴³ Interview with Burundian man (asylum seeker), Nakivale, 1 May 2013.

⁴⁴ UNHCR Burundi, “Bulletin No. 3,” April-June 2013, available at http://reliefweb.int/sites/reliefweb.int/files/resources/Bulletin%202013.3%20-%20April%20June%202013_EN.pdf

⁴⁵ For more information see IRRI, Rema Ministries and the Social Science Research Council, “‘Two people can’t share the same pair of shoes.’ Citizenship, land and the return of refugees to Burundi,” November 2009.

It is time, therefore, for a more flexible approach to the question of return and reintegration that goes beyond geographical location. How can refugees shed refugee status and become part of new communities where they can live safely and self-sufficiently, whether abroad or “at home”, as permanent residents or citizens? For refugees in East Africa how can a more flexible approach be taken to the exercise of the evolving rights of the region’s citizens to move and establish themselves? Could this create new paths to belonging in both places of origin and places of migration?

In this context, it must be acknowledged that a deep-rooted failure in citizenship policies in the region has reinforced exclusive approaches to belonging and left hundreds of thousands of individuals living in a state of permanent exclusion. These exclusive approaches to belonging have failed to reflect the fact that the boundaries of how and where individuals can seek to put down roots – whether at a local, national or regional level – do not necessarily conform to tidy national categories.

Recognition of this failure, however, can be the starting point for the resolution of exile: just as the *absence* of citizenship leaves refugees in a state of perpetual exile, the *active political (re)engagement* of refugees in negotiating effective access to citizenship not only resolves displacement but can be essential in helping states transform – which, in turn, prevents renewed displacement. Although this notion might seem idealistic, it is a reality that needs to be acknowledged.

The predicament facing this group of asylum seekers demands a re-thinking of the emphasis on repatriation (understood as simply crossing the border) that continues to be promoted as the preferred “durable solution” for refugees. While in theory local integration and resettlement are also considered to be on the table, in practice few are able to access these solutions. It is clear, therefore, that there is a need for more creative and flexible approaches to belonging that would allow individuals and groups alternative means to securing safety for themselves and their families. Ultimately, exile within the Great Lakes region will only be resolved when spaces for belonging at a local and national level become less exclusive; when the deficit in justice in the region in the aftermath of multiple layers of conflict have been equitably confronted; and when it is recognised that it is ultimately a *political* rather than humanitarian solution that is needed. Resolving exile will not only benefit those who remain excluded from national belonging, but will lead to a far stronger polity that is less likely to be hit by renewed conflict from those forced onto the margins. In this context, the following recommendations are made:

Protection in Uganda

1. The government of Uganda must hold firm to its stated policy of assessing each new claim for refugee status on its merits, avoiding a presumption of ineligibility for those who had previously been recognized in Tanzania. Given both the serious protection problems encountered by many in Burundi and the complications surrounding the process of

protection assessment and return in Tanzania, it is clear that persons previously resident in Mtabila camp may have legitimate claims for protection. Further, those who returned to Burundi and fled again (the majority of those interviewed by our team) should have their claims assessed based on the facts relating to their renewed flight from Burundi which has triggered a fresh claim.

2. Under Uganda's refugee law, those asylum seekers who have had their claims for asylum rejected must be informed formally about their denial and given reasons for this decision. They should also be advised of their right to appeal and assisted to do if they so request. The fact that the majority of those interviewed had received no written documentation of their decisions, much less clear reasons for any denials, clearly poses a considerable challenge to the viability of any appeals process.
3. Basic humanitarian assistance should be provided to this group, regardless of their legal status, in order to ensure that they are able to live in dignity.
4. Although there has been no formal discussion of imposing cessation for Burundian refugees in Uganda to date—and UNHCR confirms that formally it is not under consideration—there are significant fears among the refugee community that a similar approach to that taken in Tanzania might be adopted. At a minimum, it is clear that the conditions for a general declaration of cessation on the grounds of ceased circumstances in Burundi have not been met. The presence of these asylum seekers in Uganda shows that overzealous use of cessation—whether through general declaration or on an individual basis—will only deflect the problem elsewhere, not resolve it.

Protection in Burundi

5. Burundi must address the complex problems that are inhibiting refugee return, from political tensions to land issues. Local authorities must refrain from stigmatizing refugees and integrate them into the polity. Only then will return be durable.
6. UNHCR and regional governments must recognize the fact that there are serious problems facing returnees in Burundi: exclusive promotion of repatriation will only tend to exacerbate the situation.
7. Support must be given to UNHCR and to appropriate local civil society organisations for more effective monitoring of the situation of returnees in Burundi.

Protection in the region

8. Regionally, there needs to be far greater flexibility with regard to alternatives to repatriation, including opportunities for integration and resettlement. States must realize that even when large scale repatriation is successful, there is likely to be a significant minority who cannot return or would have serious problems returning. There is an important role for regional arrangements such as the East African Community and the International Conference on the Great Lakes Region (ICGLR) in identifying more flexible solutions to exile (see for example the specific regime developed by the ICGLR around the return of property of the displaced) including through expanding the concept and experience of regional citizenship.