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## The Alchemy of Exile: Strengthening a Culture of Human Rights in the Burundian Refugee Camps in Tanzania

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# The Alchemy of Exile: Strengthening a Culture of Human Rights in the Burundian Refugee Camps in Tanzania

Jennifer Moore\*

## PREFACE

U.S. immigration policy has tremendous relevance at the global level, not only as a general reflection of U.S. power and influence in the diplomatic, economic, military, and cultural arenas, but also when U.S. laws are used as blueprints for the drafting of immigration policies in individual countries, from the United Kingdom to South Africa.

This Article suggests that our analysis of U.S. immigration policy should also be informed by a broader consideration of the experiences of immigrants and refugees in other parts of the world, including those who will never come to the United States. As we examine the moral, legal, and pragmatic imperatives behind the evolution of U.S. immigration policy, we should bear in mind the historical, political, economic, and cultural realities facing developing countries that host refugees from within their own regions. For some observers, such a global perspective might support calls for greater receptivity to immigrants in the United States. For others it may

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suggest the need for scholars and policy makers to more effectively address the root causes of migration, including the impacts of economic globalization, poverty, armed conflict, political repression, and political change in diverse countries and localities throughout the world.

Enhanced attention to humanitarian assistance, poverty alleviation, and human rights protections for refugees in regions such as East Africa, the setting for this Article, will allow the United States to participate more actively in conflict resolution in the developing world. Such constructive interventions may also have a creative impact on the political, socio-economic, and human dynamics that bring many immigrants and refugees to the United States.

## I. INTRODUCTION

This Article explores the ways in which human rights norms can be internalized and redefined from within a community of refugees, in this case Burundians residing in camps in Western Tanzania. It examines the everyday relevance of international protection principles to a particular group of individuals those norms are intended to serve.

By common usage, the term refugee encompasses both externally and internally displaced persons, whether they flee individualized oppression or widespread violence. However, under the 1951 Convention relating to the Status of Refugees, a refugee by definition must have crossed an international boundary seeking asylum from persecution.<sup>1</sup> Therefore, unlike their displaced compatriots who remain in Burundi, Burundians driven into Western Tanzania may be eligible for refugee status under international law.

Burundian refugees in Tanzania have fled civil conflict characterized by attacks on civilians. Many of them also experienced ethnically and politically motivated human rights abuses and other types of persecution. While some Burundians in Tanzania meet all

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1. One element of the international law definition of a refugee is someone "outside the country of his nationality . . ." United Nation's 1951 Geneva Refugee Convention Relating to the Status of Refugees, art. 1(A)(2), July 28, 1951, 189 U.N.T.S. 152 [hereinafter 1951 Refugee Convention].

the elements of the 1951 United Nations Convention definition of a refugee,<sup>2</sup> normally it is not necessary for them to make successful individualized claims to a well-founded fear of persecution on racial, political, or other grounds. Rather, as civil war refugees who fled their country en masse, they are granted prima facie status under the expanded 1969 OAU Convention refugee definition, which recognizes widespread threats to public order, as well as the fear of persecution, as a basis for refugee status.<sup>3</sup>

Part II of this Article provides an encapsulated historical treatment of the development of the political, military, and humanitarian crisis in Burundi, and the resulting emigration of Burundians into Tanzania. Part III addresses the reception in Tanzania accorded to Burundian refugees. Part IV confronts the delicate situation in Tanzania with respect to the principle of *non-refoulement*, which prohibits the forced repatriation of refugees.<sup>4</sup> Part V looks at the range of human rights promotion efforts underway in the refugee camps in Tanzania. Finally, Part VI spotlights a human rights training program organized in two of the Burundian camps in January 2003.

By witnessing the situation of Burundians in Tanzania, we also create a window onto the situation of Burundians displaced within their own country. It is an awareness of the ongoing violence and displacement inside Burundi that causes many Burundian refugees to prolong their stay in the Tanzanian camps. This same realization has thus far prompted the Tanzanian authorities to maintain their cautious and fragile commitment to provide asylum to these refugees until it is safe for them to return home.

This Article attempts to embrace the suspended, transitional reality of life in the camps, difficult as that reality is, and to evaluate and affirm attempts by the refugees and those who serve them to study, use, and redefine some of the norms of human rights law in their everyday lives. It also reflects an attempt to understand refugees

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2. A refugee is someone with a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion . . ." *Id.*

3. Organization of African Unity, Convention Governing the Specific Aspects of Refugee Problems in Africa Sept. 10, 1969, 1001 U.N.T.S. 45 [hereinafter 1969 OAU Convention].

4. See 1951 Refugee Convention, *supra* note 1, art. 33.

as shapers of their own futures and not just as victims of oppression and recipients of aid.

## II. HISTORICAL CONTEXT

For twelve years after the assassination in 1993 of Melchior Ndadaye, the first democratically elected president of Burundi, insurgent forces fought the coup-installed government of Pierre Buyoya, and Burundian civilians fled the conflict, some from one region of Burundi to another, and others into neighboring countries.<sup>5</sup> In 2005, former rebel leader Pierre Nkurunziza assumed the presidency in democratic elections following a peace accord between some of the rebel factions and the government.<sup>6</sup> In 2008, despite notable progress towards peace, armed conflict continues in parts of Burundi.

Since 1994, with a native population of nearly 35 million, Tanzania has been hosting hundreds of thousands of Burundian refugees in the regions of Kigoma and Kagera, along its western border.<sup>7</sup> This Article focuses on the 2002 to 2003 period, when the early peace process was underway, and some refugees were returning from Tanzania to Burundi, while other Burundians were fleeing from renewed conflict into Tanzania .

Despite ongoing peace talks between government forces and rebel forces, armed conflict persisted in Burundi in late 2002 and into 2003. In October 2002 alone, 15,000 Burundians arrived in Kagera

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5. Burundi has two major ethnic groups. Like neighboring Rwanda, approximately eighty-five percent of the population is Hutu, and around fifteen percent is Tutsi. For much of its history since independence, the government and Army have been Tutsi-dominated. In 1993, President Ndadaye was the choice of a majority Hutu electorate. When he was killed, many Hutu fled actual and feared killings by Tutsi soldiers against Ndadaye supporters and other members of the civilian population. While the Burundian refugees in Tanzania are mainly Hutu, there are also refugees of Tutsi and mixed ethnicity.

6. Raymond Thibodeaux, *Ex-Hutu Rebel Nkurunziza Becomes Burundi's New President*, VOICE OF AMERICA, Aug. 19, 2005, <http://www.voanews.com/english/archive/2005-08/2005-08-19-voa14.cfm?CFID=275724369&CFTOKEN=47418840>.

7. As of December 31, 2002, Tanzania was hosting nearly 520,000 refugees from various countries in the region, including over 370,000 Burundians. *Rwandan Refugee Saga Over*, UNHCR Tanzania Newsletter (United Nations High Commission for Refugees (UNHCR), Dar es Salaam, Tanz.), Jan. 2003, Issue No. 14, at 2.

Region.<sup>8</sup> Among these were refugees previously granted asylum in Tanzania who had made the decision to repatriate, and subsequently, when met by fierce fighting across the border, turned around and fled into Tanzania a second time. Civil strife in Burundi during this period involved civilian massacres by government forces and bombardment of civilian areas by rebel forces.<sup>9</sup>

The ceasefire agreement of December 2, 2002 was signed by the transitional government and one insurgent force, the Forces for the Defense of Democracy (FDD). Unfortunately, this accord was not endorsed by the other major rebel movement, the Forces for National Liberation (FNL). Reflecting the reality of ongoing violence in Burundi, upwards of 60,000 Burundians were displaced within the country in January 2003 alone.<sup>10</sup> During the same period, nearly 2000 new refugees entered the Kigoma Region of Tanzania from both Burundi and the Democratic Republic of the Congo.<sup>11</sup> Thus, while hoped and even planned for, voluntary repatriation of Burundians from Tanzania was a still-distant reality in 2003.<sup>12</sup>

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8. UNHCR Sub-Office Ngara Briefing Notes 2002 (on file with author).

9. Stephen Ouma, *Recent Massacres Increase Fear in Burundi*, THE GUARDIAN (Dar es Salaam, Tanz.), Nov. 30, 2002 (reporting on Human Rights Watch briefing paper released Nov. 29, 2002).

10. *Thousands Flee Burundi Fighting*, THE GUARDIAN (Dar es Salaam, Tanz.), Jan. 24, 2003; Peter Tindwa, *Fierce Fighting in Burundi Reported*, THE GUARDIAN (Dar es Salaam, Tanz.), Jan. 20, 2003.

UN Wire also reported that beginning on January 17, 2003, an additional 15,000 or more civilians fled a new outbreak of fighting in Gitega Province, Burundi. *Thousands Flee New Fighting*, U.N. WIRE, Jan. 21, 2003, [http://www.unwire.org/unwire/20030121/31549\\_story.asp](http://www.unwire.org/unwire/20030121/31549_story.asp). Subsequently, the UN Office for the Coordinator of Humanitarian Affairs reported that 40,000 people had been displaced by Army-FDD fighting in Gitega Province. *U.N. Estimates 40,000 Displaced by Fighting*, U.N. WIRE, Jan. 23, 2003, [http://www.unwire.org/unwire/20030123/31610\\_story.asp](http://www.unwire.org/unwire/20030123/31610_story.asp).

11. *Police in Kigoma Nab 18 Aliens*, THE GUARDIAN (Dar es Salaam, Tanz.), Jan. 22, 2003.

12. Since 2003, when the field work for this Article was conducted, the peace process has continued in Burundi, and a ceasefire agreement was signed between the government and the FNL in September 2005. However, the FNL withdrew from peace talks in July 2007 and continues to engage government forces as of January 2008. *Burundi: Thousands of displaced need assistance*, IRIN NEWS, Jan. 14, 2008, <http://www.irinnews.org/Report.aspx.ReportID=76220>.

As of February 2008, there are nearly 340,000 Burundian refugees residing in Tanzania, around 118,000 of these in UNHCR-assisted camps. Andreas Kirchof & Eveline Wolfcarias, *UNHCR Operations Chief Upbeat about Burundian Refugees*, UNHCR NEWS STORIES, Feb. 5, 2008, <http://www.unhcr.org/cgi-bin/texis/vtx/news/opendoc.htm?tbl=NEWS&id=47a871134>.

### III. THE BURUNDIAN CAMPS IN TANZANIA IN 2003

Burundian refugees generally enjoy prima facie refugee status accorded by the Government of Tanzania,<sup>13</sup> and in 2003 most resided in twelve camps situated in the Kagera and Kigoma Regions of Western Tanzania, nestled in the heart of the Great Lakes Region of East Africa. While Kagera Region borders on Rwanda and Burundi, Kigoma Region borders on Burundi and the Democratic Republic of the Congo. As of January 2003, Kagera and Kigoma were hosting approximately 515,000 refugees from those three neighboring countries. Over two thirds of these refugees are from Burundi.<sup>14</sup>

The Burundian camps, under the overall coordination of the United Nations High Commission for Refugees (UNHCR), are managed and staffed by a constellation of local and international Non-Government Organizations (NGOs) providing humanitarian assistance, education, health care, and other social services. In 2002 and 2003, nine of these camps were hosting between 15,000 and 50,000 Burundians each. As of December 2002, a total of around 370,000 Burundians were registered by UNHCR as living in these border settlements.<sup>15</sup>

The Burundian refugee camps in Tanzania are medium-sized towns in their own right, in which refugee families live in simple brick and thatch houses that they build themselves.<sup>16</sup> While the

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13. UNHCR Sub-Office Ngara Briefing Notes 2002 at 2 (on file with author). To the extent that individualized status determination is required by the Government of Tanzania, the 1998 Refugees Act incorporates the international refugee definition set forth in article 1(2) of the 1951 Refugee Convention, and the expanded considerations set forth in article 1(2) of the 1969 OAU Refugee Convention. The Refugees Act, No. 9 (1998), art. 1(1)(a)-(b), TANZANIA GAZETTE SUPPLEMENT No. 107; 1951 Refugee Convention, *supra* note 1; 1969 OAU Convention, *supra* note 3. See also Khoti Kamanga, *International Refugee Law in East Africa: An Evolving Regime*, 3 GEO. J. INT'L AFF. 25, 29 (2002).

14. UNHCR, DARES SALAAM MONTHLY STATISTICS, Dec. 2002.

15. *Id.* By February 2008, the number of Burundians living in UNHCR-assisted camps was down to 118,000, largely due to voluntary repatriation efforts encouraged by the government of Tanzania and facilitated by UNHCR. See Kirchhof & Wolfcarias, *supra* note 12.

Of the approximately 250,000 Burundians who have returned to Burundi from Tanzania since late 2002, around 62,000 returned in 2006, and 43,000 in 2007. U.S. COMMITTEE FOR REFUGEES AND IMMIGRANTS, WORLD REFUGEE SURVEY 2007, at 119 (2007), available at <http://www.uscr.org/article.aspx?id=1941>. According to USCRI, Tanzania forcibly returned fourteen Burundian refugees in 2007, despite protests by UNHCR. *Id.*

16. Upon arrival in one of the refugee camps in the Kigoma and Kagera Regions, each

refugees have limited opportunities to work outside the camps (and only with government-issued permits, generally as day laborers for Tanzanian farmers<sup>17</sup>), the camps are active communities with schools, vocational training projects, counseling, and other social services; micro-enterprises including soap and furniture-making workshops, small vegetable plots, and bustling markets. Refugee children<sup>18</sup> attend primary schools financed by UNHCR. Adult education projects are run by NGO's such as Tanganyika Christian Refugee Service (TCRS), operating in Kibondo District in Kigoma Region, and Norwegian People's Aid (NPA), an NGO active in Ngara District in Kagera Region. TCRS and NPA work alongside UNHCR, UNICEF, the International Rescue Committee, and a variety of other agencies, helping the refugees create vibrant and productive societies within the camps.

At the same time, the camps have been regarded as sources of insecurity by some Tanzanian government officials and Tanzanian citizens, particularly in 2002 and 2003.<sup>19</sup> At that time the refugee population was regarded as generally sympathetic to—if not actively supportive of—the military insurgency in Burundi, and small arms were readily available in the camps. (AK-47s were rumored to sell for 100 U.S. dollars or less in the informal markets.)<sup>20</sup> Moreover, certain refugees who left the camps, with and without permission, were regularly charged with both petty and more serious crimes in

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refugee family group is assigned a new plot and given wooden poles around which to construct a house, as well as plastic sheeting for the roof. Typically the newcomers stay with another refugee family, often from their home village in Burundi, while they complete construction of their new home using mud bricks and grass thatch. Visit to Mtendeli Camp, in Kibondo Dist., Kigoma Reg., Tanz. (Oct. 31, 2002); Briefing with Mtendeli Assistant Camp Manager, Tanganyikan Christian Refugee Service, in Tanganyika, Tanz. (Oct. 31, 2002).

17. See The Refugees Act, No. 9 (1998), art. 32, TANZANIA GAZETTE SUPPLEMENT No. 107.

18. As of 2003, Burundian refugee children born in the Tanzanian camps likely numbered upwards of 100,000. No precise figures exist, but based on a projection of monthly birth statistics for the years they are available through UNHCR, this number looks conservative. Meeting with UNHCR External Affairs Officer, in Dar es Salaam, Tanz., (Jan. 20, 2003).

19. CHRIS MAINA PETER, REFUGEE IMPACT ON LOCAL ADMINISTRATION: THE POLICE, JUDICIARY AND OTHER LAW ENFORCEMENT AGENCIES 9–10, 16–17 (2001) (from the Study Report Conducted for the Prime Minister's Office, under the Special Programme for Refugee Affected Areas, within the European Union funded Review of Refugee Related Policies and Laws Project) (on file with author).

20. Interview with Humanitarian Agency Staff Person, in Kibondo, Tanz., Oct. 31, 2002.



the local Tanzanian courts. While refugees were all too often convenient scapegoats for local criminal activities, it was not disputed that the prevalence of arms in the refugee camps was associated with an increase in armed robbery and other more serious offences, particularly in Kigoma District.<sup>21</sup>

Faced with a refugee population characterized by strong political views and perceived or actual links to insurgent activities, as of 2003 the Government of Tanzania was strongly resisting the idea of local integration of refugees outside the camps, despite the prolonged nature of the violence and instability within Burundian society. Thus, the refugees were caught in a suspended reality, pressured on one side by a climate of worn-out hospitality in Tanzania, punctuated by periodic and reflexive rhetoric concerning mass repatriation,<sup>22</sup> and on the other by ongoing brutality against civilians in Burundi, in violation of the Geneva Conventions of 1949.<sup>23</sup>

#### IV. THE PROSPECT OF FORCED RETURN TO BURUNDI

The subject of repatriation policy in Tanzania needs to be examined in light of the fact that in 1996, the majority of the Rwandan refugees who had sought asylum in Tanzania in the aftermath of the 1994 Rwandan genocide were forcibly repatriated to

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21. Peter, *supra* note 19, at 16–18. The Kigoma Regional Police Commander, Boniface Mugongolwa, recently stated that “three quarters of inmates in Kigoma prisons [are] refugees and illegal immigrants.” *Police in Kigoma Nab 18 Aliens*, *supra* note 11.

However, other local officials have also resisted the temptation to scapegoat refugees. For example, the Kibondo District Commissioner called a community meeting in January 2003 to discuss local security issues. He then proceeded to chastise his fellow Tanzanians for blaming their own criminality on refugees, pointing especially to the practice of local residents who exploit refugees as cheap day laborers on their farms or in construction, only to withhold the agreed amount of payment. He suggested that if the wronged refugees later return with weapons to demand their promised salary, the locals should ask themselves “who are the true bandits?” Interview with TCRS Project Coordinator, in Kibondo, Tanz. (Jan. 30, 2003).

22. See, e.g., Lwaga Mwambande, *All 22,000 Rwanda refugees home by Dec. 31*, THE GUARDIAN (Dar es Salaam, Tanz.), Oct. 10, 2002.

23. Common Article 3, which sets forth the fundamental humanitarian norms governing civil war, prohibits violence to the life of non-combatants, defined as “[p]ersons taking no active part in the hostilities.” Geneva Convention Relative to the Protection of Civilian Persons in Time of War, art. 3, *opened for signature* Aug. 12, 1949, 75 U.N.T.S. 287 (*entered into force* Oct. 21, 1950).

Rwanda, in violation of the norm of *non-refoulement*.<sup>24</sup> UNHCR was unable to stop this involuntary repatriation, despite its mandate to promote voluntary repatriation as a durable solution to the plight of refugees.<sup>25</sup> Therefore, although the Government of Tanzania continues to profess its commitment to the principle of *non-refoulement*, the Burundian refugee population and the humanitarian organizations working with them live under the cloud of this historical reality. Moreover, during the summer of 2002, the Government of Tanzania was actively promoting repatriation to Burundi, until extraordinary violence against civilians by the warring parties in Burundi during the latter half of 2002 caused this rhetoric to subside.<sup>26</sup>

While the level of conflict in Burundi ensured that Burundian refugees continued to be regarded as meriting protection in Tanzania in 2002 and 2003,<sup>27</sup> there were signs that this situation could change precipitously. In late January 2003, the World Food Program announced plans to cut the regular food ration for refugees in the Tanzanian camps to 50%. The government protested this reduction, and warned of the possible linkage between food shortages and civil unrest in the camps and surrounding communities.<sup>28</sup>

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24. 1951 Refugee Convention, *supra* note 1, art. 33.

25. See Statute of the Office of the United Nations High Commissioner for Refugees, G.A. Res. 428(V), Annex, art. 8(c) (Dec. 14, 1950).

26. UNHCR briefing session, in Ngara, Kagera Region, Tanz. (Oct. 31, 2002). On January 9, 2003, the Government of Tanzania expelled Ghulan Abbas, the UNHCR Head of Sub-Office in Ngara, allegedly for interfering with government efforts to repatriate Burundians. International and NGO personnel were puzzled about the expulsion given that Abbas had just participated in a UNHCR-coordinated voluntary repatriation of 23,000 Rwandan refugees from Tanzania to Rwanda in 2002, which was concluded on January 3, 2003. Moreover, the conduct for which Abbas was declared *persona non grata* occurred in October of 2002, when UNHCR helped rescue spontaneously repatriating Burundians who, along with UNHCR and the Tanzanian government, had miscalculated the level of violence across the border. See, *Tanzania Expels U.N. Official, Accusing Him Of Violating Policies*, U.N. WIRE, Jan. 13, 2003, [http://www.unwire.org/unwire/20030113/31387\\_story.asp](http://www.unwire.org/unwire/20030113/31387_story.asp).

After Abbas' expulsion in 2003 and the precedent of the 1996 forced mass repatriation to Rwanda, UNHCR, the NGOs, and the Burundian refugees were understandably nervous about their tenure in Tanzania.

27. Interview with Official from the Ministry of Home Affairs, in Tanz. (Jan. 17, 2003).

28. *WFP Halving Refugee Rations Amid Shortages*, U.N. WIRE, Feb. 5, 2003, [http://www.unwire.org/unwire/20030205/31869\\_story.asp](http://www.unwire.org/unwire/20030205/31869_story.asp).

It is important to note that as of February 2008, over 340,000 Burundian refugees still reside in Tanzania.<sup>29</sup> While both UNHCR and the government of Tanzania continue to encourage voluntary repatriation to Burundi, the government has expressed a greater willingness of late to allow at least some refugees to stay. Over the past fifteen years, in addition to those refugees confined to camps in Western Tanzania, other Burundians have established long-term settlements in the central part of the country. The government is particularly receptive to the notion of “local integration” for certain members of this population, which now numbers more than 200,000 people.<sup>30</sup>

#### V. HUMAN RIGHTS PROMOTION FOR BURUNDIAN REFUGEES

Human rights and refugees are intimately connected,<sup>31</sup> but all too often refugees are regarded as passive agents, acted upon by the larger political and military forces that surround them. First they are defined as victims of human rights abuses by state and non-state actors in their countries of origin, and then as recipients of humanitarian assistance and international protection in the countries in which they seek refuge. These tendencies are as pronounced in the Burundian camps in Tanzania as they are elsewhere in the world.

In part because of the seemingly intractable nature of the conflicts and repressive systems that refugees flee, as well as the incidence of ongoing threats to their security in exile, there is an increasing recognition of the role that refugees must play in their own protection, and in the resolution of social and political conflicts in their countries of origin. At the same time, more organizations are becoming involved in human rights protection on behalf of Burundian and other refugees. While UNHCR is still the lead agency in protecting and assisting refugees, it is the humanitarian agencies

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29. See Kirchhof & Wolfcarias, *supra* note 12.

30. *Id.*

31. The UNHCR Handbook indicates that persecution includes “serious violations of human rights.” UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status*, ¶ 51, U.N. Doc. HCR/IP/4/end/REV.1 (1972, re-edited 1992). Thus, given that refugees are defined as individuals with a “well-founded fear of persecution,” they are potential or actual victims of human rights abuses. See 1951 Refugee Convention, *supra* note 1.

that “deliver the goods,” in terms of material assistance, including food, shelter, health care, sanitation or education. And because many of the ongoing threats to refugees occur in the camps, whether at the hands of other refugees, agency workers or government officials,<sup>32</sup> these humanitarian agencies are increasingly involved in refugee protection issues.

In acknowledgement of their de facto role in refugee protection, humanitarian agencies in recent years have begun to take on so-called “human rights-based programming,” in which they recognize the human rights implications of all that they do.<sup>33</sup> One aspect of this human rights approach is the institution of training programs for agency staff on the rights of refugees under both refugee law and human rights law. A second dimension is the provision of education programs for refugees themselves concerning their rights under international law.

There is a potential symbiotic relationship between human rights education for refugees and the ongoing academic and vocational programs that are implemented in the Burundian camps in Tanzania. Educational programs in the Tanzanian camps are focused on skills relevant to eventual return and reintegration into Burundian society. This is true both for children, who follow a school curriculum in Kirundi, their national language, and for adults, who are encouraged to acquire technical and professional skills that will enable them to support their families upon return. UNHCR also promotes an “education for repatriation”<sup>34</sup> agenda in the Burundian camps. The

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32. One illustrative example involves the corruption of humanitarian assistance, such as when food and non-food aid is diverted for arms for rebel or criminal activity, or conditioned on the provision of sexual favours, specifically from refugee women and girls.

33. Humanitarian agencies, including TCRS, are incorporating refugee protection and human rights norms and guidelines into their program activities, including staff training schemes. *See infra* note 35.

34. This term is used by the humanitarian agencies working with Burundian refugees in Tanzania, as well as by government officials. *See* J.P. BRAHAM, TANZANIAN MINISTRY FOR FOREIGN AFFAIRS, OFFICIAL LAUNCHING OF THE REFUGEE POLICY REVIEW PROJECT (2000) (on file with author).

Human rights education will necessarily include an affirmation of the refugees’ right not to be repatriated against their will. Given the reality of ongoing conflict in Burundi, “education for repatriation” in refugee camps is a long-term project at best, which should include advocacy against forced repatriation. Moreover, human rights training, like the other academic and vocational skills the refugees are learning, improves their quality of life and social relations in

various training programs provide a framework to teach dispute resolution alongside more traditional skills.

Repatriation to Burundi was more feared than feasible in 2003, and for this reason, agencies such as Tanganyika Christian Refugee Service, Norwegian People's Aid, and other agencies were actively promoting refugees' acquisition of skills likely to improve their daily lives in the camps. Starting as early as 2000, additional programs have been offered to camp residents under the rubric of peace education and conflict transformation.<sup>35</sup> The goal of these efforts remains one of social reconstruction, and human rights education is a vital component of such community-building initiatives. As refugees and agency staff are trained in the rights of refugees, they may inculcate values likely to lower the level of conflict and human exploitation in the camps themselves, as well as upon return to Burundi.

Part VI is a case study of a human rights training developed for two of the Burundian camps in Tanzania in early 2003. The workshops led to frank discussion among refugees as well as Tanzanian and expatriate camp personnel on such topics as the sexual exploitation of women and children, and the prospect of forced repatriation to Burundi. Such exchanges are vehicles to transform human rights norms into meaningful tools to better ensure the protection and full participation of all members of the camp communities.

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the camps, while simultaneously helping to prepare them for return and reintegration into Burundian society.

35. TANGANIKA CHRISTIAN REFUGEE SERVICE, 2004 ANNUAL REPORT, at 11 (2004), available at <http://www.tcrs.or.tz/TCRS%202004%20Annual%20Report.pdf>.

In a related vein, UNIFEM, the UN women's organization, in collaboration with the Centre for Conflict Resolution, a South African NGO, held a series of workshops that trained refugees in non-violent conflict resolution skills in both Kigoma and Kagera Regions of Tanzania during 2002.

## VI. HUMAN RIGHTS TRAINING: EDUCATION FOR SOCIAL TRANSFORMATION

*January 28–31, 2003, Camp Lukole A (Ngara District, Kagera Region) and Camp Kanembwa (Kibondo District, Kigoma Region), Tanzania*

In January of 2003, two workshops were held in Western Tanzania under the auspices of the Centre for the Study of Forced Migration (CSFM), an NGO based at the Faculty of Law of the University of Dar es Salaam. A visiting scholar at CSFM collaborated with field staff of Tanganyika Christian Refugee Service (TCRS), Norwegian People's Aid (NPA) and UNHCR in facilitating the trainings. The first workshop was held in Camp Lukole A, in the district of Ngara in Kagera Region, north-western Tanzania, and the second in Camp Kanembwa, in the district of Kibondo, in Kigoma Region, in central western Tanzania.

The workshops were designed for both refugees and Tanzanian nationals working in the camps, whether for NGO's, UNHCR or the Tanzanian government. In Camp Lukole A, thirty-three participants attended the training, which was comprised of half Burundian refugees and half Tanzanian camp workers, with one-third women and two-thirds men.<sup>36</sup> In Camp Kanembwa, twenty-two participants attended, comprised again of half refugees and half Tanzanian nationals, but with two-thirds women and one-third men.<sup>37</sup> All the participants, refugees and Tanzanians alike, were service providers in the camps, including teachers, social workers, and administrators of social service and education programs in the camps.

Both workshops lasted a day and a half, and were organized in three sessions, each with a plenary presentation followed by question-and-answer or small group discussions. The first session provided the participants with a common grounding in international refugee and human rights law. The second focused on the phenomenon of sexual

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36. The Lukole A participants included 16 Burundian refugees, 16 Tanzanians, and 1 expatriate. Among the Tanzanians were two police officers and two local officials from the Ministry of Home Affairs. There were 10 women, and 23 men in this workshop.

37. The Kanembwa participants comprised 12 refugees, 9 Tanzanians, and 1 expatriate. There were 14 women and 8 men in attendance.

exploitation of refugee women and girls in the Burundian camps. The third session gave all participants the opportunity to write and orally present personal narratives on their experiences in Burundi and the Tanzanian camps. Finally, the participants completed evaluation forms in which they could reflect further on the substantive issues discussed during the workshops.

#### *A. Basic Refugee, Human Rights, and Humanitarian Law*

The workshop's presentation of the basic norms of international law relating to refugees began with the persecution-based definition of a refugee set forth in the 1951 Refugee Convention, and then proceeded to the 1969 OAU Convention's broader definition, which also encompasses civilian victims of armed conflict. The discussion then focused on the right of refugees to primary education, the norm of *non-refoulement*,<sup>38</sup> and the full panoply of rights that refugees also possess under the Universal Declaration of Human Rights.<sup>39</sup> Among the most critical Universal Declaration provisions from the refugees' perspective are the rights to life, humane treatment, non-discrimination, a basic standard of living, and education.<sup>40</sup> In both workshops, the participants demonstrated a considerable level of sophistication in their understanding and analysis of the language of the various international instruments.

In Ngara, questions initially centered on the fact that gender was not enumerated as a basis for persecution in either the 1951 Refugee Convention or the 1969 OAU Convention refugee definitions. In the discussion that followed, participants recognized that social group, one of the enumerated grounds for persecution, could nevertheless be defined in terms of gender. Even more pointed questions were raised about Tanzania's forced return of the Rwandan refugees in 1996, in violation of the norm of *non-refoulement* enshrined in Article 33 of the 1951 Convention. One participant questioned the value of

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38. See 1951 Refugee Convention, *supra* note 1, art. 33.

39. Universal Declaration of Human Rights, G.A. Res. 217A, at 71, U.N. GAOR, 3d Sess., 1st plen. Mtg., U.N. Doc A/810 (Dec. 12, 1948).

40. *Id.* arts. 3 (right to life, liberty and security), 5 (freedom from torture or inhuman treatment), 2 (non-discrimination), 25 (right to adequate standard of living), and 26 (right to education).

international law, given the reality of massive violations. Another countered that, for this very reason, international norms are essential guidelines that provide a standard of legal and humane conduct to which states and individuals can aspire.

In Kibondo, the discussion surrounding the international treaty language was also very substantive. One participant queried why the internally displaced were not included in the refugee definition, and the participants talked about the possibility of enhanced international protections for IDP's. Other participants focused on the status of economic migrants and victims of famine, and considered the political roots of poverty and hunger. Many participants were also concerned about the lack of entitlement to secondary education. Perhaps the most fascinating exchange concerned the relevance of gender to refugee status. One participant said women fled not because they were women, but because of their religion or ethnicity, for example. However, another countered that being female was an added dimension of the causes of flight, due to the biological, social, and political attributes that women possess within their societies.

In both workshops, the participants demonstrated an understanding of the basic language of the treaties and a willingness to question the content and impact of the norms. The sharpest critique regarding the substance of the norms of refugee protection concerned the lack of entitlement to secondary and post-secondary education for refugees. The greatest concern regarding insufficient implementation of norms centered on the prospect of another forced repatriation from Tanzania, this time of Burundians.

While more women participated in Kibondo, where they were in the majority, to a somewhat lesser extent women also posed questions and made comments in Ngara, where they were in the minority. The smaller numbers in Kibondo (twenty-two vs. thirty-three) also led to a greater level of participation overall, perhaps because a more intimate gathering facilitated a broader exchange of views.



### *B. Protection of the Vulnerable*

The second session started with a hypothetical exercise distributed in written form and then read by the facilitator in English and French. The fact pattern concerned a periodic food distribution in a particular camp in Kibondo, in which several male humanitarian workers threatened to give reduced rations to a number of refugee women unless they provided them with sexual favors.<sup>41</sup>

After the presentation of the fact pattern, the participants divided into small groups of five to seven persons each, and considered a number of questions that had been posed by the facilitator. The questions centered on whether the conduct was wrong and why, what norms had been violated, and finally what preventative or curative action could be taken in response. The groups met for over an hour, before reconvening in plenary session for presentations of their findings by group spokespersons.

In Ngara, there was wide consensus that conditioning humanitarian assistance on the giving of sexual favors is wrong. It was characterized as forced prostitution, for a variety of reasons, including the lack of consent and the power differential between the camp workers and the refugee women. One participant, a Burundian man, distinguished between prostitution for money, and the giving of sex by a refugee woman to obtain “son pain quotidien”—her daily bread. He stressed that while for many women prostitution is a potential pathway out of poverty, for refugee women it is a matter of basic survival, and thus a more extreme form of exploitation. Another participant, a Tanzanian woman, defined the conditioning of aid on sexual favors as “abuse of power.”

In Kibondo, the fact that the conduct was wrong was largely taken for granted, and the blame was placed largely on the shoulders of the individual camp workers who requested sex. Participants stressed the correlation between reduced rations and an increased incidence of

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41. In addition to the fact that prostitution of refugee women and girls is relatively commonplace in refugee camps, sex for food exchanges between refugee women and male camp workers has also been reported to a lesser extent. Humanitarian organizations are concerned about this phenomenon, both because it endangers and exploits refugees, and because it threatens the integrity of the entire humanitarian assistance program. Interview with TCRS Representative, in Dar es Salaam, Tanz. (Jan. 9, 2003).

prostitution, and noted the World Food Program's decision to cut food rations, already at 80%, to 50% by February of 2003. The participants were extremely concerned about the negative impact of the upcoming ration cuts on vulnerable refugees, including women and girls.

Regarding the relevant legal norms, a number of participants defined forced prostitution as a violation of refugee rights, human rights, and women's rights. In Ngara, one spokesperson pointed to two specific violations of the Universal Declaration of Human Rights: the Article 2 norm of non-discrimination, and the Article 5 norm of humane treatment. When asked to elaborate on how prostitution was discriminatory, another female speaker wryly retorted that male camp workers are less likely to extort sex from refugee men than they are from refugee women. Other participants focused on the fact that giving humanitarian assistance in exchange for sex is defined as rape under Tanzanian law, because consent is presumed lacking in such circumstances.<sup>42</sup> In Kibondo, several participants also added that forced prostitution involving NGO staff violates the codes of conduct of the humanitarian agencies.

In both camps, there was a wide-ranging discussion of steps that might help combat the phenomenon of forced prostitution and other forms of sexual exploitation in the camps. In Ngara, participants debated whether educational "know your rights campaigns" and consciousness-raising activities were more effective than increased reporting and prosecution of criminal conduct.

In Kibondo, by contrast, participants focused on two additional issues: reduced food rations and the fuller involvement of women in food distribution at every level. UNHCR and the voluntary agencies have long advocated that refugee women be the direct recipients of regular food distributions, because they are less apt to use food to buy alcohol, arms, or sex than their male counterparts. The wisdom of this policy was taken for granted by the participants. However, several participants also highlighted the fact that just because a woman receives a food basket on distribution day does not mean she can ensure its proper consumption at the household level, due to unequal

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42. See The Refugees Act, No. 9 (1998), TANZANIA GAZETTE SUPPLEMENT NO. 107.

power between men and women within families. Without resolving this problem, another participant also stressed that not only should refugee women receive the food and attempt to control its consumption, but female humanitarian aid workers should distribute it as well.

While both workshops took a multi-layered approach to addressing the problem of sexual exploitation in the camps, the Ngara participants focused on education and criminal prosecutions, whereas the Kibondo participants stressed the overwhelming likelihood that such abuses would continue and increase in a climate of reduced food rations.

### *C. Refugee Camp Narratives*

The final session of the workshop was designed to give the participants, Burundians and Tanzanians alike, the opportunity to tell and share their personal stories, whether of flight and exile, or of working with refugees in the camps. The facilitator gave all the participants a writing exercise that they could take home, start on the first evening of the workshop, and finish the following morning. The exercise contained a series of prompting phrases for the participants to complete, starting with name and country of origin and ending with their best and worst experiences in the camps and their fears and hopes for the future.

The following morning the facilitator read a poem by a young refugee woman from Bosnia expressing themes of loneliness and longing for human acceptance,<sup>43</sup> which one of the participants then translated into French. After the reading of the poem, volunteers were invited to share their own narratives orally to the whole group.

In Ngara, where time was limited for oral presentations and the group was quite large (comprising thirty-three individuals), two individuals volunteered to speak. The first volunteer talked about his flight from Burundi shortly after the election of President Ndadaye, amid fears that there would be ethnically motivated killings by government soldiers. He said his greatest fear was inadequate food

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43. Ademir Karisik, *Pakistan*, in *THE SUITCASE: REFUGEE VOICES FROM BOSNIA AND CROATIA* 102 (Julie Mertus et al. eds., 1997).

rations in the camp, and his greatest hope was a durable peace in Burundi. The second volunteer related that she had never known Burundi, because she was born in Rwanda where her parents had sought refuge in the 1970's. She then fled to Tanzania after the Rwandan genocide in 1994. Her greatest fear was forcible repatriation to Burundi, as happened to the Rwandans in 1996. Her greatest hope was peace.

In Kibondo, there was less time pressure during the last session, and the group decided to go around the room, to give all who wanted to speak the chance to do so. Almost two hours later, fourteen of the twenty-two participants had spoken, ten refugees—seven women and three men, and four Tanzanians—two women and two men. All ten refugees had lost relatives in the brutal conflicts in Burundi and Rwanda. While most of the refugees had come directly to Tanzania, several had fled Burundi for Rwanda and/or the DRC before finding refuge in Tanzania. One Burundian woman had fled to Zaire, then Rwanda, back to Burundi, then to the DRC (the former Zaire), and finally to Tanzania.

Speaking of what was hardest about life in the camps, several refugees said it was the uncertainty, the fact that “I cannot see my future,” as one man said, and the limited education opportunities for themselves and their children. Many said their greatest fear was forced repatriation, and almost all said their greatest hope was return to a peaceful Burundi.

As for the Tanzanians, despite the fact that they had not lost family members to massacres, they also defined their most painful moments in terms of the death of loved ones, whether to old age or disease. And echoing their Burundian fellows, their greatest hope was that the Burundian peace process would bear fruit so that the refugees could freely return in safety.

One Tanzanian participant related a parable in lieu of a personal story. He told the story of a man who was seeking to understand the meaning of heaven and hell. He was taken in a dream by a mysterious figure to two different rooms. In the first room, there was a table groaning with food, yet the people seated around it were dying painful deaths. They had been given spoons a meter long to eat with, and they were instructed to hold the spoons by their ends. Unable to get the food into their own mouths, they were dying of starvation. In

the second room, the rules were the same, and there was a similar spread of food. There, however, the scene was joyful, as people fed one another across the table.

The narrator of the story concluded by saying, “heaven and hell can start here on Earth, depending on how we operate. Why don’t Hutu and Tutsi take a spoon and feed each other? Then there will be peace.”

#### *D. Evaluations*

Additional statements from the workshop participants came in the form of their individual evaluations, which included answers to questions about the substantive issues discussed during the various sessions, as well as individual comments and feedback. The evaluations emphasized several themes that had resonated throughout the workshop. First, the participants stressed that reduced rations threatened the very social fabric of life in the camps, particularly the human rights of refugee women, both to physical integrity and material security. Second, while forced repatriation was understood to be a clear violation of the norm of *non-refoulement* on the part of the host government, the refugees in particular did not take for granted that Tanzania would in fact honor its obligations under article 33 of the 1951 Refugee Convention. Finally, the evaluations stressed that educational opportunities beyond the primary level were fundamental to the refugees’ ability to meaningfully participate in the rebuilding of their communities, both in exile and upon return to Burundi.

Despite the considerable gap between the norms of protection and the reality of life in the camps, a number of refugees expressed their appreciation for the opportunity to take part in the trainings, and requested additional opportunities in the future. As one Burundian woman said, even if we cannot fully enjoy our rights today, “it is important to know what our rights are and to be able to point to the treaties that contain those rights.”

## VII. CONCLUSION

There remains an even greater potential for the integration of human rights norms and human rights training initiatives within the context of assistance, education, and social service activities in the camps. Such efforts are particularly needed, given that both the Burundian refugees and the humanitarian agencies are in the Tanzanian camps for the long term, and “education for repatriation” for the time being is serving as education for survival in exile.

What remains is a clear-eyed assessment of human rights education and programs can be more fully translated from ambitious rhetoric to practical implementation in the daily lives of Burundian refugees residing in Tanzania. Meaningful protections, against forced repatriation and sexual exploitation, are clearly at risk in a climate of food insecurity and protracted civil conflict. Given the difficult odds, it could be said that the goal of strengthening a vibrant human rights culture in refugee communities must retain a quality of unabashed idealism. Such committed and concerted optimism will certainly be essential, if refugee camps as potential incubators of continued violence are to become schools for non-violent social transformation.