

Implementing a Revised Refugee Policy for Urban Refugees in Tanzania

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Abstract

Although well known as a host for refugees in rural camps, Tanzania also hosts a large population of urban refugees. Like most urban refugees in Africa, these refugees live without legal status and without humanitarian or resettlement assistance. There are indications that Tanzania will adopt a revised policy that will recognise urban refugees. However, a revised policy will likely continue to make use of refugee camps and to impose restrictions on refugees who intend to legally reside outside of camps. The Tanzanian government may be able to take steps to mitigate the impact of these limitations.

Introduction

While Tanzania is known for its sizeable population of refugees in rural camps, the country also hosts a population of refugees who live outside camps (USDS 2012; Chaulia 2003). Known as ‘spontaneous,’ ‘self-settled’ or ‘urban’ refugees, these refugees lack legal recognition as refugees by the Tanzanian government and do not have access to humanitarian aid or resettlement assistance (Sommers 2001). In Tanzania, refugees outside camps include those in urban areas and those who have settled in rural areas in Western Tanzania (Whitaker 2002; Sommers 2001); this article focuses on the former. Among urban refugees, the government estimates the number in Dar es Salaam alone to be at least 10,000 (USDS 2012).

Urban refugees in Africa typically lack legal status and fear being sent to camps, causing other challenges: exploitation by law enforcement and a lack of access to support services, official refugee status determination systems, and some durable solutions (Asylum Access 2011). However, because the government of Tanzania has indicated that it intends to address the challenges faced by urban refugees, a change of policy is expected (USDS 2012).

The government’s intentions as well as the timing and content of a revised urban refugee policy remain largely unknown. But the possible change in policy undoubtedly raises questions about how a policy that recognises urban refugees will be implemented. This paper reviews current developments to describe challenges to official recognition of urban refugees, predicts the content of a revised policy, and provides suggestions on how a policy should be implemented within the confines of Tanzania’s legal and policy framework.

Limits of a Revised Tanzanian Urban Refugee Policy

Although Tanzania was once regarded as a world leader in refugee protection, anti-refugee sentiment stemming from conditions such as economic and humanitarian crises created pressure to reduce the country’s refugee population (Veney 2007). Refugees have been blamed for crime, environmental degradation and strains on public services (Loescher and Milner 2005). As a result, increasingly restrictive refugee laws have required almost all refugees to reside in refugee camps and have pursued the goal of Tanzania being refugee free (Chaulia 2003). Although Tanzania’s 1998 Refugees Act leaves the government with the choice of not placing refugees in camps,¹ the Tanzanian government has required the majority of refugees to go to camps. The 2003 National Refugee Policy made encampment and the goal of repatriating refugee the official

¹ Section 16 of the act empowers the Minister of Home Affairs to create ‘designated areas’ for refugees, but the Act does not expressly require the Minister to do so.

policy (MHA 2003; Kamanga 2005). In camps, refugees can expect to depend on diminishing humanitarian aid (Crisp 2003).

A revised Tanzanian policy towards urban refugees would be constrained by political factors. Accepting urban refugees may be a political liability. Some Tanzanian politicians have used refugees as scapegoats for economic ills (Veney 2007). Others promised to repatriate refugees if elected (Chaulia 2003). Regional and local governments may be unwilling to accept urban refugees in their jurisdictions. Indeed, they have already effectively stopped the naturalisation of 162,000 Burundians who arrived in Tanzania in 1972 and were promised citizenship in 2008 (Lomo 2012).

The government's drive to close Mtabila Refugee Camp and to repatriate 40,000 Burundian refugees who arrived after 1972 suggests that the goals of the 2003 encampment policy have not faded in importance (Guardian 2012). Moreover, there is little indication of public opposition to encampment and the restrictions on refugee movement it entails.

The use of refugee camps has engendered its own difficulties. The provision of free education and health services to some encamped refugees, but not to Tanzanians, causes tension between nationals and refugees (Loescher and Milner 2005). Keeping refugees in camps prevents Tanzania from benefiting from refugees' work and skills (Hovil 2007). Moreover, encampment requires the government and UNHCR to provide refugees with humanitarian support (Jacobsen 2006).

A *De Facto* Urban Policy?

Elements of the Tanzanian government have adopted what may be a *de facto* means of accepting urban refugees. As Kagan (2007) explains, *de facto* refugees are those who lack assistance provided to recognised refugees. A *de facto* urban policy allows refugees to live in urban areas but denies them rights or processes available to recognised refugees.

In 2011, the Ministry of Home Affairs' Immigration Department began allowing refugees and others to obtain residence permits that had previously only been available in rural areas for irregular settlers (Asylum Access 2012). These residence permits are not free but, at ten thousand shillings (around six U.S. dollars), are much less expensive than other residence permits for foreign nationals, which cost at least 500 U.S. dollars (MHA 2012). Permit holders are able to live and work legally outside refugee camps (Asylum Access 2012).

This is a promising development. In the past, Tanzania has taken much-criticised measures to reduce its refugee population, including forced repatriation (e.g. of Rwandan refugees) or *refoulement* through the closure of its borders (Human Rights Watch 2007; Hathaway 2005). The government's openness to pursuing options for refugees besides encampment indicates that it is willing to accept urban refugees so long as they meet a minimum threshold for eligibility. For the moment, these criteria include long-term residence and some demonstrable self-sufficiency through 'legally recognized small scale activities' (MHA 2012). This policy is similar to the Ugandan practice of allowing refugees to reside outside camps so long as they can demonstrate that they have a place to live and employment (Bernstein and Okello 2007).

However, the provision of residence permits to refugees along with other long-term residents is not a perfect solution. Urban refugees who are barred from applying for asylum because they never registered as asylum seekers for fear of being sent to camps may be unable to access refugee status determination procedures and obtain additional protections or durable solutions. Even if urban refugees are willing to forego humanitarian aid, they may prefer to be treated as

refugees rather than ordinary migrants – especially if this allows them to undergo status determination and be considered for resettlement or repatriation assistance.

Recommendations for Implementing a Revised Policy on Urban Refugees

A policy that recognises urban refugees would have the benefit of allowing refugees to reside in urban areas and still access status determination procedures and other support aimed at finding durable solutions. For refugees for whom camp life is unbearable, a revised policy would make leaving camps less of the stark choice between refugee or asylum seeker status and the freedom to pursue a livelihood. It is very likely that urban refugees would still face significant limitations. Despite a refugee's long residence in Tanzania, the government may not be willing to permit work beyond the field of 'small-scale activities'. And, if most aid continues to be channelled to encamped refugees, urban refugees may struggle to educate their children or access services that would have been more easily available in camps.

Admittedly, such limitations may make acceptance of urban refugees more politically feasible since refugees would not be receiving humanitarian aid in the form of food and shelter. They might also reduce tensions between urban refugees and other urban populations. The selective provision of aid to refugees instead of to all urban populations may otherwise cause friction. Nonetheless, the government may be able to take steps to mitigate the impact of limiting urban refugees to 'small-scale activities' or requiring them to pay fees in order to be able to leave camps. These steps would help assure that refugees who can live outside camps and meet the government's eligibility standards are able to do so.

First, the continuation of refugee camps alongside recognition for urban refugees would require some means of deciding who may or may not leave refugee camps or not have to enter a camp. These would likely be made by the government but should be based on transparent criteria and, preferably, at a continued low cost for refugees themselves. Refugees should be able to apply to live outside camps without having to enter a camp to begin with and should have time to raise sufficient funds for any fees.

Second, the government should allow refugees to apply to live outside camps in other areas in Tanzania besides Dar es Salaam. At present, procedures to reside outside camps are lengthy and expensive. For example, refugees who wish to work must first obtain permission from camp commandants to travel from refugee camps in the northwest to Dar es Salaam to be able to apply for a work permit from the Immigration Department (Rutinwa 2005). Making more offices available to obtain necessary permissions and documentation would reduce the cost of applications and allow refugees to live elsewhere than Dar es Salaam (Belvedere 2007).

Third, refugee status determination and durable solutions (e.g. resettlement) procedures should be made available regularly outside of refugee camps in order to make them accessible to urban refugees. However, service providers for these procedures should have increased and regular access to refugee camps. This would help assure that refugees are not encouraged to leave camps solely because they believe doing so would make durable solutions available. Providing service providers, such as legal aid providers, more access to camps would reduce such pressures.

Although these steps would not guarantee refugees in Tanzania all of their rights, they would improve Tanzania's refugee policy and give more refugees the opportunity to live lives of dignity.

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References Cited

- ASYLUM ACCESS** (2011) *No Place Called Home: A Report on Urban Refugee Living in Dar es Salaam*, Dar es Salaam, Asylum Access. Available from: <<http://asylumaccess.org/AsylumAccess/wp-content/uploads/2011/11/No-Place-Called-Home.pdf>> (accessed 28 July 2012).
- _____ (2012) 'Forging a New Path for Urban Refugees.' Available from: <<http://asylumaccess.org/AsylumAccess/news-and-updates/archives/winter-2012-a-new-path-to-legal-status-for-urban-refugees-in-tanzania>> (accessed 28 July 2012).
- BELVEDERE, M.F.** (2007) 'Insiders but Outsiders: The Struggle for the Inclusion of Asylum Seekers and Refugees in South Africa', *Refuge* **24**(1): 57-70.
- BERNSTEIN, J.** and **OKELLO, M.C** (2007) 'To Be or Not To Be: Urban Refugees in Kampala', *Refuge* **24**(1): 45-56.
- CHAULIA, S.S.** (2003) 'The Politics of Refugee Hosting in Tanzania: From Open Door to Unsustainability, Insecurity and Receding Receptivity', *Journal of Refugee Studies* **16**(2): 147-166.
- CRISP, J.** (2003) 'No Solutions in Sight: The Problem of Protracted Refugee Situations in Africa', *UNHCR Working Paper No. 75*.
- KAGAN, M.** (2007) 'Legal Refugee Recognition in the Urban South: Formal v. *de Facto* Refugee Status', *Refuge* **24**(1): 11-26.
- KAMANGA, K.** (2005) 'The (Tanzania) Refugees Act of 1998: Some Legal and Policy Implications', *Journal of Refugee Studies* **18**(1): 100-116.
- GUARDIAN** (2012) 'Mtabila Refugee Camp for Closure at Year End', 28 February. Available from: <<http://www.ippmedia.com/frontend/index.php/6http://?l=38915>> (accessed 29 July 2012).
- HATHAWAY, J.** (2005) *The Rights of Refugees Under International Law*, Cambridge, Cambridge University Press.
- HOVIL, L.** (2007) 'Self-settled Refugees in Uganda: An Alternative Approach to Displacement', *Journal of Refugee Studies* **20**(4): 599-620.
- HUMAN RIGHTS WATCH** (2007) 'Human Rights Watch Letter to President Jakaya Mrisho Kikwete of Tanzania'. Available from: <<http://www.hrw.org/news/2007/05/08/human-rights-watch-letter-president-jakaya-mrisho-kikwete-tanzania>> (accessed 29 July 2012).
- JACOBSEN, K.** (2006) 'Refugees and Asylum Seekers in Urban Areas: A Livelihoods Perspective', *Journal of Refugee Studies* **19**(3): 273-286.
- LOESCHER, G.** and **MILNER, J.** (2005) 'The Long Road Home: Protracted Refugee Situations in Africa', *Survival* **47**(2): 153-174.
- LOMO, Z.** (2012) 'Why is the Government of Tanzania Backtracking from its Commitment to Fully Grant Citizenship to Burundian Refugees?', *Fahamu Refugee Legal Aid Newsletter*. Available from: <<http://fmlan.tumblr.com/post/26438630233/why-is-the-government-of-tanzania-backtracking-from-its>> (accessed 29 August 2012).

MINISTRY OF HOME AFFAIRS (MHA) (2003) *National Refugee Policy*, Dar es Salaam, Ministry of Home Affairs.

_____ (2012) 'Public Announcement'. Available from:
<<http://immigration.go.tz/module1.php?id=45>>(accessed 29 August 2012).

RUTINWA, B. (2005) 'Identifying Gaps in Protection Capacity: Tanzania'. UNHCR Strengthening Protection Capacity Project. Available from:
<<http://www.unhcr.org/refworld/pdfid/472896f50.pdf>> (accessed 28 July 2012).

SOMMERS, M. (2001) *Fear in Bongoland: Burundi Refugees in Urban Tanzania*, New York, Berghahn Books.

UNITED STATES DEPARTMENT OF STATE (USDS) (2012) 'Country Reports on Human Rights Practices for 2011 – Tanzania'. Available from:
<<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dliid=186250>>
(accessed 29 July 2012).

VENEY, C.R. (2007) *Forced Migration in Eastern Africa: Democratization, Structural Adjustment and Refugees*, New York, Palgrave MacMillan.

WHITAKER, B.E. (2002) 'Refugees in Western Tanzania: The Distribution of Burdens and Benefits Among Local Hosts', *Journal of Refugee Studies* **20**(4): 339-358.