

RIGHTS IN EXILE POLICY PAPER

Aligning Refugee Policy with Refugee Realities

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THE *RIGHTS IN EXILE SERIES* BRINGS TOGETHER PUBLICATIONS THAT
FOCUS ON KEY ISSUES OF REFUGEE POLICY AND REFUGEE RIGHTS.

ABOUT THE INTERNATIONAL REFUGEE RIGHTS INITIATIVE

The International Refugee Rights Initiative (IRRI) was founded in 2004 to inform and improve responses to the cycles of violence and displacement that are at the heart of large-scale human rights violations.

Over the last 13 years, we have developed a holistic approach to the protection of human rights before, during, and in the aftermath of displacement, by focusing on:

- identifying the violations that cause displacement and exile,
- protecting the rights of those who are displaced, and
- ensuring the solutions to their displacement are durable, rights respecting, safe and timely.

We work to ensure the voices of the displaced and conflict affected communities are not only heard but heeded at the international level through our evidence based advocacy that is built on solid field based research and analysis.

We are registered as a non-profit organisation in the US, the UK, and Uganda.

www.refugee-rights.org

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Cover photograph of Ali Sabieh, Djibouti, by Themba Lewis, 2012
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Background

This paper draws on six years of field research in the Great Lakes region, incorporating [nine units of field research](#).¹ Each study focused on the links between citizenship and forced displacement in the Great Lakes region and examined both the differences and the interaction between local and national understandings of belonging. It intersects with a long and well-developed conversation among scholars and policymakers about the shortcomings within the refugee policy and humanitarian regime, caused not only by the upholders of the regime, but also by host countries themselves.

The findings demonstrate that the logic of exclusion that is at work in formal, legal mechanisms of citizenship in postcolonial states in the Great Lakes region colludes with exclusionary tendencies within the humanitarian response to refugee crises, helping to maintain exclusion as the default position for those who have been exiled from their state (and which affects the ability of those displaced internally to integrate and the prospects for return of both groups).

The research used two connected but different approaches to understanding realities on the ground: a policy approach that engages with the primarily state-centric legal framework; and a socio-anthropological approach that nuances and challenges that narrative. The analysis considers ways in which policy and the lived experience of exile interact – or fail to interact – in order to make sense of an international human rights framework that holds so much promise but often fails to deliver.

This approach holds in tension the fact that, on the one hand, spaces for refugee protection are continually shrinking and the label, refugee, is a crucial tool for targeting and maintaining protection of the rights of a specific legal category of people both during exile and at the point of return. On the other, realities on the ground demonstrate that refugees have multiple identities, deploy multiple coping strategies, and often defy neat categories.

This paper considers in turn national and local articulations of belonging that came through the studies, before bringing them into one space. It then considers the extent to which the realities of belonging resonate – or fail to resonate – with policy approaches, before turning to the question of whether or not refugee categorisation holds salience.

National belonging

Refugees are strongly defined by their relationship to states – both the state from which they have fled, and the state in which they have sought protection. We talk about refugees *from* Burundi who are living *in* Tanzania, or *Rwandan* refugees in *Uganda*.

However, despite the fact that refugees are defined and talked about in terms of their nationality, it is painfully apparent that both the relationship between refugees and the state from which they have fled and refugees and the state in which they have sought protection, are deeply problematic. So it is the failure rather than the success of national belonging that marks out the refugee.

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The interaction between those in exile and notions of national belonging is particularly germane on the African continent where the very presence of refugees, as defined in international law, exists as a result of the particularly arbitrary colonial boundaries. While territorially bounded communities have always existed in Africa, it was the specific nature of these artificially created boundaries that forced the current categorisation onto them. As a result, nowhere is the idea of

¹ See, Lucy Hovil, *Refugees, Conflict and the Search for Belonging*. Palgrave Macmillan, 2016.

the end of the current configuration of states more intuitively appealing than in discussions around the “problem” of refugees on a continent where colonially-imposed states call into question the legitimacy of this internationally-defined category in the first place.

The irony is that while the prospects for *informal* integration are often high, particularly in borderland areas where people share language, culture and history, the pathways to naturalisation are incredibly limited. Throughout the region, even if the law provides for this option, the length of time that people need to be resident leaves most with little prospect of formal integration.

In reality, of course, eradicating borders is unlikely and would not automatically bring about an end to exile and exclusion. Appealing as it is to talk about more cosmopolitan or pan-African understandings of belonging state-centric understandings continue to display an extraordinary level of resilience within discourses among and around refugee groups, if only for a lack of viable alternatives. As a result, the *idea* of the state – reinforced by powerful actors on the international stage who promote their existence – continues to hold enormous appeal even if its incarnation remains sorely lacking.

What is interesting, is the way in which national identity is talked about by those displaced from their state. Through the research, two things came out clearly in relation to this.

First, it was striking in many of the studies that national self-identification of the country from which people had fled was still seen as something desirable and relevant, despite (or possibly as a result of) the fact that their status as refugees represented a fundamental failure in their government’s ability to protect them – and therefore a failure of citizenship as legally understood. In Burundi, for instance, the extent to which return was seen as a reassertion of the legitimacy to belong at a national level was a key component to the way in which reintegration was articulated by those who opted to return. The political forces that had kept them excluded as legal aliens throughout their time in Tanzania were seen as being potentially reversed by the process of their return to Burundi and the reassertion of their legitimacy to belong within a *national* context. Within this context, access to land quickly emerged as the most critical issue for measuring – or assessing – the renegotiation of this political contract, ensuring that access to land and reintegration were seen as inseparable. Land represented access to livelihoods; it allowed for the bringing together of family structures that represented a vital coping mechanism in a context of extreme poverty; it symbolised connection with the past, with history, a re-affirmation of identity; and its equitable distribution represented hope for sustainable peace.

Refugees forge spaces for belonging at a local level regardless of their national status

Second, therefore, many of those interviewed recognised the *content* of this national citizenship as deeply problematic. This recognition showed both a strong awareness of the differences between national citizenship *in theory* and the realisation of that citizenship in practice; and the differences between legal citizenship and broader notions of national self-identification (or belonging). The failures by the state to protect its citizens thereby forcing them into exile; the failures of the same state to then create the necessary conditions for them to return; and the refusal by host governments to offer a new citizenship, all emphasise the problematic nature of national belonging in practice. The fact that many of those who returned to Burundi during the mid to late 2000s have now been re-displaced as a result of the resurgence of political repression in the country, is case in point.

The findings of the [Burundi case study](#), therefore point to a complex interaction between an imagined, idealised citizenship, and the failures to translate this ideal into reality.

Belonging to the local

At the same time, the findings pointed to the ways in which refugees forge spaces for belonging at a local level regardless of their national status. The findings explored some of the multiple constituent components to belonging, from, for instance, the ability to access land or other resources crucial to livelihoods, or the ability “to borrow salt from your neighbours”.

The findings showed that the ways in which inclusion or exclusion at a local level are experienced in practice are often in contrast (or even in direct contradiction) to constructions of local integration as a policy-implemented solution. There are multiple ways in which refugees create local forms of belonging *despite* the policy context, which demonstrate the ability of those who are displaced to navigate their way around state-centric structures and form allegiances regardless of their national unbelonging.

Thus, when refugees, members of the host population, governments, policymakers, or academics talk about local integration, they are often referring to fundamentally different processes and outcomes. As a result, in policy language notions of local belonging are often inadequately captured in the notion of “local integration” as defined within the language of durable solutions.

The situation facing [former Burundian refugees in Tanzania](#) is a clear example. The offer of citizenship in 2008 by the Tanzanian government to a group of refugees was seen by the refugees to be negated by the fact that this citizenship was then made contingent upon relocating elsewhere in the country. While those that had originally accepted the offer strongly desired national citizenship, there was a strong sense that it was not worth attaining at the expense of losing local structures of support. Local mechanisms of belonging were seen as crucial to the ability for those who were not only eking out a living in Tanzania – a country that is, by any standards poor – but were exporting food around the country. These local forms of belonging were being jealously guarded by those who recognised their importance and demonstrate the reality that negotiations around belonging (and, at times, exclusion) happen in very specific localities. They take place in the fields where food is grown, at the water pumps where people collect their water, in the playground where children are included or excluded from education. They take place at weddings and funerals, in the ways in which cultural traditions take place. The extent to which local legitimacy impinges on inclusion, therefore, is crucial to the extent to which individuals and groups are able to not only survive but have access to the multiple resources that are needed to ensure access to livelihoods and safety.

In other words, local belonging is incredibly important – and, in many instances, is considered to be as important, if not more so, than forms of national belonging. The relative value of these processes, however, is something that is contextually specific and changes over time. Yet at the same time, local integration should not be over-romanticised. Local belonging can be fundamentally unstable and can leave people vulnerable to broader political changes.

Local and national interact

While it is helpful to distinguish between local and national forms of belonging, in practice the distinction between the two is somewhat contrived. While distinctions can certainly be made – and need to be made in a policy context where the two are seen as fundamentally different processes – ultimately local and national forms of belonging need to be viewed in conjunction with each other, not least in order to better understand how they interact and connect – or fail to interact and connect.

In practice, complex processes of belonging are neither one-dimensional nor static. Citizenship is undermined if someone is unable to access resources and services in the locality in which they

live; just as the legitimacy for someone who has managed to integrate within their locality but lacks citizenship remains fundamentally unstable.

The experience of a group of [Congolese Tutsi refugees](#) living in Gihembe camp in Rwanda who had fled eastern Democratic Republic of Congo's (DRC) North Kivu province around 1997 and had since been living in exile in camps in Rwanda, is an example of the ways in which inclusion draws upon both national and local forms of legitimacy. The obstacles to return identified by these refugees included the difficulty of negotiating belonging at both national and local levels: there was a recognition that in order for return to become viable and durable, they would need to create spaces for legitimacy at both of these levels.

The challenges they faced reflect a profoundly uneasy relationship between the construction of national identities and ethnic or other forms of local identification in eastern DRC. These different levels of belonging have been mobilised in dangerous and exclusive ways to devastating effect in the region, rather than being allowed to co-exist. National belonging – as evidenced here by a distorted notion of ethnic allegiance – is contingent upon local belonging.

Yet mechanisms for local and national belonging have been kept somewhat separate at both a policy and conceptual level. This has created a somewhat stunted discourse around notions of belonging for refugees or those seeking to end their exile. Not only is this seen in failures around repatriation, but also in the fact that governments hosting refugees have ignored local coping mechanisms and have lacked the political will to offer refugees new citizenship, instead preferring a protectionist and exclusivist approach. The offer of citizenship has been seen as taking hospitality a step too far.

Where does policy fit into the discussion?

The question, therefore, is to what extent policy matters at all; and, where it does matter, to what extent does it chime with the lived realities of exclusion and inclusion? In many respects, these questions go to the heart of the paradox of the refugee regime: on the one hand, the category “refugee” appears increasingly to make limited sense in contexts in which overlapping and blurred identities have greater traction than the single, legal category of refugee. After all, it is in these less-defined spaces that many of the resolutions to exile *in practice* can often be found. Yet at the same time, diminishing this label is potentially dangerous to those for whom it is the only legitimate route to accessing certain rights. Refugees want to shed the label “refugee”, yet they often desperately need it at the same time.

The label “refugee”, therefore, is one that has to be engaged with whether we like it or not; but at the same time, many of the assumptions of international refugee policy – or, in many cases, its implementation – need to be challenged.

Two of the key areas in which this challenge needs to take place are around the toxic policy duo of encampment and repatriation.

The refugee camp, that great symbol of unbelonging and exclusion, is the centrepiece around which much decision-making has revolved for the past decades in the Great Lakes region (as well as in other parts of the continent and, indeed, the world). For decades, the default response to refugee crises has been to set up camps or settlements and coerce refugees into them. Camps, it was argued, were best suited to meet the social, economic and political realities in which refugees are living. Yet experience has shown these assumptions to be fundamentally flawed. Instead of generating security, camps have often created insecurity and have also proved inefficient with

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regard to humanitarian needs. Although the camp structure has allowed for some effectiveness in identifying vulnerable populations and distributing assistance in the short term, it has created a great deal of inefficiency, not least by creating parallel systems for the delivery of services, which have failed to dovetail with services for the local population, further entrenching the “them and us” mentality. Camps have also hindered opportunities for self-reliance, with refugees constantly hampered by restrictions on their freedom of movement. In addition, when the international community has lost interest in the plight of the refugees and funding has been reduced, those in camps have been far more vulnerable than those who have found alternative livelihoods – alternatives that have been contingent upon freedom of movement and the exercise of choice.

There is a huge missed opportunity here for policies to resonate with local forms of belonging that are often premised on a context of low economics resources but high relational capital.

Encampment, in turn, is inextricably linked to the emphasis on repatriation as the most preferred durable solution. And this emphasis on repatriation, in turn, is intimately linked to the de-politicisation of any return process – a process that is often blind to the broader political and (post)conflict context in which repatriation is supposed to take place, including the need to be mindful of both local *and* national forms of belonging. Sending refugees “back home” without ensuring that this process is intimately connected to broader processes of peace-building and conflict resolution often fails.

Conclusion

So what is the answer? Is the category of refugee helpful or not? The short answer, in my opinion, is yes – *but*. Yes, we do need to protect the category of refugees in order to protect refugees, but any category-driven narratives need to listen to and interact with lived realities – with the local. The findings point to the need to engage with legal categories through an emphasis on understanding the policy environment; but at the same time to emphasise the inadequacies of an overreliance on these categories. In other words, there is a need for far greater nuance and flexibility in adapting to specific contexts.

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This points to the somewhat obvious fact that policy needs to be bottom up, rather than top-down, something that has long been recognised by practitioners and academics alike but has yet to infuse much programming on the ground. If we were to align refugee policy with the coping mechanisms of refugees (rather than the other way around), mobility and inclusion would become the hallmarks of refugee protection. For instance, looking at coping mechanisms of people who might legally fulfil the refugee definition but who eschew recognition or identification as such and seek other forms of belonging can be used to inform strategies to make refugee protection more effective.

Of course, we are a very long way from this somewhat utopian ideal. Indeed, we are currently moving in the opposite direction as refugee protection is only becoming increasingly securitised; as governments across the globe are only becoming more restrictive; and as nationalism is making its presence ever more felt. But that does not mean we should stop trying, as refugees will continue to challenge the parameters of citizenship and belonging, and to test our political imaginations.

At the end of the day, it should never be this hard for those uprooted from their homes to find spaces in which to belong. Instead, in order for responses to be anything more than palliative, policies need to be rooted in understandings of identity and belonging that are more supple; that pull people into the centre rather than polarise and exclude; and that draw on, rather than negate, the creativity that refugees themselves demonstrate in their quest to forge spaces of belonging.