

# Resisting Repatriation:

## Burundian Refugees Struggling to Stay in Tanzania



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International Refugee Rights Initiative



Rema Ministries

## Background to the Paper

The report was drafted by Lucy Hovil and Olivia Bueno of IRRI. Deirdre Clancy of IRRI, Zachary Lomo, and staff of Rema Ministries, reviewed and edited the material and provided additional drafting. The field interviews were conducted by Rema Ministries staff. The team would like to express its gratitude to all those who participated in the production of the report.

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Front cover: Design Caroline Fong, to the left, a returns site in Burundi, photo by Lucy Hovil, to the right, Mtabila camp, photo by Rema Ministries staff.

## Introduction

On 25 May 2011, a Tripartite Commission comprised of the governments of Tanzania and Burundi and the UN High Commissioner for Refugees (UNHCR) met in Dar es Salaam to discuss the future of repatriation efforts for Burundian refugees. The situation of approximately 38,000 refugees in Mtabila camp in the country's Kigoma region was a particular focus of the talks, which ended with a decision to close the camp on 31 December 2011.<sup>1</sup> The government of Tanzania has announced that they expect a renewed repatriation drive to start this month (September 2011) and that they are prepared to revoke the refugee status of the group "if need be."<sup>2</sup>

Refugees in Mtabila camp have been resisting return for more than two years despite significant pressure from the government of Tanzania. In May 2009, a representative of the United Nations High Commissioner for Refugees declared "[w]e are in the final year of repatriation."<sup>3</sup> Since then, numerous "deadlines" for repatriation have been announced, and services have been steadily withdrawn from the camp, giving refugees little alternative but to repatriate. Although a number of deadlines have already passed, there is growing fear among refugees that the current deadline of 31 December 2011, this time reinforced with the threat that refugee status will be revoked, is going to lead to forcible repatriation. Under international law, the return of refugees to their country of origin must be voluntary,<sup>4</sup> but in the case of Mtabila, the worsening conditions in the camp as a result of the withdrawal of assistance and restrictions on income generating activities raises not only serious questions with respect to the legality of the current effort, but also its durability and effectiveness as a long term solution.

In September 2011 the Ministry of Home Affairs and UNHCR began carrying out interviews in the camps aimed at assessing the continuing protection needs of the population.<sup>5</sup> This development is evidence of the seriousness of preparations that are underway for withdrawing refugee status through the application of the "ceased circumstances" provisions of the cessation clauses:<sup>6</sup> such investigations are typically

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<sup>1</sup> UNHCR, « La Commission Tripartite est tombée d'accord sur les solutions durables à mettre en œuvre pour les réfugiés burundais de Tanzanie, » 27 May 2011.

<sup>2</sup> Opening Remarks Delivered by the Minister for Home Affairs Hon. Shamsi V. Nahonda, (MP) at the 15<sup>th</sup> Meeting of the Tripartite Commission on the Repatriation of Burundian Refugees from Tanzania, Dar es Salaam, 25 May 2011, on file with IRRI.

<sup>3</sup> UN Integrated Office in Burundi (BINUB), « Le HCR affirme que le dernier camp des réfugiés burundais en Tanzanie sera fermé à la mi-juin 2009, » 8 May 2009.

<sup>4</sup> See, *inter alia*, article 5, Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Refugee Convention).

<sup>5</sup> "Tanzania Extolled for Naturalising Refugees," *The Guardian* (Tanzania), 31 August 2011.

<sup>6</sup> See article 1C of the 1951 UN Convention Relating to the Status of Refugees; and article I(4) of the OAU Refugee Convention Governing the Specific Aspects of Refugee Problems in Africa. The term cessation refers to the revocation or cancellation of refugee status provided for under Article 1(C) of the 1951 Refugee Convention. The cessation clause can apply following actions taken by a refugee (such as return) or as applicable to this group when an individual "can no longer, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality." (UNCHR Guidelines on

carried out where cessation is under consideration or invoked. Indeed, such a process is critical to ensuring that declaring cessation *en masse* does not undermine the protection of vulnerable individuals. Since the announcement that the exercise will take place, however, informal contacts with refugees in the camp suggest that, against the background of the overwhelming pressure to return to which they are being subject, refugees have little confidence in this new process.<sup>7</sup>

Not surprisingly, these latest decisions (to close the camp, to discuss cessation formally and to carry out screening) have intensified fear and concern among the refugees. Having resisted incentives and considerable pressure to return over the past two years, these developments have done little to alter the refugees' views on the potential for safe return. They have, however, intensified feelings of marginalisation and fear.

Out of concern for this situation, in July 2011, Rema Ministries and the International Refugee Rights Initiative (IRRI) undertook an emergency mission aimed at clarifying the situation of refugees in Mtabila camp and the likely implications of its closure. The mission built on previous research published by IRRI, the Centre for the Study of Forced Migration (CSFM) and the Social Science Research Council (SSRC) in late 2008, "[Going Home or Staying Home: Ending Displacement for Burundian Refugees in Tanzania](#)"<sup>8</sup> and of IRRI and CSFM in 2009 on the situation of Burundian refugees in Mtabila, "[I Don't Know Where to Go: Burundian Refugees in Tanzania under Pressure to Leave](#)," as well as research carried out with Rema Ministries within Burundi, which looked at the conditions for refugees returning from Tanzania.<sup>9</sup> Twenty two refugees in Mtabila were interviewed about their current circumstances and their perspectives on their future. Although the interviews cannot claim to be representative of the perspectives of all in the camp, care was taken to interview a cross section of people, both community and religious leaders and others who would not normally have been canvassed. The consistency of the views recorded bear out this approach. The consistency of the findings with both other reporting on the situation (including that of BBC) and our own previous extensive research on Burundian refugees and returnees (see above), but also on Rema Ministries' direct experience of, and continued regular contact with, life in Mtabila is additional evidence of the credibility of the findings.

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International Protection: Cessation of Refugee Status under Article 1C(5) and (6) of the 1951 Refugee Convention relating to the Status of Refugees (the "Ceased Circumstances Clauses") UN doc no, HCR/GIP/03/03 10 February 2003.

<sup>7</sup> The screening exercise was announced after our mission had already been completed, and so only informal follow up on this issue was carried out.

<sup>8</sup> Centre for the Study of Forced Migration, the International Refugee Rights Initiative, and the Social Science Research Council, "Going Home or Staying Home: Ending Displacement for Burundian Refugees in Tanzania," November 2008; and "I don't know where to go: Burundian refugees in Tanzania under pressure to leave." September 2009.

<sup>9</sup> The International Refugee Rights Initiative, Rema Ministries and the Social Science Research Council, "Two People Cannot Wear the Same Pair of Shoes: Citizenship, Land and the Return of Refugees to Burundi," November 2011.

## Repatriation in the Great Lakes Region

The pressure to repatriate Burundian refugees who fled in the 1990s reflects a broader trend in large-scale repatriation initiatives in the Great Lakes region. After decades of conflict, the region is seen to be in a new era of relative stability, and governments are keen to remove the refugee “burden” of the past decades. As Tanzania’s Minister for Home Affairs, Shamsi V. Nahodha, said at the May Tripartite Meeting:

[the] United Republic of Tanzania has demonstrated a clear commitment in the dispensation of international obligation. It would seem logical therefore for Mtabila refugees to reciprocate this generosity of the host country by returning home. Instead, these refugees have defied all calls to return home and have become insensitive to the generosity accorded to them.<sup>10</sup>

Against a history of decades of generous support to refugees (which has come under increasing strain in recent years), the government of Tanzania is clearly frustrated that the end of the civil war in Burundi has not resulted in the dutiful return of all refugees. The Minister’s statement also reflects a broader regional expectation that the end of conflicts should lead to universal repatriation. If one puts aside the fact that governance in the region ranges from poor to chronically repressive and that there is ongoing violence in many areas, the logic of repatriation makes sense: countries that in the last decade had generated large flows of refugees now appear to have reached greater stability, and it is time for everyone to go back to where they came from. After all, no-one actually *wants* to be a refugee and, despite the many problems associated with “home” it is unlikely that anyone would choose to stay in a refugee camp – designed to keep you separate from the host population, existing on hand-outs that constantly remind you that you do not belong – unless there was good reason for doing so.

However, for many people across the region going home is not seen as viable: there are multiple reasons why it is suboptimal, or even dangerous, for them to return. As a result, a number of individuals and groups of refugees continue to resist return, including those living in Mtabila. As other camps in Tanzania were closed down, these refugees were all moved to Mtabila and have since chosen to contend with increasingly difficult living conditions in Tanzania rather than return to Burundi. While the group has managed to “resist” voluntary repatriation thus far, albeit at considerable cost to themselves, they are now facing a new challenge. The government of Tanzania has announced that it is preparing to terminate their refugee status<sup>11</sup> which would mean that the entire camp population would *prima facie* lose its right to stay in Tanzania (individual refugees can try to argue that they are exempt from the general declaration or can lay claim another status which would found an independent right to stay). In

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<sup>10</sup> Opening Remarks Delivered by the Minister for Home Affairs Hon. Shamsi V. Nahonda, (MP) at the 15<sup>th</sup> Meeting of the Tripartite Commission on the Repatriation of Burundian Refugees from Tanzania, Dar es Salaam, 25<sup>th</sup> May 2011, on file with IRR.

<sup>11</sup> See, for example, BBC, “Imvo n’imvano”, 16 July 2011.

addition, the camp is now officially due to close at the end of December 2011.<sup>12</sup> In a context in which alternatives to return are not being discussed, many within this group of Burundians may feel forced to choose between going home to Burundi and living clandestinely and illegally in Tanzania, becoming so-called “irregulars”.

The predicament of this group is unfolding against the background of a wider process of repatriation of Burundian refugees both in Tanzania and in the region as a whole. Almost half a million refugees returned to Burundi between 2002-2009<sup>13</sup> following the conclusion of a political settlement in Arusha in 2000 and subsequent moves towards the consolidation of peace. This repatriation drive was accompanied by a programme that saw more than 10,000 vulnerable Burundian refugees provided with resettlement outside the region. However, as time has passed, considerable numbers of Burundians remain, having refused the offer of voluntary repatriation. As a result, the governments of Tanzania and Burundi, together with UNHCR, have been putting in place a variety of measures to encourage and, increasingly, to put direct pressure on, refugees to return.

Burundian refugees in Tanzania generally fall into three categories: those who fled in 1972 and have been living in settlements and designated villages; those who fled in the 1990s and have been living in camps that have been steadily closed down leaving only one, Mtabila, open; and self-settled refugees who are outside of the official assistance structures. For the past three years, the majority have been under considerable pressure from the government of Tanzania and UNHCR to return. Only the first category has been offered an alternative – the option of applying for naturalisation.<sup>14</sup>

*Nobody really knows what will happen. I cannot commit myself to saying what will happen.*

## Findings

Our findings reveal the following:

- **Refugees are feeling under considerable pressure to repatriate.** Officially they have been told they have to register with UNHCR and “voluntarily” repatriate before 31 December. However, many said that they have been told unofficially that they will be repatriated by force if they refuse to go voluntarily.<sup>15</sup> This pressure is evidenced by the refugee’s understanding that refugee status may be

<sup>12</sup> UNHCR, « La Commission Tripartite est tombée d’accord sur les solutions durables à mettre en œuvre pour les réfugiés burundais de Tanzanie, » 25 May 2011.

<sup>13</sup> UNHCR, “Statistiques Démographiques du Repatriement,” 31 August 2010.

<sup>14</sup> See Lucy Hovil, “Naturalisation of refugees in Tanzania: A new home?” Pambazuka News, 29 April 2010, <http://www.pambazuka.org/en/category/comment/64063>

<sup>15</sup> Interview with refugee, Mtabila, July 2011.

withdrawn if they opt to stay, that the camp will be closed, and that services in the camp will continue to be severely limited. Of even greater concern, refugees strongly believe that Tanzanian soldiers will one day come into the camp and force them to leave – a fear that is compounded by the presence of a military base near the camp and the role of Tanzania’s army in the 1996 forcible repatriation of hundreds of thousands of Rwandan refugees to Rwanda. During the interviews, many said that they believe that this will take place in September 2011, and that the land will then be turned over to the army. As one refugee said, *“We think [when we leave] the Tanzanian government will set up a barracks here, or a military base.”* Although at time of writing no pushback has occurred, a wave of arrests for offences relating to violations of the Tanzanian Refugees Act 1998 were conducted in September, adding to refugee fears. Overall, therefore, refugees are living in a state of chronic uncertainty: *“nobody really knows what will happen. I cannot commit myself to saying what will happen.”*<sup>16</sup>

- Refugees continue to receive basic food assistance provided by the World Food Programme. However, **refugees are unable to subsidise their rations as they are forbidden to do anything that is “income-generating”**. In addition to having no right to work,<sup>17</sup> it appears that there is currently a ban on income generating activities in place, which includes any form of cultivation. As a result, thick vegetation is growing up around refugees’ homesteads. It is clear that this ban is being vigilantly imposed. *“Even those who had cultivated their plots had their crops destroyed by the camp commandant.”*<sup>18</sup> *“We have been forbidden to do anything that could generate any income.”*<sup>19</sup>
- Refugees continue to receive basic healthcare free of charge. However, **medical provisions are minimal** – or even, at times, non-existent – with most medicine being sold by middlemen putting pressure on those who have little disposable income: *“when I am sick I go to the clinic, but they never have sufficient drugs.”*<sup>20</sup> Increasing restrictions on livelihoods have left refugees less able to cope with the deficits in the system. For example, in a context where income generating activities are banned, and where refugees are not allowed to move outside the camp environs to where the market is less subject to manipulation by the unscrupulous, purchase of medication can be difficult.
- **Camp authorities have shut down schools which had previously been available to refugee children in the camp.** The closure of all formal educational facilities was announced in 2009, although in June 2010 an agreement with the Ministry

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<sup>16</sup> Interview with refugee, Mtabila, July 2011.

<sup>17</sup> The Tanzanian Refugees Act, 1998 does provide, in theory, for the issue of work permits to refugees “who qualify” (section 32).

<sup>18</sup> Interview with refugee, Mtabila, July 2011.

<sup>19</sup> Interview with refugee, Mtabila, July 2011.

<sup>20</sup> Interview with refugee, Mtabila, July 2011.

of Home Affairs was reached to allow informal educational activities to continue.<sup>21</sup> However, those interviewed told of efforts to provide alternative schools being labelled “illegal” and shut down by the authorities when discovered. Both the denial of access to formal primary education and any policy which would prevent informal efforts fill the gap violate the fundamental right of children to basic education. It also contributes to the perception that this small piece of Tanzanian land increasingly exists outside of national and international law.<sup>22</sup> Many families are suffering the social consequences associated with children having nothing to do.

- **In addition to practical restrictions on refugee livelihoods, it is clear that restrictions on freedom of expression are adding to the climate of fear**, as evidenced by the clandestine way in which the interviews had to take place during our research. Sensitivities are extremely delicate. Events that took place on World Refugee Day when a delegation of government, UN and NGO personnel came to Mtabila confirm this. Apparently a refugee choir sang a song that included the words, “we did not pay money to become refugees, it is not a blessing for anybody”. Officials from the government of Tanzania took the view that this song was insulting and undermined the theme of the day (“the future of our lives resides in our own country”). As a result, the choir was banned from singing any more songs and its members were summoned to the camp commandant to explain themselves.<sup>23</sup> If singing songs of mild protest is treated almost as a criminal offence, it is understandable that refugees believe that they will not be permitted to freely express their opposition to return if cessation is declared.
- Exacerbating the restriction on livelihoods in the camp is the fact that **refugees have no freedom of movement**. Tanzania law prohibits refugees from travelling more than four kilometres outside the camps. Refugees reported that they were able to move a short distance out of the camp if they paid a bribe to the police. Some refugees cannot afford to pay this. In September 2011, up to 200 refugees from Mtabila were arrested by Tanzanian authorities accusing them of leaving the camp and committing other offences under the Tanzanian Refugees Act, 1998, such as casual labouring without permit. At time of writing, it is understood that the majority of those initially arrested were eventually released on bail and that some legal aid was provided by an NGO supported by UNHCR.<sup>24</sup> Others, however, continue to remain in detention. Some of those detained were arrested in the 4km zone around the camp in which refugees understood they were legally permitted to circulate. Others were arrested from inside the camp

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<sup>21</sup> UNHCR and DANIDA, Evaluation of the Protracted Refugee Situation for Burundians in Tanzania, October 2010.

<sup>22</sup> See, *inter alia*, Section 31 (1) of the Tanzanian Refugees Act, 1998.

<sup>23</sup> Interview with refugee, Mtabila, July 2011. This was also reported on the BBC Kirundi service: “Imvo n’imvano”, 16 July 2011.

<sup>24</sup> Correspondence with NGO representatives, September 2011.



further to a “lock-down” of the settlement by police.<sup>25</sup> Refugees are fearful of visiting detained relatives as the detention sites are outside the camp perimeter concerned that they might also be arrested (it is understood that this may have in fact occurred in a number of instances). Refugees are also concerned that detainees may be returned to Burundi. Most of all, the incident has intensified the environment of fear and intimidation, with confusion surrounding the basis and motivation for the arrests, the manner of the arrests and the subsequent treatment of the detainees.

- Refugees expressed **concern that fears about security in the camp were driving the push for repatriation**, with rumours that the government of Burundi’s interest in promoting repatriation was being driven by allegations that the opposition *Forces Nationales de Libération* (FNL) were operating in the camp. Refugees were at pains to indicate that although there was political mobilisation on both sides of the political divide (pro-government *Conseil National pour la Défense de la Démocratie–Forces pour la Défense de la Démocratie* (CNDD-FDD) and FNL), only a small number of refugees were engaged.

## Why the resistance to return?

It is clear from the above that refugees are being subjected to a significant range of measures pushing them towards home. In addition, the choice to leave Tanzania has been made more attractive by increasing repatriation grants from US \$50 to US \$180. These efforts have, however, met with little success. The overwhelming majority of those in the camp still continue to resist return.

*They don’t understand. We have a security problem not a financial problem.*

So why do they continue to refuse to repatriate? The answer to this question revolves around reintegration prospects. Problems relating to the hardships associated with returning to Burundi are an important factor, specifically re-accessing land or meaningful income generating activities. There is an awareness that many who have returned to Burundi are now living in chronic conditions as they have been unable to reclaim their land. As one man said, “*What I want is that peace may prevail in [Burundi] and that I can get back all my properties and wealth that I left behind.*”<sup>26</sup> A recent visit to one of the return sites in Burundi confirms the fears that many have. In the words of one returnee: “*What we want the government to do to us is to allow us to go back to Tanzania because it is hard to live in this peace village.*”<sup>27</sup> Indeed, a local government official in the area told researchers that some returnees have been requesting passes to

<sup>25</sup> Testimony received by phone by authors, 21 September 2011.

<sup>26</sup> Interview with refugee, Mtabila, July 2011.

<sup>27</sup> Interview with a returnee in Nkurye peace village, August 2011.

go back to Tanzania where they would have more economic opportunities.<sup>28</sup> Refugees are highly aware of the challenges that continue to face those who return to Burundi: movement in and out of Mtabila might be highly restricted, but the flow of information between Burundi and the camp continues to circulate regardless. Although not mentioned by those interviewed, it is also possible that some refugees are also hoping that there may be a possibility of resettlement or family reunification outside the region in the future if they are able to eke out their presence in Tanzania a little longer: over ten thousand vulnerable Burundians were resettled by UNHCR in recent years.

First and foremost, however, interviewees pointed to political and security concerns preventing return. As one interviewee said, *“they don’t understand. We have a security problem not a financial problem.”*<sup>29</sup>

Specifically, many of those interviewed talked about the extent to which there is an association of guilt with those still in exile: *“I am afraid to repatriate because I fear for my life. It has been said that the people that are still in exile are in the opposition and do not support the government.”*<sup>30</sup> Another talked of how he had heard that *“people say the refugees from Mtabila*

*If I repatriate I will be killed because the authorities that rule the country today think that whoever did not repatriate before is on the side of those who are in opposition...*

*camp are the ones causing problems in Burundi. Therefore the government of Burundi is asking that we be repatriated by force so that it may have peace.”*<sup>31</sup> One woman said, *“if I repatriate I will be killed because the authorities that rule the country today think that whoever did not repatriate before is on the side of those who are in opposition, those who fight the government.”*<sup>32</sup> *“I think that those who killed my parents will also kill me if I return.”*<sup>33</sup>

These fears have been exacerbated by the fact that unsigned papers have apparently been circulating in the camp threatening refugees in association with decisions regarding repatriation. Refugees reported that some of the papers (assumed to have been written by pro-FNL elements) tell refugees that they will be killed if they return to Burundi, while others (assumed to have been written by pro-CNDD-FDD elements) tell refugees that those who refuse to return will be killed. Our researchers were unable to access copies of such documents or verify the details of these threats. However, the multiple testimonies received demonstrate the extent to which the question of refugee

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<sup>28</sup> These passes are used in lieu of a passport to move across the border. Informal conversation with local government official, Kayogoro Commune, Burundi, August 2011.

<sup>29</sup> Interview with refugee, Mtabila, July 2011.

<sup>30</sup> Interview with refugee, Mtabila, July 2011.

<sup>31</sup> Interview with refugee, Mtabila, July 2011.

<sup>32</sup> Interview with refugee, Mtabila, July 2011.

<sup>33</sup> Interview with refugee, Mtabila, July 2011.

return is deeply politicised at both an individual and collective level, with implications for life in both Tanzania and Burundi.

## In conclusion

For these refugees, remaining in the camp is chronically suboptimal. Yet, despite extraordinary push factors towards return to Burundi, they judge that Mtabila represents their best hope for survival. For as long as they remain refugees, the host government and the international community is obliged to protect them on the basis of that status. Once they have returned to Burundi they will disappear into a country struggling to recover from decades of violence, economic neglect and land shortages, and dominated by unresolved and exacerbating political tensions. As a result, fear of forced premature return to Burundi was palpable in the camp during the research, and it is clear that more needs to be done to engage with the security and political stability fears of the refugees with regard to return. Ultimately, it is imperative that policy decisions made at a local and international level reflect the need to continue to protect those who have a well founded fear that losing their refugee status will expose them to serious harm.

## Recommendations

- **Repatriation should be carried out only on a voluntary basis.** Refugees must be protected against forced return in line with the fundamental principle of non-refoulement. It should be noted that breaches of non-refoulement can be committed either directly through forced removal or indirectly through the creation of conditions which make remaining in exile impossible (often called constructive refoulement). In addition to these legal obligations, there are practical reasons for policy makers and governments to seek to ensure that repatriation is voluntary – involuntary returns are likely to be less sustainable.
- **The decision to return or not to return home is something that must be made without pressure from others, be they the authorities or the refugee's own community.** In this regard, it is important that UNHCR and the Tanzanian authorities make every effort to ensure that individuals and individual families are given an opportunity to express their views on return directly and freely.
- Although international refugee law does contain provision for cessation of refugee status, and those who no longer enjoy refugee status may legally be returned to their countries of origin, **the process of applying cessation must be accompanied by due process protections.** It is clear that many in the group believe that they have well founded fears about return to Burundi. They must have an opportunity to present their cases for continued protection, as well as the possibility to appeal any decision to cease their status as refugee. It is also

critical that refugees have information about, and confidence in, the process surrounding the assessment of their protection needs and any appeal mechanism. The government of Tanzania continues to be legally obliged to provide protection to refugees who have a continuing need for international protection.

- **Promotion of repatriation must address refugee fears.** The factors that are impeding their return are, in the words of one refugee, primarily ones stemming from a “political problem”. Therefore promotion of repatriation must address political concerns. The government of Burundi might take steps to address this by combating publicly the refugee perception that they may be seen as opposition simply on the basis that they have spent many years in exile and by promoting dialogue with, and inclusion of, opposition voices – including returnee voices – in government.
- **Alternatives to repatriation must be explored.** The government of Tanzania and the UNHCR should explore alternatives to repatriation, such as local integration which has been pursued with other groups of Burundian refugees, and resettlement, where appropriate. In particular, there needs to be an exploration of the possibilities that may exist for applying the framework of the East African Community (EAC), including the regulations surrounding the rights of residence and establishment created by the Protocol on the Establishment of the East Africa Common Market, which came into force in July 2010. Refugees in Mtabila are not only citizens of Burundi but also citizens of the EAC. It is possible also that a small number of refugees may have acquired Tanzanian citizenship during their time in the country or may have become eligible to apply for consideration for naturalisation as prescribed by Tanzanian law (rather than under the special scheme which was created for Burundian refugees who arrived in 1972).<sup>34</sup>
- **Additional humanitarian and development assistance for returnees and monitoring of their reintegration.** Although refugees pointed primarily to political considerations in describing their unwillingness to return, it is clear that the humanitarian and reintegration situation for returnees in Burundi is problematic. Indeed, many of the problems outlined in our original research in Burundi of the return of this population remain relevant, including a lack of resources for returnee reintegration; the length of time it is taking to reclaim/gain access to land; and the huge practical challenges of reintegration after decades in exile. UNHCR must be adequately supported to effectively monitor returns to Burundi, especially if a decision is made to apply cessation and return is involuntary for many.

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<sup>34</sup> For a discussion of Tanzanian law on citizenship and refugees, see IRRI, SSRIC and the Centre for the Study of Forced Migration, “Going Home or Staying Home? Ending Displacement for Burundian Refugees in Tanzania,” November 2008 at p, 38.

- **To the extent that security concerns might be driving the push for repatriation, these should be addressed at an individual and community level.** Further to a more detailed assessment of the nature of the insecurity that may be facing refugees, the so-called ladder of options model for operationalising refugee security might be engaged.<sup>35</sup> This could include a range of measures from capacity building with refugee communities and monitoring to screening and the prosecution of individuals involved in violence. As a starting point, however, it should be pointed out that a reduction in the level of fear and vulnerability existing in the camp will contribute to enhancing security. Clarity about process and procedures surrounding the application of the cessation clauses and resumption of the protection of basic rights is likely to alleviate some of the tensions and make it harder for those who may wish to exploit refugee apprehensions for their own gain.
- Related to the above, the detention of large numbers of refugees is a matter of concern and only contributes to the heightening of tensions in the camp and the potential for further insecurity. **Refugees who are detained must be advised of the basis for their detention**, including the offences with respect to which they are under investigation or charge, whether under the Tanzanian Refugee Act, 1998 or any other law. Remand in custody must be subject to review, in line with the requirements of Tanzanian law and refugees must have an opportunity to contest the charges against them. Access to places of detention by UNHCR and its provision of necessary assistance, as the internationally mandated organisation with responsibility for the protection of the rights of refugees, must be permitted. This is particularly critical where family may not be able to visit due to movement restrictions. Any decision to remove or deport an individual must be in line with the principle of *non refoulement* under international law. It should also be recalled that Tanzanian law requires that an order for deportation be communicated in writing and provides for an opportunity for review. Effective legal aid must be provided to those who are subject to trial, detention or any order for deportation; lawyers must be permitted full access to their clients; and family visits must be permitted.
- In the light of the fears that are being expressed about the possible motivation behind the mass arrests, which come at a time of particular apprehension, **it is vital that both the Tanzanian authorities and UNHCR engage with the refugee community to provide clear information** about how the matter is being handled and, in particular, whether there have been changes to the movement and other activity restrictions that currently exist – or, indeed, the policy relating to enforcement of those restrictions.

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<sup>35</sup> For a more detailed discussion see Chapter 6 “Refugee Security: Whose Responsibility?” in Lawyers Committee for Human Rights, *Refugees Rebels and the Quest for Justice*, 2002.

- **The humanitarian needs of refugees must be addressed.** Refugees must be given adequate assistance as long as they remain in Mtabila and also permitted to engage in income generating activities where appropriate to supplement subsistence. It should be recalled that restricting the self-sufficiency of refugees also impedes opportunities for successful return when conditions allow. In particular, education of children must urgently resume, and the government of Tanzania must account for why it has been impeding education in violation of the rights of the children concerned at both Tanzanian and international law.

## **About the International Refugee Rights Initiative**

The International Refugee Rights Initiative (IRRI) works to enhance the protection of the rights of those who are forced to flee their homes worldwide. IRRI grounds its research and advocacy in the rights accorded to the displaced in international human rights instruments and strives to make these guarantee effective in the communities where the displaced and their hosts live. Based in New York and Kampala, IRRI acts as a bridge between local advocates and the international community, enabling local knowledge to infuse international developments and helping local advocates integrate the implications of global policy in their work at home. Currently IRRI has a regional focus on Africa, the continent that hosts more refugees per capita than any other.

[www.refugee-rights.org](http://www.refugee-rights.org)

## **About the Rema Ministries**

Rema is a Kirundi word which means to console, comfort, encourage, strengthen, to build up, support and give hope to people who have suffered misfortune and catastrophes such as deaths, civil wars, HIV/ AIDS, earthquakes, etc. Rema Ministries is a non-denominational Christian non-government organisation (NGO) that brings "rema" to refugees and other disadvantaged people from and in Burundi.