

# WOMEN SEEKING REFUGE

REFUGEE RIGHTS IN TANZANIA



Over the past five decades, the Great Lakes region, which includes countries like Burundi, Rwanda, the Democratic Republic of Congo (DRC) and Uganda, has been swept by brutal conflicts which caused the death of millions and forced many more to leave their countries in order to survive. In this troubled region, The United Republic of Tanzania remained relatively peaceful and stable. For more than thirty years Tanzania has been hosting hundreds of thousands of refugees who fled from the most brutal atrocities. In 2000 refugee camps in the north-western part of the country were sheltering some 700,000 people.<sup>1</sup>

Tanzania initially opted for an open-door policy welcoming large numbers of refugees into the country. However, from the early '90s the government became less willing to host refugees, introducing restrictive laws which drastically refugees' rights to movement and residence. The 1998 Refugee Act prohibited refugees from leaving camps as well as from engaging in economic activities, making it hard for people to find the means to support families and increasing the risk of exploitation and abuse for weaker groups of the community, like women and children.

The situation has worsened progressively over the past few years as the government has now committed itself to a 'refugee-free Tanzania.' Refugees are perceived as an economic and social burden for the country. At the end of 2007 there were six refugee camps in the Kigoma and Kagera regions of Tanzania. In September 2009 the government closed Lugufu camp forcing UNHCR to relocate more than 40,000 Congolese refugees to Nyaragusu camp over a hundred kilometres away, swelling its numbers to more than 80,000 people.

The two remaining camps, Mtabila and Nyaragusu host mainly Burundian and Congolese citizens. It is the government's intention to close all the camps as soon as possible and although forced closure (implemented by the Tanzanian military) is a constant threat, the government so far has opted to use, restrictive policies including the closure of services valued and needed by the refugees such as schools and markets. Destruction of refugees houses and food crops has also been reported in Mtabila camp with the aim of making their lives in the camps utterly unbearable.

The political context in which these actions are taking place is very sensitive. Elections are soon to be held in Burundi and Tanzania and as members of recently reformed East Africa Community and to attract resources to the region there is a need by the member states to resolve the longstanding 'refugee problem.' In addition, large humanitarian organisations and civil society groups working locally fear to openly criticise governmental action in case they are denied access to the refugees which would leave thousands of vulnerable people in extreme need with little or no support.

The situation calls for urgent international attention.

# VIOLATING REFUGEES' RIGHTS: WOMEN SUFFER THE MOST

Over the years the refugee camps have at times come under the close scrutiny of the international community due to the rampant abuse of refugees' rights. International human rights organisations such as Human Rights Watch (HRW) have repeatedly put pressure on the Tanzanian government to stop neglecting the suffering of refugees and take urgent action against their ill-treatment.

Since the restrictive Refugee Act was introduced in 1998, people in the camps became wholly dependant on external humanitarian aid for survival. Nonetheless, because of huge cuts in the budgets of international organisations like the UNHCR in Tanzania in recent years, the humanitarian aid has never been sufficient. Many refugees have complained of being compelled to break the law by moving out of camps to look for income and food because they have no access to land or other means of livelihood. This places them in significant physical danger. Meanwhile, virtual imprisonment within the camps has increased tensions among refugees who have little or no means to be engaged in productive activities.

In these circumstances women and children are the most vulnerable groups. Women, as well as unaccompanied minors and orphans, have been systematically exposed to sexual and gender-based violence, including sexual harassment, rape, forced or early marriages, domestic violence and psychological abuse.

**In 2007, during one of the many waves of expulsion, refugees reported to HRW researchers how they have been threatened, beaten and their property looted by Tanzanian officials, soldiers and police officers or by militia groups acting with the apparent compliance of government officials.**

A research study, conducted in 2006 by The Southern Africa Legal Assistance Network (SALAN) working with One World Action, found that refugee women were particularly vulnerable to discrimination, human rights violations and sexual abuse during the flight from their country, during the process of seeking refugee status and during their stay in host countries. Most women refugees revealed they were survivors of gender-based violence inflicted by fellow male refugees, aid workers, Tanzanian nationals and soldiers in their country of origin.

The lack of awareness of the rights of refugees among both the refugees and refugee hosting communities, as well as the lack of a fair, accessible justice system for the majority of victims of violence and abuse mean perpetrators are able to act with impunity. Refugee women and children are often totally unaware about what to do when raped, battered or abandoned.

This is why the work of organisations like the Women Legal Aid Centre (WLAC) is vitally important.



**A female refugee narrated that some women and girls were raped when they went in the bush for their daily chores like collecting firewood, while others were raped in different circumstances. She said it was very difficult to bring the culprits to justice. The women also complained of sexual harassment from their fellow male refugees, Tanzanian nationals and aid workers who demanded for sex in exchange of food rations. They said women fell prey to sexual exploitation because of their weak economic status. (SALAN, 2006)**

**Another female refugee complained that domestic violence targeted at women was rampant in the camp, where men often under stress, battered their wives and girlfriends. (SALAN, 2006)**

**Human rights Watch described issues such as not having a meal prepared at the right time or not having meat for a meal, to protesting against their husband's misbehaviour in selling part of the family's food ration, engaging in an extramarital affair, or getting drunk as major causes of domestic violence in refugee camps.**

## WOMEN SUPPORTING OTHER WOMEN

Women refugees generally have had limited, or no legal remedies against sexual and gender based violence (SGBV), due to their unfamiliarity with, and wariness of local police and judicial authorities, and because of lack of proactive, timely, systematic, and sensitive responses by the relevant international and local authorities. (HRW, 2007)

Yet in 1983 Tanzania ratified the Convention Relating to the Status of Refugees, which obliges it to ensure that its national laws and courts are accessible to refugees. It also has international legal obligations to guarantee women receive equal protection under the law by, among other things, ensuring that police and court officials investigate, prosecute, and punish perpetrators of domestic and sexual violence against refugee women.

Since the Human Rights Watch report there has been some progress. UNHCR has established Gender-based violence (GBV) support units in the camps to treat and counsel women survivors of GBV and the government funded National Organisation for Legal Assistance (NOLA) provides a legal aid clinic in the camps once a week. Nonetheless these initiatives alone have not stopped the violence and abuse towards refugee women and children. Women survivors of violence have started to come forward for treatment at the SGBV units but they rarely report their cases to the police or camp authorities. The majority of women do not know their rights, fear further violence and/or being ostracised by their families if they report the crime and don't trust those responsible for their protection. Cases of sexual and domestic violence are

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rarely investigated, prosecuted or punished.

The Women's Legal Aid Centre in Tanzania, a local Tanzanian organisation of women lawyers and para-legals provides thousands of poor Tanzanian women with free legal aid across the country, educates women and girls on their rights and lobbies for fairer laws to protect women.

After learning about the plight of refugee women and children through the SALAN report, WLAC decided to team up with One World Action to investigate why cases of sexual and gender-based violence continue unabated in the camps with little legal recourse. In 2008 based on their findings and with financial support from the Barings and John Ellerman Foundations, One World Action and WLAC embarked on an ambitious programme of rights education, legal support, training and advocacy to address the many barriers faced by the refugee women and girls in accessing justice.

WLAC is building the confidence and capacity of refugee women to raise their voice, speak up and fight for justice. In just over one year WLAC has:

- **Successfully established two refugee para-legal units in Nyaragusu and Mtabila camps and trained 30 refugee para-legals who are now responding to cases of SGBV within both the camps and surrounding villages providing legal advice, counselling and referral.**
- **Tanzanian government officers from the police, immigration and social welfare, as well as local magistrates and camp officials have a greater understanding of the laws relating to and consequences of SGBV for women as well as the rights of refugees' under international and Tanzanian law as a result of training in human rights and women's rights by WLAC.**

The majority of the clients of the Women Legal Aid Centre are women survivors of gender based violence. The centre has 18 years experience in providing legal aid services to women and children on matrimonial issues, land disputes, inheritance, child custody and maintenance and labour disputes. WLAC has been raising awareness on women's rights and discriminative practices using training workshops, seminars and media including drama, songs and most importantly radio. The centre, in fact, has aired radio programs for the past 8 years, broadcasting issues arising in their aid clinics and educating men and women about legal and human rights of women and children.

- **WLAC para-legals in Kigoma and Kasulu, have now been trained in laws pertaining to refugees and asylum seekers to enable them to better protect and support to those women seeking legal assistance outside the camps.**
- **WLAC is working with UNHCR to develop a human rights culture within the camps through public education campaigns. Forty thousand refugees have been reached by messages on women's rights and SGBV developed by WLAC through the distribution of posters, leaflets, radio broadcasting and drama performances.**

WLAC's actions have empowered a community that has very little control over their lives and limited access to information and participation in decision-making. They have targeted women, children, the elderly and people living with HIV and disabilities. On the other hand, the refugee hosting community is largely made up of Tanzanian locals who are working in isolated and difficult circumstances also often lacking good information.

The work that the women from WLAC are carrying out has brought skills, knowledge and information to a wide range of people. The refugee paralegals themselves come from different representative groups within the camp, including HIV positive women, unaccompanied youth and people with disabilities. Also, WLAC managed to link refugee women with women activists in Tanzania.

Refugee women and men are now in a position where they now know their rights and how to access justice.

# REFUGEES IN TANZANIA DESERVE URGENT PROTECTION

Despite pockets of positive change for refugees, the 'refugee-free' policy that the Tanzanian government has committed to is making refugees' lives even more unstable. In Mtabila camp, the schools have been closed down, depriving refugee children of an education. The market has likewise been shut-down; removing the refugees' only means to produce and trade goods and earn any sort of income.

In 2008 and 2009, the Tanzanian government set deadlines for the closure of all refugee camps. It continues to press for the "voluntary repatriation" of remaining refugees, arguing that they do not have any right to remain in Tanzania as conditions in their countries of origin have stabilised.

Refugees in Mtabila and Nyaragusu camps are mainly citizens of the Democratic Republic of Congo (DRC) and Burundi. Both countries are unprepared to receive a massive return of refugees. Burundi is still in a fragile transition towards sustainable peace after decades of conflict. It is a small country with a big population and a weak economy. Land remains a source of conflict as it is in short supply yet for the majority of the population provides the only access to livelihoods.

In the eastern DRC despite measures like the deployment of peacekeeping forces, fighting and insecurity continue to put the population at risk. Although joint military actions

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by armies from the DRC, Rwanda and Uganda against rebel groups in the region have raised hopes of stability the presence of various armed groups particularly the in the border regions close to Tanzania keeps the security situation worryingly fragile and not conducive to the return of thousands of refugees.

Even those who have returned are confronting huge problems with few resources in the country to secure their return; many are stranded in transit camps or having been living for months or years in temporary shelters on a small portion of their own land with decreasing resources. The premature return of tens of thousands of refugees on mass into this context risks destabilising the fragile peace process, further igniting conflict in the region and prompting a fresh flight of people to Tanzania and other neighbouring countries.



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The increased tensions created by the pressure to repatriate has triggered even greater levels of sexual and gender-based violence within the camps as families are separated, children are unable to go to school and families struggle for food security. According to field research conducted by WLAC in 2009 in Mtabila Camp, issues like battery, desertion, prostitution and abandonment continue to be widespread problems faced by women and children

### **Desertion**

**As the Burundian marriage law recognise monogamous marriage only, many refugee women, who are second wives in Tanzania, have been abandoned by their husbands who repatriated to Burundi.**

### **Battery**

**Family disagreements on whether to register for repatriation or not, are likely to come to an end in physical fights. When women disagree with their husbands, they are often beaten up by them who are thought to be the decision makers.**

### **Prostitution**

**As a way to promote repatriation the government has shut down the camp's secondary schools. Most girls have been therefore involving themselves in prostitution both within and outside the camp. This exposes them even more to sexual abuses/ exploitation and HIV and AIDS.**

### **Abandonment of children**

**Orphans have been often 'adopted' by other families in the camps. Since the repatriation trend began though, these children have been left behind by the families who hosted them, becoming even more vulnerable.**

We also ask the governments of Tanzania, Burundi, DRC and UNHCR to recognise the limited capacity for reintegration in Burundi and eastern DRC and ensure that the pace of the repatriation and the resources available in Burundi and DRC are conducive to refugees returning in safety and dignity.

WLAC continues to work with the trained refugee para-legals to provide rights education, legal aid, advice and support as long as there are refugees remaining in Tanzania. In an effort to build a stronger human rights culture discussions are underway for WLAC to extend their human and women's rights education and para-legal training to Burundi and DRC.

**“I didn’t repatriate because I don’t know where to go. I was born in Tanzania and I do not know Burundi. My parents died in the camps. We were moved from villages to Nduta camp in 1997 and now we have been moved here from Nduta camp. My husband was born in Mishamo. My relatives have taken the land. I do not know where our farm is. How will I know? We heard from the radio that the situation is not good and we are waiting for the election in 2010.”**

(Refugee woman, Mtabila camp, 7 August 2009) Research paper from the Centre for the Study of Forced Migration and the International Refugees Rights Initiative, September 2009

Page 02: <sup>1</sup>UNHCR 2000

Page 13: <sup>2</sup>Cessation refers to the application of Article 1(c) of the 1951 Convention relating to the status of refugees which refers to the circumstances under which application of the convention may cease. In particular, Article 1(c)(5) refers to ceased circumstances. However, even where such a finding of ceased circumstances is made, refugees must have a chance to argue for continued protection. This is particularly important in cases where cessation may be applied en masse to a group. UNHCR guidelines make clear that individualised screening must be conducted in such circumstances to identify ongoing protection needs.

Page 13 <sup>3</sup>The right not to be returned to a country where his or her life and/or freedom may be threatened is the most fundamental right of refugees, provided for in Article 33 of the 1951 Convention. Further protection is provided for in the 1969 OAU Convention, which provides in Article 5(1) that the “essentially voluntary character of repatriation shall be respected in all cases.” (Burundian Refugees in Tanzania Csfm and Iri September 2009)



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