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Changing priorities in refugee protection: the Rwandan repatriation from Tanzania

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Introduction

On December 5, 1996, the Tanzanian government and the Office of the United Nations High Commissioner for Refugees (UNHCR) issued a joint statement that read, in part, “all Rwandese refugees in Tanzania are expected to return home by 31 December 1996.”¹ That same day, UNHCR distributed information sheets to refugees about the repatriation exercise, including the immediate suspension of economic and agricultural activities in the camps. The camps had been home to more than half a million Rwandan refugees since 1994, when they fled civil war and an advancing rebel army at home. They were eventually joined in Tanzania by nearly 500,000 refugees from Burundi and Zaire.² As a haven of peace in a troubled region, Tanzania had long hosted refugees from neighboring countries. By December 1996, however, patience seemed to have run out.³

Upon receiving the repatriation announcement, many refugees wanted extra time to see how the integration of returnees from Zaire would unfold within Rwanda.⁴ Several wrote a letter to Tanzanian President Benjamin Mkapa requesting him to reconsider the December 31 deadline. As the government’s position became clear, though, Rwandans sought other methods to avoid repatriation. On the evening of December 6,⁵ refugees started fleeing camps in Karagwe district. Nearly 10,000 refugees hiked toward Uganda and Kenya, where they hoped to get asylum. When questioned about their decision to flee, many said, “Death is death”; they would rather face the possibility of death in Tanzania than what they perceived to be certain death upon return to Rwanda. UNHCR sought to calm the situation by holding regular food distributions in the camps, which brought some refugees back from the woods. Those who did not return were rounded up a week later, when UNHCR sent trucks to bring them back to the camps.

Despite this experience in Karagwe, aid workers were seemingly surprised when Rwandans also began to leave the massive camps in Ngara district further south. During the night of December 11, more than 35,000 refugees suddenly fled the Ngara camps and headed east, away from Rwanda. As the exodus continued the following day, heavily armed Tanzanian troops surrounded the area. On December 13, the army set up roadblocks 70 kilometers east of Ngara, forcing as many as 200,000 fleeing refugees to turn around and retrace their steps. Meanwhile, the camps were closed and their entrances were blocked. All Rwandan refugees were herded down the road toward the

¹ The repatriation exercise was actually announced several days earlier by senior government officials and UNHCR representatives in Karagwe District, which was host to more than 100,000 Rwandan refugees.

² The country’s name was changed to the Democratic Republic of Congo in 1997, after Laurent Kabila overthrew longtime dictator Mobutu Sese Seko.

³ This paper is based on data collected by the author in western Tanzania from October 1996 to August 1998. Funding for the field research was provided by a Fulbright-Hays Doctoral Dissertation Abroad Fellowship, a P.E.O. Scholar Award, and an Institute for the Study of World Politics Doctoral Dissertation Research Fellowship. The support of these institutions is gratefully acknowledged.

⁴ In October and November 1996, a series of attacks on refugee camps in eastern Zaire forced roughly 600,000 Rwandans to return to their home country.

⁵ The fact that December 6 was a Friday is important, because most NGOs did not send staff to the camps on Saturdays. Thus, the mass exodus from the camps was not discovered by aid workers until Sunday morning, when Tanzanian police began to make frantic announcements over the communications radio.

border. On December 14, the first group of refugees crossed into Rwanda. *Operesheni Rudisha Wakimbizi* (Operation Return Refugees) had officially begun.

During the repatriation exercise, UNHCR provided both financial and logistical assistance to the Tanzanian government. It gave the Ministry of Home Affairs more than \$1.5 million for extra equipment and personnel expenses associated with the operation (*The Daily Mail*, November 13, 1998). Way stations were established along the road to distribute high-energy biscuits and water to the departing refugees. On December 19, after more than 400,000 Rwandans had been cleared out of Ngara, the army moved north to Karagwe district. Early the following morning, Tanzanian troops cleared out the camps and the long march to the border began. The only officially recognized border-crossing point was at Rusumo in Ngara district, an average of 160 kilometers from the Karagwe camps. Trucks were provided by UNHCR to transport vulnerable groups (pregnant women, children, elderly people), but most refugees traveled the largest part of the journey by foot. Finally, on December 28, 1996, officials announced that the massive repatriation exercise to Rwanda was finished.

The Rwandan repatriation from Tanzania in December 1996 can hardly be described as voluntary. For this reason, it is notable that UNHCR, as the international body with a mandate for refugee protection, was so closely involved in planning and implementing the operation. This paper examines the reasons behind the mass expulsion of Rwandan refugees from Tanzania, and particularly the involvement of UNHCR in that process. The first section discusses the increasing influence of political and security concerns on refugee protection decisions in recent years. The second section focuses more specifically on the Tanzanian context and the decision to send the Rwandan refugees home. In addition to UNHCR, the role of other international organizations is also explored. The third section describes the skewed logic of refugee protection that emerged from the particular dynamics of the Rwandan situation. Finally, the conclusion examines the implications of this shift in priorities and questions whether the increasing contextualization of refugee protection decisions is necessarily problematic.

The changing nature of refugee protection

In the mid-1990s, the forced repatriation of Rwandan refugees from Tanzania was not unique. It was representative of a broader international trend toward more restrictive refugee policies and declining protection standards. In 1996 alone, more than twenty countries expelled refugees from their territories (United States Committee for Refugees 1997). In the face of complex refugee crises around the world, international organizations were increasingly caught between their humanitarian missions and geopolitical dynamics. Often, concerns about refugee protection and the principle of *non-refoulement* came into direct conflict with political and security priorities, forcing aid workers to make difficult decisions. In most cases, as the then U.N. High Commissioner for Refugees Sadako Ogata explained in April 1997, the best they could do was pursue the “least worse” option (Ogata 1997b). In addition to the situation in central Africa,

humanitarian groups faced similarly complicated dynamics in Somalia, Angola, Liberia, Sierra Leone, Sudan, Chechnya, Afghanistan, and the Balkans.

In many of these situations throughout the 1990s, UNHCR was confronted with dilemmas in which it was obliged to choose between “a limited number of options, none of which is fully consistent with the principles which the organization is mandated to uphold” (UNHCR 1997: 80). In 1991, for example, Turkey refused to admit a large number of Kurdish refugees fleeing northern Iraq. The United States and its Gulf War allies claimed to have avoided both *refoulement* and the provision of asylum by establishing and protecting “safe havens” within Iraq. Despite concerns about pushing refugees back at the border, UNHCR had little choice but to participate in the operation and assist the Kurds within their country of origin. The option for the refugees to stay in Iraq was not matched by a similar option of asylum elsewhere (Zieck 1997), so the only other approach would have been to not assist the Kurds at all.

UNHCR also faced a dilemma in 1992 in the former Yugoslavia, where its assistance in evacuating people from situations of danger indirectly facilitated the process of ethnic cleansing. In 1993, UNHCR participated in the repatriation of Rohingyas from Bangladesh, where they were under attack, back to Myanmar, where human rights violations continued to be a problem. In all of these situations, including the Rwandan repatriation from Tanzania examined below, UNHCR faced a choice between its humanitarian mandate to protect refugees and political dynamics on the ground. These two sets of concerns, while often in conflict, were very much interrelated, as regional and international politics had important implications for refugees and their security. In each case, UNHCR claims that it “ultimately decided to... proceed with a course of action which, while far from optimal in terms of protection standards, nevertheless appeared to be in the best interests of the refugees concerned” (UNHCR 1997: 81).

According to Myron Weiner, “many of the policy dilemmas that have confronted UNHCR and other humanitarian institutions in recent years are the consequence of having to choose among conflicting norms” (Weiner 1998). The various goals of humanitarian intervention often compete with one another, forcing aid agencies to choose between them. As a result, “monistic humanitarianism”—the determination of policies based solely on human rights principles—is giving way to “instrumental humanitarianism,” which requires decision makers to assess the likely consequences of alternative policies. In much the same way as economists, humanitarians must conduct cost-benefit analyses and make trade-offs among conflicting values. Through this process, a strategic approach to humanitarian assistance is emerging in which political and security considerations have an increasing influence on refugee protection decisions.

Many observers argue that this shift toward instrumental humanitarianism is relatively new, emerging basically since the early 1990s. It would be wrong to suggest, however, that refugee protection decisions have only recently started to be affected by political considerations. Refugee situations are inherently political, and refugee policies are “governed more often than not by politics and ideology, rather than ethics” (Callamard 1994). UNHCR faced a number of dilemmas in previous decades similar to the ones

described above. In the early 1980s, for example, UNHCR worked with the governments of Djibouti and Ethiopia to encourage the repatriation of roughly 40,000 Ethiopians from Djibouti, most of whom did not want to leave. When Djibouti authorities forcibly repatriated several hundred refugees, UNHCR officials did little to increase protection for the remaining refugees. They told unsuccessful applicants for refugee status to flee because their protection could not be guaranteed. UNHCR was cautious in its approach to refugee protection in Djibouti in part because it feared that, “if the government were pushed too hard, it would simply... deport the Ethiopians *en masse*” (Crisp 1984: 82). The organization was clearly forced to choose between competing priorities even at that time.

Nevertheless, such dilemmas in refugee protection have become increasingly complex and more frequent in recent years. Several factors explain this shift. First, and most important, is the end of the Cold War. In 1951, UNHCR was established in response to refugee flows caused by World War II. The body was generally concerned with protecting individual refugees from the new communist regimes in Eastern Europe. In the 1960s, focus shifted to the developing world, where independence struggles and decolonization led to large-scale but often temporary refugee flows. During the 1970s and early 1980s, as the Cold War manifested itself in conflicts around the world, refugees were seen as defectors from communism and victims of the superpower struggle. Until 1980, in fact, the U.S. limited its definition of refugees to people fleeing communism. Throughout the Cold War, UNHCR operations were supported in large part by Western donors seeking to win over allies and discredit communist regimes.

With the warming of relations between the Soviet Union and the United States, however, the situation changed. Wars that were fueled by Cold War tensions came to an end, only to be replaced by new and more complicated conflicts involving issues of identity, nationalism, and ultimately power. Refugees were no longer perceived as victims of broader geopolitical conflicts, but rather as actors in the conflicts. As support from Western allies declined, host countries in the developing world increasingly viewed refugees as a source of instability and an economic burden. Countries in the West feared a massive influx from Eastern Europe and operated under the assumption that anyone seeking asylum was doing so primarily for economic rather than political reasons. As attitudes toward refugees changed, discussions about their protection were no longer framed solely in the language of human rights. Instead, various other political and regional security considerations were taken into account.

A second but related reason for the recent increase in refugee protection dilemmas is the decline in the availability of durable solutions. Due to the nature of the Cold War, repatriation was not generally perceived as a viable option during that period. Instead, integration and third country resettlement were pursued as the long-term solutions to refugee situations. Starting in the mid-1980s, however, resettlement and integration became less desirable as attitudes toward refugees changed and the magnitude of refugee flows increased. During this period, UNHCR “transmogrified from the international community’s lead agency for protecting refugees into its spearhead for containing or reversing refugee flows” (Kendle 1998). An early demonstration of this new approach

came in 1987, when UNHCR assisted in the controversial repatriation of Sri Lankan refugees from India.⁶ The organization declared the 1990s the decade of repatriation and turned its attention to evaluating conditions in the refugees' countries of origin.

The emphasis at first was on voluntary repatriation (Chimni 1999). Refugees were encouraged to return to their home countries, which was assumed to be what they wanted. With the crisis in the former Yugoslavia in the early 1990s, however, it was argued that the 1951 UN Refugee Convention required only that states ensure "safe return," not that repatriation be voluntary. International efforts to resolve the conflict focused largely on creating conditions that would allow refugees to return home. This was an important component of the 1995 Dayton Peace Accord. European countries granted temporary protection to Bosnian refugees and the UN created "safe areas" within Bosnia to prevent people from fleeing in the first place. In 1999, faced with the massive Kosovo refugee crisis, NATO even went to war to create conditions that would allow for a safe return.⁷

In contrast, of course, the international community did relatively little to seek a long-lasting peace, and with it a permanent resolution to the refugee situation, in central Africa. As Ogata argued in 1998, "the international community has yet to engage in an intensive and comprehensive effort to resolve the dangerous political and ethnic tensions that have caused ...the controversial refugee exodus" (Ogata 1998). In the absence of the political will necessary to create conditions for a safe return, UNHCR developed what Chimni (1999) calls "the doctrine of imposed return." In September 1996, Dennis McNamara, the Director of UNHCR's Division of International Protection, stated that refugees may be sent back to "less than optimal conditions in their home country" against their will (*Reuters*, September 29, 1996). It was this latest approach to pursuing repatriation as the only durable solution that came into play just a few weeks later during the forced repatriation from Tanzania.

A third reason for the recent shift toward instrumental humanitarianism is the changing nature of refugee populations themselves. As mentioned earlier, in most regions, refugees are no longer perceived exclusively as victims of conflict, but instead as active participants in the conflicts. Many refugee communities are heavily armed and are organizing returns to their home countries by force. This situation sours relations between the host government and the country of origin, and heightens security concerns along the border. Of course, the existence of "refugee-warrior" communities is not new (Zolberg *et al* 1989). Throughout the 1970s and 1980s, refugees from Namibia, Zimbabwe, Afghanistan, Nicaragua, and Eritrea, to name just a few, conducted military training and launched incursions across the border from bases in host countries. In the setting of the Cold War, these groups were often armed and supported by international allies. In recent years, though, yesterday's "freedom fighters" have become today's refugee warriors. In the absence of external support for their military causes, they have integrated themselves with civilian refugee populations and exploited humanitarian assistance to further their

⁶ For an examination of UNHCR's involvement in this operation and the extent to which it was voluntary, see Kendle (1998).

⁷ It should be noted, as Chimni (1999) argues, that UNHCR and host governments, rather than refugees themselves, generally determine when conditions in the home country are "safe" for return.

own goals. In some cases, they have taken control of the camps themselves, further complicating refugee protection decisions for the host government and the international community.

In the context of these various changes in the 1990s, international assistance efforts shifted from strict humanitarianism toward a more deliberate analysis of the potential outcomes of various policy alternatives. This approach requires that refugee protection decisions be contextualized, taking into account the specific dynamics of each situation. Policies appropriate in one situation may not be suited to another. In the case of the Rwandan repatriation from Tanzania, according to a senior UNHCR official, the organization's involvement was "a compromise" and a bow to "new realities" (*The New York Times*, December 21, 1996). In order to understand these realities, it is necessary to examine more carefully the context in which the repatriation took place. The next section of this paper focuses on the reasons that the Tanzanian government decided to repatriate the Rwandan refugees from its territory. As political and security considerations became increasingly important, UNHCR once again found it necessary to choose among conflicting priorities.

The context of refugee repatriation in western Tanzania

Although Tanzania had experienced frequent refugee influxes from the countries along its western border, the 1994 influx from Rwanda was different because of its sheer magnitude. In late April, more than 170,000 people crossed a narrow bridge into Tanzania within 48 hours. By early 1995, northwestern Tanzania was host to nearly 600,000 Rwandan refugees—fifty percent more refugees than the entire country had received in the previous three decades (1961-1993). Instead of dividing them into scattered agricultural settlements, the Tanzanian government concentrated these new refugees in densely populated camps close to the border and discouraged agricultural production. The idea, according to one official, was to make their stay in Tanzania as temporary as possible. UNHCR and international non-governmental organizations (NGOs) flocked to the massive camps, where they established relief programs to address the needs of refugees and, in some cases, local hosts.

As regional refugee flows continued, Tanzanian policy shifted markedly. Authorities stepped up their efforts to discourage agricultural activity and placed restrictions on refugee movement among camps. Faced with a further influx of Rwandan refugees from camps in Burundi, Tanzania closed its western border in March 1995. The border remained officially closed for several months, although many refugees managed to cross anyway. In January 1996, the border was re-opened in response to international pressure and an escalation of violence in Burundi. The December 1996 decision to repatriate the Rwandan refugees, therefore, was part of a broader shift in Tanzanian refugee policy. Although it came at a time when the country was undergoing a process of political liberalization, democratic pressures had little influence on refugee policymaking (Whitaker 1999). Instead, the decision was based on an interrelated set of factors

involving regional security, Rwandan politics, and international funding levels. This was the context in which the Tanzanian government and UNHCR issued their joint statement.

The Rwandan Patriotic Front (RPF) government that came to power in Rwanda in July 1994 regarded the massive refugee camps along its borders as a significant security threat. Many of its military opponents in the civil war, including people implicated in the genocide of more than 800,000 Tutsi and moderate Hutu, were organizing a forceful return to Rwanda from the camps in Zaire and Tanzania. These hard-line refugees were reportedly intimidating their neighbors and preventing them from returning to Rwanda voluntarily. Regional agreements in January 1995, February 1995, and November 1995 all stressed the importance of separating the suspected *génocidaires* and intimidators from “innocent refugees” in order to facilitate mass repatriation. International assistance to separate the groups was not forthcoming, however, and repatriation efforts failed.

By 1996, the Rwandan government made clear that if the international community were unable to resolve the security problem, the RPF would take action itself to eliminate the threat along its borders (McNulty 1999). Rwanda did exactly that in October and November 1996 with attacks on camps in eastern Zaire that sent hundreds of thousands of refugees running. In a period of just a few days, the violence forced roughly 600,000 refugees back into Rwanda, where the RPF government could more easily control them. Another 300,000, including suspected *génocidaires*, headed west into the dense forests of central Zaire, where many were massacred by advancing rebel and Rwandan troops (Human Rights Watch 1997; Lemarchand 1998). As these events unfolded, it became clear that the strategy of the RPF government was to create a buffer zone along its borders from which it would be safe from rebel attacks.

When a Rwandan envoy visited Dar es Salaam on November 21, 1996, therefore, Tanzanian authorities had every reason to believe any sort of explicit or implicit threat that the Rwandan government was prepared to take similar action to clear out the refugee camps in western Tanzania.⁸ Although no details about the meeting were released, people close to the situation said that the envoy expressed Rwandan readiness to receive the refugees, even without the separation of intimidators, and assured Tanzanian authorities that the refugees would not be killed upon returning home. Rather than risking a military attack into its territory, or at least continued tension along the western border, Tanzanian officials decided to send the refugees home, where Rwandan authorities could deal with them directly. In many ways, the government decision was driven by the desire to avoid drawing Tanzania into a growing regional conflict.

A second factor behind the repatriation operation was the adoption by policymakers of the view that the security situation within Rwanda had improved. Based on this line of argument, Rwandans no longer had a legitimate claim to refugee status because the disturbances to public order at home had ended. This was the basis upon which Rwandans entered Tanzania as refugees in 1994. According to the 1969 Organization of

⁸ If history is any lesson, Tanzania had ample reason to be concerned. In 1972, the Burundi army bombed villages in western Tanzania in retaliation for attacks on its territory by rebel groups operating there.

African Unity (OAU) Convention, refugee status is extended to persons fleeing “external aggression, occupation, foreign domination, or events seriously disturbing public order.” This represented an expansion of the 1951 UN Refugee Convention, which granted protection to individuals living outside their own countries due to a “well-founded fear of persecution.” Under the expanded definition, governments could offer protection *en masse* to people fleeing civil war and violence without requiring them to be individually screened. A legitimate question arose, however, when the situation that led to the granting of refugee status no longer existed.⁹

With the exception of France, a close ally of the former Rwandan government, the international community largely accepted the argument that peace and stability had been restored to Rwanda, and thus that it was safe for the refugees to return home. This view was pushed strongly by the new Rwandan government, which was somewhat embarrassed that the refugees were not repatriating on their own. In order to claim legitimacy as a government and to start the process of reconstruction, the RPF regime in Kigali needed the refugees—representing roughly one sixth of the country’s population—to return. By adopting the RPF view that there was relative peace in Rwanda, therefore, the Tanzanian government further improved its relations with Rwanda while providing additional justification for the repatriation operation. According to its joint statement with UNHCR in early December 1996, the government had decided that “all Rwandese refugees can now return to their country in safety.”

A third but related element underlying the December 1996 repatriation was the declining availability of funding to support Rwandan refugee programs.¹⁰ To some extent, this factor may have been even more important than regional security issues, particularly in explaining UNHCR’s involvement.¹¹ Unlike some bodies of the United Nations, UNHCR is entirely dependent upon voluntary contributions from member states for its field operations. By 1996, UNHCR was finding it increasingly difficult to raise the necessary funds to support the refugee operation in the Great Lakes region. The international spotlight had shifted its focus to humanitarian emergencies in Bosnia and elsewhere, and the situation in central Africa moved into its shadows.¹² The two primary

⁹ International refugee law actually allows for this eventuality with the “cessation clause.” Under this mechanism, refugee status can be withdrawn when fundamental changes have taken place in the refugees’ country of origin. The standards for applying this principle are relatively high, however, and were only met in fifteen cases between 1975 and 1996 (UNHCR 1997).

¹⁰ See Väyrynen (2001) for an interesting analysis of the effect of UNHCR funding dilemmas on refugee relief operations. Although alluding to the possibility, the author does not explore the impact of these dilemmas on refugee protection decisions.

¹¹ Waters (2001) argues that the international refugee relief regime in Tanzania was unable to adapt its programs to changing funding realities. The bureaucratic dogma of the situation dictated that the Rwandan refugees be fully-supported in densely populated camps; when funding declined, officials were not able or willing to change this approach and promote refugee self-sufficiency.

¹² This trend continued in 1999, when the refugee situation in the Balkans caused increasing concern within humanitarian organizations that the plight of refugees in Africa would fade even further from international attention (*The New York Times*, May 9, 1999). By October 1999, donor countries had given UNHCR 90 percent of the money it needed for the Kosovo refugee operation, but only 60 percent of its budget for more than 6 million refugees in Africa (*The Washington Post*, October 8, 1999).

donors for Great Lakes operation—the United States and the European Union—were hesitant to pump more money into the refugee camps when the situation in Rwanda appeared safe for their return. Western governments were also aware of the broader geopolitical picture that was beginning to play itself out in the region.

Funding concerns became particularly apparent at a roundtable meeting with donors in Geneva at the end of June 1996. According to Bonaventure Rutinwa, a leading Tanzanian scholar, this is when the repatriation operation really began.¹³ The meeting revealed a significant split between the two most important Western players in central Africa: the United States and France. While France favored continued donor support to the refugee camps in Zaire and Tanzania, the U.S. held that aid funds would be better spent on long-term reconstruction efforts within Rwanda rather than short-term refugee relief outside of the country. Due in part to lingering concerns over French interests in Rwanda,¹⁴ the U.S. perspective prevailed. The Tanzanian government had long made clear its position on the necessity of international burden sharing; donor representatives in Geneva were therefore aware that the withdrawal of funding for the Rwandan relief operation would eventually lead to repatriation—forced or otherwise.

Thus, it was a combination of these three factors—regional security concerns, perceptions of stability in Rwanda, and declining funding levels—that formed the basis for the decision to repatriate the Rwandan refugees in late 1996. To that end, UNHCR signed a memorandum of understanding with the Tanzanian government requiring all Rwandan refugees to leave the country by the end of December. According to subsequent public relations reports, the organization did so based on assurances from Tanzanian authorities, including the president himself, that force would not be used. The eventual use of force during the operation was perceived as an unforeseen consequence of the refugees' attempt to flee eastward, which triggered a military reaction. Nevertheless, UNHCR continued to provide logistical and other forms of support for the repatriation exercise even after it became clear that the military was to be involved (and largely in control). The organization only sought to disassociate itself from the forced nature of the repatriation after being criticized for its own role.

While UNHCR as an organization facilitated the repatriation exercise, individual field staff continued to be strong voices for refugee protection. Several UNHCR expatriate staff members were ordered off the road during the repatriation for challenging the army's conduct of the operation, and at least one was expelled from the country altogether. "UNHCR was split," one observer argued. "The decision was approved by Geneva but the field staff were still following the rule book." In the end, the official UNHCR position seemed to be to support the massive return of refugees to Rwanda while questioning, if not fully criticizing, the government's use of the military. In January 1997, a letter was drafted from the High Commissioner to the Tanzanian

¹³ Discussion with author, February 16, 1999.

¹⁴ Many observers accused the French intervention in Rwanda in July 1994 (*Opération Turquoise*) of allowing perpetrators of genocide to slip out of the country unpunished rather than protecting humanitarian interests. For more on this perspective, see Prunier (1995).

president expressing concern about the use of force during the operation; under pressure from the Tanzanian foreign minister, however, the letter was never sent (Helton 2001).

UNHCR was not the only member of the international community that was complicit in the repatriation of Rwandan refugees from Tanzania. During and following the exercise, no foreign government voiced an official objection to the military operation. The U.S. and other Western powers essentially accepted the Rwandan view of regional security and supported the goals that repatriation was designed to meet. International NGOs were also largely silent about the operation. Privately, aid workers expressed concern about possible human rights violations, but publicly their organizations said little. Most international NGOs working in western Tanzania had development projects in other areas of the country for which they needed to maintain good relations with the government. In addition, at the international headquarters level, many NGOs were split. While staff in Tanzania expressed concern about the repatriation operation, staff in Rwanda wondered why the refugees had not been forced to return home sooner. Given these pulls and pushes, international NGOs seemingly decided that silent cooperation was the best response to the repatriation exercise.

In contrast to the silence of international governments and operational NGOs active in the region, several human rights organizations strongly condemned the repatriation operation, attacking the Tanzanian government and especially UNHCR for its role. Amnesty International criticized the repatriation operations from both Zaire and Tanzania, arguing that they reflected “a shocking disregard for the rights, dignity and safety of refugees” (Amnesty International 1997). On behalf of Amnesty International, a Canadian official met later with President Mkapa to express concerns about the repatriation process. Human Rights Watch similarly accused UNHCR of having “shamefully abandoned its responsibility to protect refugees” by assisting the repatriation operations, and derided international governments for their tacit approval: “The international community has barely disguised its satisfaction at seeing the refugee camps around Rwanda forcibly disbanded” (Press release, December 17, 1996). Human rights groups were quite critical of the repatriation operation, though their influence on policymakers was limited.

The international community on the whole thus did little to prevent a forced repatriation of Rwandan refugees from Tanzania, and may have pushed the government further in that direction. Western donors in particular hastened the move toward repatriation by withdrawing their support for the relief operation. UNHCR provided both funding and logistical assistance for the repatriation exercise. Interestingly, when Tanzania avoided international criticism for the operation, the government saw an opportunity to impose more restrictions on refugees still living within the country.¹⁵ Starting in early 1997, there were frequent military operations to round up refugees who had been living in Tanzanian villages since the 1960s and 1970s and move them to camps with the more

¹⁵ According to one UNHCR official, “The international community ... never told Tanzania to change its get-tough policy [toward refugees]. In fact, they were told they did the right thing with the Rwandans. So there was no incentive to stop being tough.”

recent arrivals. Although UNHCR joined human rights groups this time in criticizing the round-up operation, the organization's authority on refugee protection in Tanzania had already been somewhat compromised.

Skewing the logic of refugee protection

During the December 1996 repatriation operation, not all of the Rwandan refugees living in Tanzania were forced back to their home country. Individual refugees who were likely to be killed or arrested upon returning to Rwanda could approach the Tanzanian government and request asylum. In many ways, this was a shift back to the traditional definition from the 1951 UN Refugee Convention in which asylum status was based on an individual fear of persecution. The Rwandan refugees had initially been admitted to Tanzania based instead on the expanded 1969 OAU definition, which included persons fleeing serious disturbances to public order. The requirement that Rwandans now meet the more restrictive definition in order to receive asylum was designed to limit the number of people eligible for protection. Even so, it suggested that the Tanzanian government was somewhat wary of forcing back refugees who might be killed. The peculiarity of this case was that refugees who could claim a legitimate fear of persecution upon return to Rwanda were those who had participated in the 1994 genocide.

The question of guilt pervaded the Rwandan refugee operation in Tanzania from the beginning. Local hosts, government officials, international aid workers, and even the media had a different attitude toward Rwandans than other groups because many of the refugees had blood on their hands. There was general frustration with the refugees' continued presence in Tanzania, where they were seen as hiding from justice. UNHCR estimated that 90,000 out of approximately one million Rwandan refugees in Tanzania and Zaire were suspected *génocidaires* (Mahiga 1995). According to one Tanzanian official, however, "As time went on, they were all seen as killers." This was in part because the refugees rallied around their leaders and protected neighbors whenever Tanzanian authorities tried to arrest suspects in the camps. Many aid workers struggled with the thought that their humanitarian efforts were supporting killers and were allowing militia to re-group and organize a forceful return. In many ways, the Rwandan refugees were perceived as having cloaked themselves in a "facade of victimhood" (Barber 1997) to secure international assistance and further their own political and military objectives.¹⁶

During the December 1996 repatriation, refugees with blood on their hands thus had the most to fear from returning to Rwanda. They were likely to be arrested and punished for their crimes, perhaps even executed. Although Tanzanian authorities wanted to see suspected *génocidaires* brought to justice,¹⁷ they worried about the possibility of refugees being summarily killed as soon as they crossed the border into Rwanda. Such an incident would spark international criticism for the repatriation and would tarnish Tanzania's

¹⁶ Eventually, though, the perception of the Rwandan refugees as guilty affected UNHCR's ability to raise funds to support the relief operation (Waters 2001).

¹⁷ The International Criminal Tribunal for Rwanda was established in Arusha, Tanzania, by the UN Security Council in November 1994.

reputation on refugee issues. Tanzanian officials were so concerned about this possibility that President Mkapa reportedly did not grant an audience to the envoy from Rwanda in late November 1996 until assurances were provided that returning refugees would not be killed. As additional protection against such a situation, the Tanzanian government gave Rwandans the opportunity to present themselves to authorities if they had legitimate reason to believe that they would be killed upon returning to Rwanda. In December 1996, roughly 150 to 200 Rwandans took advantage of this offer, choosing to stay behind and seek asylum in Tanzania.

In the end, this created a disturbing situation in which “innocent” refugees were sent home, often against their will, and *génocidaires* continued to receive protection in Tanzania. People who confessed to participating in the genocide were moved to a new prison camp further away from the Rwandan border which was supported by UNHCR and the international community. The majority of refugees who were not guilty of murder, however, were forced back across the border into Rwanda. As Rutinwa argued, “Tanzania has skewed the logic of refugee protection. They only protect the killers. If you haven’t killed anyone, then you are sent home.”¹⁸ In addition, the few international organizations that publicly criticized the forced repatriation from Tanzania were seen in some circles as having sided with the *génocidaires*. Thus, the issue of guilt that had complicated the Rwandan refugee situation from the beginning continued to have a distorting effect even during the repatriation operation.

Conclusion

In the end, political and security considerations in western Tanzania outweighed protection priorities with respect to the Rwandan refugees. The decision to repatriate roughly half a million refugees in December 1996 was based primarily on the threat of attack from Rwanda, the widespread perception of stability in that country, and the related decline in funding available to support the relief operation. At the same time, Tanzania’s lingering concern about the possibility that returning refugees would be killed led to a disturbing situation in which those who feared arrest and punishment in Rwanda continued to receive protection on the other side of the border. The forced nature of the repatriation operation was regrettable, but the underlying reasons for the decision were in many ways quite understandable.

The Rwandan repatriation operation was designed at least in part to prevent Tanzania from being drawn into broader regional conflicts. Although observers at the time may not have believed Tanzania was really at risk, subsequent events in central Africa suggest otherwise. After attacking the refugee camps in eastern Zaire in late 1996, Rwanda and its Ugandan allies marched west toward Kinshasa, helping Laurent Kabila come to power in May 1997. But when Kabila failed to protect his eastern neighbors from attacks by rebel groups operating out of eastern Congo, Rwanda and Uganda once again supported rebel movements there. In response, Kabila’s new allies, including Namibia, Angola, and

¹⁸ Discussion with author, February 16, 1999.

Zimbabwe, sent troops to his defense. By September 1998, more than ten regional governments and rebel armies were involved in the conflict, which continued into 2001. Despite various threats¹⁹ and the continued presence of refugees, Tanzania has largely managed to stay out of the regional conflict. It is not clear that Tanzania would have been able to do so if the Rwandan refugees had not been sent home.

In a sense, then, the decision to repatriate the Rwandan refugees could be seen as a strategy of conflict prevention or avoidance. This in itself is an important priority, along with refugee protection. As the central Africa case illustrates, though, these two priorities may at times conflict with one another, forcing aid workers to make a difficult choice. In Tanzania, UNHCR apparently determined that conflict prevention was more important than refugee protection. The High Commissioner herself explained: “When refugee outflows and prolonged stay in asylum countries risk spreading conflict to neighboring states, policies aimed at early repatriation can be considered as serving prevention. ...[This is] what motivated... UNHCR’s policy of encouraging repatriation from Zaire and Tanzania to Rwanda, even though human rights concerns in Rwanda never disappeared” (Ogata 1997a: 4). This argument reflects an emerging perspective that violations of refugee protections such as freedom of movement and *non-refoulement* can at times be justified as conflict prevention strategies.

Human rights advocates have been sharply critical of this approach in central Africa, charging that it is a “renunciation of principle to *realpolitik*” (Fennell 1997). They are particularly concerned about the willingness of UNHCR, NGOs, and donors to abandon long-standing refugee protection standards in the face of short-term political imperatives. As one critic argues, “The absolute values of international humanitarian law would now seem to be largely replaced by relative ‘conflict management’ objectives designed to achieve a strategically or economically favourable peace” (Fennell 1997). While these are legitimate critiques, the implicit assumption that refugee policies can be deduced directly from human rights principles without regard to conflicting political and security concerns overlooks the importance of these factors in determining the patterns of refugee migration in the first place.

The only clear way to resolve the growing number of refugee protection dilemmas would be to devise approaches limiting the extent to which various objectives come into conflict. This may require mechanisms to reduce the importance of political and security considerations in refugee policymaking. An increase in the amount of non-earmarked funding available to UNHCR, for example, may reduce its dependence on key donors and allow it to make discretionary decisions (Zolberg *et al* 1989). Clarification of the theoretical and organizational distinctions between UNHCR’s two primary roles—humanitarian assistance and refugee protection—may ensure that protection issues receive more sufficient attention.²⁰ The international provision of security in refugee

¹⁹ Burundi in particular has threatened to open up an “eastern front.”

²⁰ In Kenya, UNHCR has provided funding for a local NGO partner to focus on protection issues and ensure that they are not overlooked.

situations through the establishment of safe areas or other means may lessen the likelihood that refugee populations will become targets of further attacks.

In the long run, though, policy priorities will inevitably come into conflict—be they refugee protection and conflict prevention or other important objectives. This is particularly true in the post-Cold War era, when geopolitical dynamics no longer structure decisions in such a way as to prioritize some objectives over others. Increasingly, in this changing world, refugee protection dilemmas will require careful analysis of the likely consequences of various policy alternatives. The contextualization of policy decisions may result in the declining universality of protection standards, but it may also allow for the development of policies that are more appropriately tailored to address the needs and priorities of the situation at hand.

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