The Role of Citizenship in Addressing Refugee Crises in Africa's Great Lakes Region [1]

A Policy Briefing

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In this paper, citizenship is used as a framework to analyse the problem of forced displacement in Africa's Great Lakes region.[2] Based on nine case studies across the region carried out by the International Refugee Rights Initiative (IRRI) over six years, it contends that the framework of citizenship can contribute positively to a better understanding of, and better policy responses to, forced displacement in the region.

Citizenship is understood both as access to legal citizenship, and more broadly as a recognition of the right of a person to belong in a community and the power of that acceptance/belonging as a means of accessing other rights. The paper contends that while there are many causes of political conflict and displacement in the region, unequal or inadequate access to citizenship has been a major contributing cause. National and regional governance structures have repeatedly failed to protect their citizens and have questioned or undermined the right to belong of whole sections of the population. Such actions have led to violations of the rights of these targeted groups, and often governments have failed to hold leaders or other organs of government accountable. The creation and presence of significant numbers of refugees throughout the region is a physical consequence of this challenge to belonging.

Not only has the failure to ensure inclusive citizenship contributed to displacement, but it has also made it harder to resolve. Exclusive understandings of national citizenship limit refugees' access to citizenship in host states and inhibit local integration. The regional adoption of refugee policies that focus on encampment in isolated areas further undermine a refugee's right to belong – these policies send a strong message that refugees cannot live as equals to the citizens of their country of exile and can only belong in a limited geographic space deprived of freedom of movement. At the same time, the continued operation of these exclusionary policies has made return "home" impossible for many.

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[1] This policy paper draws on a longer paper on refugee law and citizenship rights written by Lucy Hovil (Senior Researcher, International Refugee Rights Initiative) and Zachary Lomo. It was reviewed by Olivia Bueno, Associate Director and Andie Lambe, Executive Director at IRRI.

[2] The Great Lakes region consists of the territory covering 12 states that are members of the International Conference on the Great Lakes Region (ICGLR): Angola, Burundi, Central African Republic, Republic of Congo, Democratic Republic of Congo, Kenya, Uganda, Rwanda, South Sudan, Sudan, Tanzania, and Zambia.

Therefore the proper realisation of citizenship is one factor that determines whether or not a particular person or group will be forced into displacement; whether they will be able to repatriate; whether they will be accepted by those in their home communities if they do return; how they are perceived in exile both by host communities and those "at home"; whether durable solutions are possible; or whether they will end their lives in exile.

Furthermore, the relationship between refugees and their (in)ability to access citizenship is directly linked to broader issues of peace-building and the creation of stability in the region. Finding genuinely lasting solutions to the situation of refugees, either through being granted the citizenship of host or third states, or permanent repatriation, whereby citizenship is reclaimed, becomes an indicator of the extent to which root causes of conflict have been addressed in a robust way.

This paper, therefore, draws on data collected around the region, as part of these nine case studies, to make a series of recommendations for how a deeper understanding of the connections between citizenship and displacement can be integrated into policy responses to displacement that will allow for more sustainable solutions.

Recommendations

The following recommendations, while ambitious in scope, demonstrate the need for a paradigm shift in responses to refugees in the Great Lakes region. While to some extent this shift is beginning to take place, for instance with increased attention on urban refugees, much remains to be done.

Repatriation and citizenship

Repatriation needs to be viewed as a *political* process.
A crucial component to repatriation is the genuine re-assertion of the bond of citizenship between citizen and state, permitting the latter to protect the former and the former to engage in dialogue on the nature of the protection required. Therefore building up of civic trust between those returning and the state to which they are returning needs to be prioritised in any repatriation process. Without re-establishing the state/citizen bond and the realisation of their full rights as citizens, refugees will continue to resist return – and others who face similar exclusion will continue to flee. Critical to this negotiation are questions about governmental and societal discrimination, restrictions on freedom of movement, denial of property rights, access to justice, and exclusion from governance.

Repatriation should not be assumed to be the only or preferred solution.
The research demonstrated that refugees long to shed the label "refugee". Yet the preconception that the only place refugees can legitimately belong is in their original homes both drives, and is driven by, an emphasis on repatriation. This emphasis has been promoted by both national governments and the United Nations High Commissioner for Refugees (UNHCR). Repatriation is seen not only as the most *favoured* durable solution, but at times the *only* solution. This attitude has inhibited the possibilities for forging new forms of belonging, whether through local integration or resettlement to a third country. In addition, the emphasis on repatriation prevents refugees in protracted situations from integrating meaningfully in the meantime (unless they choose to fall off the official radar and "self-settle", albeit with a different set of challenges), creating strong feelings of marginalisation and alienation.

Ability to re-access citizenship rights should be the benchmark against which to promote repatriation.

There is a tendency to see cessation of hostilities as the moment at which to begin promotion of repatriation for all refugees. This approach is problematic because it overlooks the diversity within the refugee population and fails to recognise that particular individuals may continue to require protection as refugees. A more nuanced approach would see the possibilities for re-accessing citizenship as the framework in which repatriation is promoted: those refugees who see the conflict as the primary obstacle to accessing their rights as citizens may be able to return when the conflict ends, while others who are concerned about other threats to belonging should not be pushed to return prematurely.

Repatriation needs to be understood as a process that takes place at a *national* and *local* level.

The relationship between repatriation and citizenship is further complicated by local politics of belonging. While at the national level citizenship may be defined by legislation, at the local level belonging may be framed differently: citizenship at the national level does not necessarily guarantee access to rights at the local level. For repatriation to be sustainable, efforts must be made to ensure that local dynamics of inclusion and exclusion are fully understood so that belonging can be re-established at both the national and local level.

Policies on repatriation need to recognise that land provides a critical link between repatriation and citizenship.

In the context of the Great Lakes region, citizenship and belonging are often deeply intertwined with land ownership. For many returnees in the region, land is not only a critical resource for accessing livelihoods; it is also an important marker of belonging in the community. Policies on repatriation need to grasp these fundamental but often ignored intricate relationships. If not, repatriation may create the conditions for the next conflict and forced displacement.

Local integration and citizenship

Greater emphasis needs to be placed on local integration as a durable solution to exile and as a means to re-establishing citizenship rights.

Those in exile desire meaningful citizenship, not least in situations where returning "home" is unlikely to be possible for the foreseeable future. In this context, local integration should be promoted as both a temporary and long-term solution to displacement. Integrating refugees into the host community empowers them to act as rational actors capable of addressing their own needs, as opposed to passive recipients of humanitarian aid in camps. Yet over the past decades, local integration as a durable solution has, in effect, been everywhere except on the political agenda,[3] with protectionist approaches to citizenship being one of the greatest blocks to local integration. The way in which approaches to citizenship are evolving in the region should be encouraged to better accommodate the multiple forms of connection and allegiance that are often the hallmarks of populations and groups living there.

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[3] Lucy Hovil, "Local Integration," in Ed. Elena Fiddian-Qasmiyeh et al., *The Oxford Handbook of Refugee and Forced Migration, Studies*., Oxford University Press, 2014.

Governments in the region should offer citizenship to refugees.
Governments in the Great Lakes region should be encouraged to take a lead in resolving refugee crises by showing greater willingness to offer citizenship to those who are exiled within its borders. Allowing refugees the opportunity to naturalise is an important way of ensuring access to rights and durable solutions in the long-term.

Mechanisms that support belonging at the local level also need to be encouraged.
Ultimately, for local integration to function as a genuine solution, refugees need to gain acceptance at both the national and local level. Although negotiating this acceptance will face the challenge of understanding differences in its negotiation from place to place, it can be reinforced by policy.

Where informal local integration – a complex and finely tuned process of negotiation between refugees and the host population – is already occurring it needs to be encouraged and supported: the official promotion of measures to promote local integration will increase the space in which refugees can belong.

- One of the key ways in which local belonging can be supported is through the way in which humanitarian assistance is given to refugees and their hosts. The findings have shown that refugee policy, by isolating refugees in settlements or camps, reinforces separation, undermines local integration and should be avoided wherever possible. The benefits to humanitarian programming in the short-term – as well as the misappropriated policy assumptions that underlie the settlement policy – are small compared to the benefits of allowing refugees to integrate freely within their country of exile.

- Second, understandings of belonging remain strongly linked to ownership of, and access to, land. Land can both reinforce and undermine people's ability to belong and access their rights. Therefore ensuring equitable access to land that is available for lease or use, for refugees and for host communities is a crucial component to ensuring stability and breaking cycles of violence. In this way, the presence of refugees can assist in pushing for the transition within communities from understandings of belonging as being about where you are from, to how individuals and groups can belong in the place where they are living.

Alternative modes of belonging must be further developed.
In recent years, there have been a number of potentially significant developments in the region with regards to developing regional modes of belonging. New regional arrangements such as the East African Community are building a sense of regional belonging that may prove powerful in promoting access to rights across the region. Guarantees of freedom of movement and establishment for community members may act to protect refugees in practice (with or without formal reference to refugee status.) Although rights at the regional level are envisaged as relying on a base of national citizenship, its potential should be developed in such a way as to expand protection and complement current refugee protection structures.

Defining citizenship

This policy paper uses the term "citizenship" broadly. It defines citizenship on a number of different levels, differentiating between legal and "empirical" citizenship. The former denotes a legal status given at the national level that designates full membership in a state with concomitant rights or entitlements and duties.[4] It refers to the legal bond between an individual and a sovereign state, which entitles that state to espouse claims on behalf of that national and brings with it benefits and duties. It defines the relationship of individuals and groups with their state or community and represents, as Arendt has stated, the "right to have rights."[5] People may have multiple citizenships.

While legal citizenship at the national level is generally the first step to legitimising belonging, "empirical citizenship" is about turning legal citizenship into "lived experience and meaning for ordinary people."[6] In other words, we can think of the distinction between legal and empirical citizenship as similar to *de jure* and *de facto* citizenship. The first considers whether the individual has access to citizenship under the law and the second considers whether they feel they belong and are able to claim their rights on an equal basis with other members of the community. National legal status may play a part in empirical citizenship, but it is not determinative.

The interaction between legal and empirical citizenship is crucial. Those who do not have access to *legal* citizenship are unlikely to feel accepted in practice, just as those who *do* have legal citizenship may also feel excluded. This exclusion may happen at the national level: persons that may be legally entitled to national citizenship under the law may not be recognised as such in practice. For example, children born to Burundian refugee parents in Tanzania are theoretically legally entitled to acquire Tanzanian citizenship by virtue of their birth in the country, but in practice this right is not recognised by the Tanzanian authorities.[7]

Exclusion may also operate at the local level: national citizenship does not necessarily confer a sense of belonging at the local level. This issue came to the fore, for example, in the research carried out in the Democratic Republic of Congo (DRC) in 2009, in which IRRI found that many individuals accepted the signing of a peace deal between the *Congrès National pour la Défense du Peuple* (CNDP) rebels and the government, but requested that the former rebels be circulated throughout the country. In other words, the former rebels' belonging at the national level was not contested, but their belonging at the local level was.[8] In addition, forms of belonging that cross borders are seldom taken into account. However, cross border identities are often problematic – for example as our research in DRC showed those who were "perceived to have shown ethnic allegiance that crosses borders have shown themselves to be somehow un-Congolese – or less than Congolese."[9]

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[4] Contrast with e.g., Graziella Bertocchi & Chiara Strozzi, "The Evolution of Citizenship: Economic and Institutional Determinants", *Journal of Law and Economics*, Vol. 53(1),(2010), p. 96.

[5] Hannah Arendt, *The Origins of Totalitarianism*, Andre Deutsch, 1986,pp. 295-296.

[6] Stephen Jackson, "Of 'Doubtful Nationality': Political Manipulation of Citizenship in the D. R. Congo," *Citizenship Studies,* Vol. 11, No. 5, November 2007.

[7] See "Annex: Some Reflections on the Citizenship Status of the Study Group," in the 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," 2008.

[8] International Refugee Rights Initiative and the Social Science Research Council, "Who Belongs Where? Conflict, Displacement, Land and Identity in North Kivu, Democratic Republic of Congo," 2010.

[9] Ibid.

An overview of the research

IRRI's research incorporated nine case studies carried out across eight countries of the Great Lakes region. Each study illuminated a different aspect of the dynamics of belonging and displacement and the findings are summarised below.

The first and eighth studies (2008 and 2013) focused on Burundi refugees who had been living in Tanzania for decades and had been offered naturalisation. The first study, "Going Home or Staying Home? Ending Displacement for Burundian Refugees in Tanzania,"[10] was conducted in 2008, shortly after the offer of naturalisation had been made. It examined the ways in which refugees were deciding whether or not to pursue Tanzanian citizenship and the problems that emerged from the process. Research for the eighth study, "'I Can't Be A Citizen if I Am Still a Refugee': Former Burundian Refugees Struggle to Assert their new Tanzanian Citizenship"[11] was conducted in 2012 at a time when the naturalisation process had been stalled for several years. It explored whether the offer of naturalisation constituted a model for genuine integration that could create a new form of national and local belonging and challenge the current obsession with return as the most favourable solution. The findings showed that a legal grant of citizenship is not necessarily enough: it must be equal and it must enhance local forms of attachment and connection that are most likely to enable enjoyment of the rights of citizenship at the national level. The government of Tanzania had made citizenship contingent upon refugees/new citizens dispersing and relocating across the country, which had both undermined the feasibility of the offer and threatened livelihoods.

The second study, "'Two People Cannot Wear the Same Pair of Shoes': Citizenship, Land and the Return of Refugees to Burundi,"[12] conducted in 2009, considered the realities facing Burundians who had been refugees in Tanzania but had chosen to return to Burundi. As the findings showed, the *specific* ways in which communities recreate belonging and understand their identity at the point of return must be acknowledged if repatriation is to allow for a genuine restoration of the bond between former refugees and the state. In the Burundian context, land was crucial to the restoration of belonging: representing not just access to livelihoods and a vital coping mechanism in a context of extreme poverty, but symbolising connection with the past, a re-affirmation of inclusion and belonging and reclamation of "lost" citizenship.

The third, fourth and fifth studies were published in 2010. The third study, "Who Belongs Where? Conflict, Displacement, Land and Identity in North Kivu, Democratic Republic of Congo"[13] considered issues of belonging for those displaced within or from eastern DRC's North Kivu province. Despite a new citizenship law in 2004 that had affirmed the national citizenship of the majority of those interviewed, it was clear that their belonging at a local level was still being strongly contested by both those in power and those who considered themselves to be more indigenous to the region. In particular, the cross border identities of some groups were considered unacceptable within the strongly nationalist discourse on Congolese identity and citizenship. Belonging and citizenship at the local level was contingent upon one's membership in a particular ethnic group which considered

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[10] The 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," 2008.

[11] The International Refugee Rights Initiative, "'I Can't Be A Citizen If I Am Still a Refugee': Former Burundian Refugees Struggle to Assert their New Tanzanian Citizenship," 2013.

[12] The International Refugee Rights Initiative, Rema Ministries and the Social Science Research Council, "'Two People Can't Wear the Same Pair of Shoes': Citizenship, Land and the Return of Refugees to Burundi," 2009.

[13] International Refugee Rights Initiative and the Social Science Research Council, "Who Belongs Where? Conflict, Displacement, Land and Identity in North Kivu, Democratic Republic of Congo," 2010.

itself indigenous to the place. This "indigeneity" determined access to, and possession of, land, which, in turn, was critical to establishing empirical citizenship. This subjective interpretation of nationality showed the huge gap between the legal and the lived reality of citizenship.

The fourth study, "A Dangerous Impasse: Rwandan refugees in Uganda,"[14] considered the situation facing Rwandan refugees who were being put under immense pressure to return to Rwanda. It was clear that Rwanda viewed the existence of un-returned citizens as a signifier that its post conflict restoration of the state was incomplete. The findings showed, however, that refugees did not believe in the genuineness of the invitation to reactivate their citizenship: they did not believe that the Rwandan state would offer them either protection or access to livelihoods. They requested alternative forms of belonging that would allow them to retain their Rwandan citizenship but at the same time facilitate mobility and access to opportunities in either Uganda or other states in the region and beyond.

The fifth study, "Hoping for Peace, Afraid of War: the Dilemmas of Repatriation and Belonging on the Borders of Uganda and South Sudan"[15] focused on the return of refugees from Uganda to South Sudan in the run-up to the country's secession from Sudan. By examining the way in which refugees themselves were going about managing the process of return, it demonstrated that the rigidity of humanitarian categories and policies can undermine refugees' coping mechanisms and creativity to identify durable solutions to their problems. Freedom of movement was critical to allow people the ability to make the most out of meagre resources and a volatile security situation. In other words, the casting of return and exile in black and white were not useful and did not reflect complex realities on the ground.

The sixth case study, "Shadows of Return: the Dilemma of Congolese Refugees in Rwanda,"[16] undertaken in 2011 focused on Congolese refugees living in camps in Rwanda and demonstrated that repatriation needs to be negotiated at both a national and local level. For this group of refugees, their very choice of exile in Rwanda had marked them out as a group that had no legitimacy to return: it was viewed as an indication that their allegiance was questionable. This compounded pre-existing assertions at the local level that this group did not belong because they were not viewed as sufficiently indigenous. Yet, in exile they were being denied even minimal opportunities for integration. The result was a double exclusion with no access to local integration in Rwanda, and little hope of return to the DRC. At the same time, however, it was essential to find ways of ensuring the safe negotiated return that addressed the intricate factors that defined belonging at the local level for this group. This was necessary to progressively change the dynamics that engendered exclusion and inclusion on the ground in DRC and halt the cycles of conflict perpetuated by these manufactured exclusions.

The seventh study, "Darfurians in South Sudan: negotiating belonging in two Sudans,"[17] which was published in 2012, looked at the realities facing people who had fled from Darfur and who were now living in the new state of South Sudan. It showed that the same forms of exclusion of those at the margins which had led to South Sudan's secession were now in danger of creating a new form of

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[14] The International Refugee Rights Initiative and the Refugee Law Project, "A Dangerous Impasse: Rwandan Refugees in Uganda," 2010.

[15] Lucy Hovil, "Hoping for Peace, Afraid of War: the Dilemmas of Repatriation and Belonging on the Borders of Uganda and South Sudan," United Nations High Commissioner for Refugees (UNHCR) Research Paper No. 196, 2010.

[16] International Refugee Rights Initiative, "Shadows of Return: the Dilemma of Congolese Refugees in Rwanda," 2011.

[17] The International Refugee Rights Initiative and Darfur Refugees Association in Uganda, "Darfurians in South Sudan: negotiating belonging in two Sudans," 2012.

marginalisation for those who were not intuitively part of the new South Sudan, yet had been rejected by (North) Sudan.

The ninth and final study, "The Disappearance of Sudan? Life in Khartoum for Citizens without Rights,"[18] published in 2013, was based on interviews with individuals living in Khartoum who identified themselves as being either from South Sudan or from one of the conflict-affected areas of Sudan (specifically Darfur and Southern Kordofan state). It demonstrated that the same logic of discrimination that forced them from their homes was being replicated in Khartoum where they continued to be treated as second class citizens at best, and *de facto* stateless at worst.

The problem of refugees and displacement in the Great Lakes region: Improving policy

Refugee law and policy, though well-established, are in practice failing to resolve the problem of forced displacement both in terms of addressing the root causes of violence, and of ensuring an end to exile. The conventional policy instruments for dealing with the refugee problem, the three "durable solutions" are repatriation, resettlement, and local integration. The nine research studies focused primarily on repatriation and local integration, which are discussed in turn.

Repatriation and citizenship

International standards regarding repatriation emphasise its voluntary nature. The 1951 United Nations (UN) Convention relating to Refugees (1951 Convention) does this in negative terms, forbidding forced return, or *refoulement*. Article 5 of the Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa highlights the "essentially voluntary character of repatriation."[19] In addition, numerous UN Security Council and General Assembly resolutions highlight the need to ensure return in "safety and dignity."[20]

In law, there is no preferred solution; however, repatriation has typically been touted by national and international policy makers as the best solution. This focus on repatriation has implications on the role that the other solutions (resettlement and integration) play in dealing with problems faced by refugees and finding permanent solutions. Although international law provides that repatriation must be voluntary, recent policies to promote it are tainted with the use of duress to accomplish it. Increasingly, refugees have little choice in matters of repatriation. The presence of new leadership in the countries of origin and the end of open conflict are often assumed to constitute an end to the circumstances that forced refugees into exile and refugees are put under varying types of pressure to return, from the threat of withdrawal of assistance to actual withdrawal or forcible return. For example, in 2011 the government of Tanzania forced Burundian refugees through a new screening process and more rigorously enforced regulations forbidding them from travelling more than 4km outside of the refugee camp.[21] When these measures proved ineffective in pressuring refugees to

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[18] The International Refugee Rights Initiative, "The Disappearance of Sudan? Life in Khartoum for Citizens without Rights," 2013.

[19] 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, art 5(1).

[20] Megan Bradley, "Return in Dignity: A Neglected Protection Challenge," Refugee Studies Centre Working Paper No. 40, 2007.

[21] The International Refugee Rights Initiative and Rema Ministries, "An Urgent briefing on the situation of Burundian refugees in Mtabila camp in Tanzania," 2012.

leave, cessation (withdrawal of refugee status) was formally invoked and a forced return operation was undertaken.

A number of key findings emerged with regards to repatriation. The first focuses on the question of when repatriation is appropriate and how that can be determined. In exploring the views of Rwandan refugees living in Uganda in late 2009, at a time when the potential declaration of cessation was hanging over them, we found that refugees were scared about the prospect of returning to Rwanda. The fears of the refugees highlighted the pitfalls in relying primarily on the absence of open conflict as a benchmark against which to promote return. Although many refugees will seek to return at the first sign of abating conflict, there will be huge variation within any group of refugees, and for many a lack of open conflict will not be enough. Assuming that all can return at once may lead to violations of the rights of those who are not ready to return voluntarily. Instead, the assessment of whether or not return is timely should be considered in terms of whether or not refugees are able to re-negotiate access to effective citizenship on return. Making this assessment will focus on political openness and factors such as good governance and effective systems of justice. It will also recognise variations within the refugee community: there may be situations in which the majority of refugees are able to recreate these bonds, but others are not able, due to, for instance, their political, ethnic or religious profile. Consideration of these factors and a more individual approach to repatriation will more reliably predict when it is not only safe to return home, but when return will be a genuinely permanent solution.

Yet the findings showed that decisions being made by the governments of Rwanda and Uganda and the UNHCR in 2009 were ignoring these criteria. The government of Rwanda's arguments in favour of repatriation focused on the genocide and its immediate aftermath (particularly armed conflict up to 1998) as being the main cause of exile. However, the reality was that on-going political repression in Rwanda was not only preventing many refugees from returning, but was generating new refugees: almost a quarter of all those interviewed had arrived in Uganda since 2001, indicating that the promotion of voluntary repatriation, much less invocation of the cessation clause, should be approached with caution.

The absence of armed conflict was also a key factor in motivating UNHCR and the government of Uganda to consider cessation (although at the level of the government of Uganda it is worth noting that it was never implemented). This approach failed to recognise that war and violence may profoundly reshape a polity and can create new threats to particular individuals who may continue to require protection as refugees. In fact, Rwandan refugees in Uganda described themselves as victims of a "war on individuals" by a repressive government, highlighting both their desire to show the precariousness of their situation, but also its individualized nature.

Ultimately, successful repatriation is about the genuine re-assertion of the bond of citizenship between citizen and state, permitting the latter to protect the former and the former to engage in dialogue on the nature of the protection required. In this context, assessment of the appropriateness of return should focus on those elements that are most likely to determine the success of this renegotiation. Critical to this assessment are questions about governmental and societal discrimination, restrictions on freedom of movement, denial of property rights, access to justice, and exclusion from governance.

Without re-establishing the state/citizen bond and the realisation of their full rights as citizens, refugees will continue to resist return – and others who face similar exclusion will continue to flee. Critically, it is the refugees themselves who will usually be in the best position to make the assessment of whether this bond can be re-established.

A second finding was the way in which citizenship provides a lens for negotiating how repatriation, when appropriate, takes place. Repatriation is typically understood as a single course of action in one direction: a refugee leaves exile, crosses a border, returns to their home, and reaches a basic level of reintegration. As they cross the border, refugees shed their refugee status thereby becoming a person no longer of "concern" to the international community. Within this official process, repatriation looks like a primarily humanitarian enterprise. However, while this essentially humanitarian boxing of people and processes whilst often helpful in as much as refugees and returnees leverage the assistance it provides and, in this specific instance, does no harm, the process is often fundamentally at odds with the wider political and economic context and does not make sense of people's survival strategies. At worst, it undermines people's coping mechanisms: in trying to promote protection, narrow approaches to repatriation effectively limit or compromise it.

If viewed through the lens of citizenship, however, successful repatriation is not about stepping over a border: it is a long-term process of negotiated access to human rights protection and is strengthened by addressing threats to post-conflict recovery and reconstruction. As such, it is a highly complex process that is intimately connected with the political and economic context. From this perspective, the refugee is a citizen with autonomy to decide when and how to return home, which might involve several journeys between the country of exile and their home country.

Our research with South Sudanese refugees in Uganda in 2010, in the midst of an official repatriation process, showed that refugees went to great lengths to take flexible approaches to repatriation. Some families spread themselves geographically, with a number of family members repatriating while others waited in Uganda, either to see whether stability would continue or to allow children to continue their education. Such coping strategies have turned out to be crucial in the context of South Sudan's escalating conflict.[22] Taking a gradual approach was also seen as important as it allowed some family members to rebuild and lay the groundwork for the others to return.

This experience highlights the importance of flexible repatriation processes and, in particular, allowing refugees and returnees freedom of movement in order to make the most appropriate decisions for them. To the extent that citizenship is about reforming links with communities, refugees and returnees need to be able to move within and between states as they renegotiate linkages and access to resources. As Long asserts, in a context of repatriation and post-conflict reconstruction, "mobility offers a possible means to offset many of the weaknesses of physical return programmes by providing access to alternative social, economic and cultural resources outside of the state of origin that may benefit refugees, their families and communities, and their home state."[23] From this perspective, repatriation policies should not trample upon citizenship and the opportunities it offers to the refugee when he or she chooses to end his or her displacement.

Third, our findings demonstrated that the relationship between repatriation and citizenship may further be complicated by the local politics of belonging. While at the national level citizenship and belonging may be defined by citizenship legislation, at the local level citizenship may be defined differently. In some cases local structures may be more open. For example, research has shown how self-settled (South) Sudanese refugees in Uganda paid local taxes as a means of leveraging greater

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[22] International Refugee Rights Initiative, "Conflict in South Sudan: Refugees seek protection in Uganda," 2014.

[23] Katy Long, "Home Alone? A review of the relationship between repatriation, mobility and durable solutions for refugees," UNHCR Evaluation and Policy Development Services, March 2010. See also Oliver Bakewell, "Repatriation and Self-settled Refugees in Zambia: Bringing Solutions to the Wrong Problems," *Journal of Refugee Studies*, 2000, Vol. 13:4, pp. 356-373; and Lucy Hovil and Moses Chrispus Okello, "The right to freedom of movement for refugees in Uganda," in David Hollenbach (ed), *Refugee Rights: Ethics, Advocacy and Africa*, Georgetown University Press, Washington D.C. 2008.

acceptance at the local level.[24] In other cases, it can be more restrictive, with local communities insisting on criteria of "indigenousness" as the basis of belonging. In this context, repatriation is caught between civic understandings of belonging, and localised ethnic forms of belonging and citizenship and notions of indigeneity as illustrated by our research with a group of Kinyarwanda-speaking (Tutsi) Congolese refugees living in a camp in Rwanda in 2011. The right to belong of this group is particularly contested, with many Congolese insisting that the refugees are actually Rwandan. The official repatriation process that was being considered included a mechanism by which returnees would be formally vetted by local authorities to determine whether or not they belonged in the areas to which they were to return. This mechanism, while essentially problematic, represents a unique formalisation of processes that usually take place in informal and poorly documented ways. The process proposed was an interesting model but which cannot be assessed because in practice it was never deployed.

In the absence of an actual process, those who were considering the prospects of returning to DRC recognised that in order for return to be viable, they would need to negotiate their legitimacy to belong at both a national and local level. Refugees talked about the need to return as recognised Congolese citizens and not as Tutsis or Kinyarwanda speakers. They saw that their group identity had become a major source of instability and that the ability to genuinely (re)engage with the state as a citizen would be a key factor in determining the safety and durability of their return. However, there was also a recognition that national acceptance had limited salience if they were not also accepted in the local areas from which they came, where they had land and property. The interaction between local and national belonging, therefore, was seen as a key factor in determining the ability to return and re-access livelihoods.

Fourth, the research demonstrated that land is a vital link between repatriation and citizenship: citizenship and belonging are intricately intertwined with land ownership; and land ownership is rooted in local belonging. This was illustrated by the research carried out with Burundian returnees from Tanzania in 2009 which was taking place whilst Burundi was going through the long and painful task of reconstruction after decades of violence, political turmoil and displacement. In this context, the research showed that land was fundamental in creating an authentic re-instatement of the bond between citizen and state that had been violently broken: its equitable and just distribution was key to the processes of reconstruction, reconciliation, and peace building then taking place in Burundi.

The government of Burundi's policy of encouraging returnees to share "their" land with those they found living on it at the point of return (land that may have been wrongly appropriated, but on which many had been living for over three decades) was creating serious tension between returnees and those who had not fled. In this area, the government of Burundi faced an unwinnable challenge with various land claimants building strong legal cases and not enough land to go around. Solutions in this context needed to focus on relieving pressure by creating alternative ways providing what the population was seeking through land – livelihoods and belonging. In this way, issues around access to land could be addressed through a process which would rebuild civic trust and ensuring the genuine reintegration of these former refugees.

Repatriation, therefore, when viewed through a citizenship lens prises open discussion on a broad range of dynamics and issues, all of which are critical to the creation of long-term stability. Ultimately, the way in which repatriation takes place can either destabilise a fragile situation, or can contribute to breaking cycles of violence and displacement. In the case of the latter, the genuine re-

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[24] Lucy Hovil, "Self-Settled Refugees in Uganda: An Alternative Approach to Displacement?" *Journal of Refugee Studies*, Vol. 20, 2007, pp 599 – 620.

building of the bond of citizenship and belonging at both a national and local level are key.

Local integration and citizenship

Although Article 34 of the 1951 Convention stipulates that "Contracting States shall as far as possible facilitate the assimilation and naturalisation of refugees," local integration through obtaining citizenship of host states has not been a priority in the Great Lakes region. The UNHCR defines local integration as a multi-dimensional process that includes legal, economic and social elements. The legal element is defined as "the establishment of a legal framework in which refugees gradually attain a wider range of rights in the host State - possibly, but not necessarily, leading to full citizenship and naturalisation."[25] While recognition of the multiple elements of integration is positive, the fact that citizenship is not seen as a requirement is evidence of how hard it is to obtain in many parts of the world. It also raises questions about the durability of that integration without full citizenship.

In the Great Lakes region, the prospects of refugees acquiring citizenship are limited. Citizenship is generally accessible by birth, registration or naturalisation, but in many cases, there are legal obstacles to refugees doing this. In most of the Great Lakes region, citizenship by birth is accessible only on the basis of inheritance (*jus sanguinis)* and not on the basis of birth in the country (*jus soli*) and so there is no possibility for citizenship to be automatically extended to the children of refugees even if several generations are born in exile. This situation does leave open the possibility of accessing citizenship through either registration or naturalisation, however, in Uganda, even after refugees have lived in the country for over three decades, they are explicitly excluded from citizenship by registration due to provisions excluding persons who did not migrate voluntarily or whose parents or grandparents were refugees.

In most countries in the region, it is *theoretically* possible for a refugee to naturalise, although there are many legal obstacles to doing so. In the DRC, for instance, naturalisation requires both approval by the National Assembly and the person in question to have performed "major services" to the country, a criteria few, let alone refugees, are likely to meet. In Rwanda, applicants for nationality must be free of "genocide ideology", a vague legal construct that has been used to persecute opponents. Other obstacles include requirements for very long periods of residency required to apply for naturalisation and filing fees which place the process out of reach of most refugees, even when they would otherwise qualify.

In other cases, political considerations become an obstacle. This was seen in the research from 2008 and 2013 focussing on Burundi refugees who had been living in Tanzania since the 1970s. The government of Tanzania was offering citizenship to these refugees through naturalisation, with UNHCR covering the cost of filing in order to ensure that refugees were able to access the process. Yet refugees were contesting the nature and quality of citizenship they had been offered. The government of Tanzania's offer came with a catch: to obtain their citizenship certificate, refugees were being asked to relocate to other areas of the country - a requirement with no justification under the law. They were being asked to leave behind their homes of the past three or four decades (a lifetime for most) and start again in a new context with people they did not know. The potential within national belonging, in this instance, was seen to be jeopardised by a rupture in local forms of belonging. Without their community structures around them, built through decades of exile, their coping mechanisms were going to be severely eroded and for many, the inflexibility of the process undermined its potential.

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[25] UNHCR, "The Benefits of Belonging: Local integration options and opportunities for host countries, communities and refugees," available at http://www.unhcr.org/4e3276e26.html

Refugees were apprehensive about the extent to which citizenship on the basis of forced relocation would allow for full access to rights and, most crucially, the ability to secure their livelihoods. For the majority of those interviewed, therefore, the possibility of staying in Tanzania as legitimate citizens but retaining the potential to return to Burundi should circumstances change substantially, was seen as the optimal outcome – and one that did not seem unreasonable for a group of refugees who have spent almost four decades living in exile and uncertainty.

For the government and policy makers, the ambivalence of refugees who were refusing the unique opportunity to gain Tanzanian citizenship on the basis of having to move from the settlement, or who were talking about the possibility of returning to Burundi in the future, was seen as unacceptable and difficult to understand. Policy makers premise Tanzanian citizenship as both a permanent and exclusive national identity and a "solution" that should end any concerns about the availability of protection. From the perspective of the refugees, however, there was little evidence that either would be a panacea, fully addressing all rights, security and livelihoods issues.

The tension between the refugees' understanding of citizenship and that of the Tanzanian authorities raises fundamental policy questions about the nature of citizenship in the context of a multiplicity of identities and ties. In particular, it demonstrates that while policy makers generally see naturalisation as the end point of integration, refugees see this as distinct from their "empirical citizenship" which is just beginning to be established, and is influenced by, but distinct from, the offer of national citizenship.

One of the issues that came through as critically important in establishing empirical citizenship was the need for freedom of movement and residence. Not only are such freedoms critical in allowing refugees to seek out the place or places where they have greatest possibility to ensure their local belonging, it is also a gateway to other rights. For instance, refugees who are able to move freely are more likely to be able to access livelihoods. These principles are well reinforced by international law, Article 26 of the 1951 Convention, for example, stipulates that "[e]ach Contracting State shall accord refugees lawfully in its territory the right to choose the place of their residence and to move freely within its territory…" This right is only subject to "any regulations applicable to aliens generally in the same circumstances." A general limitation to this right might be Article 9 of the 1951 Convention which allows a state "in time of war or other grave and exceptional circumstances" to take "provisional[ly] measures which it considers to be essential to the national security…" But this provision does not give contracting states a free ride; it must relate to a particular refugee, "pending a determination by the Contracting State that that person is in fact a refugee and that continuance of such measure is his case in the interest of national security." Thus, refugee policy genuinely premised on the right to freedom of movement and choice of residence will empower refugees to take proactive steps to ensure their own livelihoods and allow them to integrate in the communities in ways that benefit them and their host communities.

Encampment on the basis of refugee status is a form of discrimination and offends the provisions of most international human rights instruments. Article 2 of the African Charter on Human and Peoples Rights, for example, stipulates that "[e]very individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status." Article 2(1) of the International Covenant on Civil and Political Rights (ICCPR) categorically enjoins states to "ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

A final area that was raised in the research was that of the possibilities offered by new regional citizenships, for example in the East African Community. As cessation was being considered for Rwandan refugees in Uganda, and Rwandans were resistant to return, consideration was given to the rights that these individuals might be able to claim in Uganda as East African citizens even as their refugee status was withdrawn. Could refugees be given an alternative residence status as East African citizens? Would this configuration make it easier for them to integrate by shedding the "refugee" label? Would it reduce the pressure being exerted by the Rwandan government to get them to return by reducing the impression that the presence of refugees was a mark on the country's international reputation? Ultimately, these possibilities were not fully explored as cessation was not applied, but they do indicate the possibilities of further developing such systems.

Conclusion

The problem of conflict, displacement, and refugees in the Great Lakes region is intertwined with the crisis of citizenship and the logic of inclusion and exclusion. For instance, access to and control of finite resources have been drivers for exclusion or inclusion, and the resort to ethnicity and historical ties to territory has been used to either legitimise or de-legitimise the claims of one group over another.

In this context, our findings demonstrate that current refugee policy instruments suffer from two overarching defects. First, the emphasis is placed on repatriation without addressing the need for reintegration and the re-establishment of the right to belong. Second, local integration (with citizenship as one element of that) is not considered by governments or the UNHCR as a solution, even for refugees who have lived in exile for long periods of time.

The way forward lies in a process by which refugee policies in the region are re-aligned to become more inclusive, and to have a focus on the dignity and resourcefulness of refugees. Refugee policies need to view refugees as rational actors who are better placed, either as individuals or as communities, to determine what their interests are and how to protect their rights. This assertion translates into a policy that promotes an organic process of interaction between refugees and host communities that starts at the onset of a refugee influx and allows both to mutually benefit from each other; that identifies potential areas of tension and encourages collaboration between both communities to identify ways of removing the cause of that tension; and that allows local actors to benefit from the economic and business opportunities that result from the presence of the refugees and thereby minimises xenophobia.