

A black and white photograph of a person standing on a dirt road, looking away from the camera. The person is wearing a dark jacket and pants. The background shows a line of trees and a cloudy sky.

NO PLACE CALLED HOME

A Report on Urban Refugees Living in Dar es Salaam

Asylum Access Tanzania

November 2011 - Dar es Salaam



Dar es Salaam, November 2011

Asylum Access is an international non-profit organization dedicated to making refugee rights a reality in Africa, Asia and Latin America. We achieve this mission by providing legal information, advice and representation directly to refugees in their first countries of refuge, and by advocating for the rights of refugees worldwide.

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Special Thanks

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Introduction

In late 2010, Asylum Access Tanzania conducted a survey of urban refugees living in Dar es Salaam. The goals of this survey were twofold: First, to establish the existence of an urban population with genuine claims to refugee status, and thus to the rights pertaining to refugees under Tanzanian and international law; and second, to better understand the protection needs of this population. No Place Called Home presents the findings of this survey, together with recommendations for improved implementation of rights protection and social assistance for Dar es Salaam's refugee population.

The Legal Framework and Protection Context

Tanzania's 1998 Refugees Act adopted the definition of a refugee from the 1951 Convention Relating to the Status of Refugees, harmonizing the domestic law of Tanzania with international law and establishing the principle of "*nonrefoulement*"—that a refugee should not be forcibly returned or deported to her or his country of origin. The Refugees Act created a National Eligibility Committee (NEC), which is responsible for processing all applications for refugee status determination and making recommendations to the Minister of Home Affairs concerning the grant or denial of refugee status, as well as recommendations for requests for resettlement and family reunification.¹ The Minister has final decisional authority. In the law, applicants are allowed seven days to petition the Minister for review of a negative decision.

In addition, the Refugees Act codified the system of refugee encampment in Tanzania. With the Refugees Act, it became an offence for refugees to live outside camps without a permit. Such permits are difficult to obtain and are only granted for exceptional cases involving almost exclusively medical needs, religious work and higher education.

Apart from legal obstacles, public opinion has also turned against refugees since the 1990s.² Where once they were considered kin because of cultural affinity, refugees are increasingly seen as a burden on Tanzania. Concerned by the spectre of an overburdened system and worsening political situation in Rwanda, Burundi and the Democratic Republic of Congo, Tanzania declared a policy of becoming a "refugee-free country" in 2008. With the sole exception of approximately 160,000 Burundian refugees who fled war in the 1970s who have received naturalized residency, government authorities are applying pressure on refugees to leave the country. As of 2011, two refugee camps remain open in Tanzania: Nyarugusu and Mtabila. Mtabila housed mostly Burundian refugees from the Burundian conflict in 1993, and is officially being closed down. Schools and other services in refugee camps have ceased and refugees are strongly encouraged to repatriate. Despite the changed circumstances in Burundi, no process has been initiated to determine whether individual refugees still have a valid claim to international protection.³

¹ Tanzania Refugee Act , 1998 p. 10

² See Rutinwa, Bonaventure 1999 The End of Asylum? The Changing Nature of Refugee Policies in Africa. New Issues in Refugee Research, UNHCR Working Paper No5. Electronic Document. [Http://www.unhcr.ch/refworld/pub/wpapers/wpno5.htm](http://www.unhcr.ch/refworld/pub/wpapers/wpno5.htm)

³ Following the Tripartite meeting held in June 2011, Asylum Access learned of plans for government and UNHCR to interview these refugees to identify those who still have protection needs. Under this arrangement, those who are not deemed to have ongoing protection needs would be required to repatriate. However, such process has not been officially announced as a formal cessation declaration.

As refugees are being forced out of camps in Tanzania, those who choose not to repatriate find alternative living arrangements away from public scrutiny, often away from rural areas. They join other refugees who have left existing camps for security reasons, fear of infectious disease or to pursue education or professional opportunities. Refugees living outside of camps do not own land and often find themselves drawn to cities and townships such as Kigoma, Mwanza and Dar es Salaam, lured by the promise of better livelihood prospects. Despite being entitled to international and domestic protection, urban refugees have no practical way to access that protection and are treated as undocumented immigrants.

UNHCR's office in Dar es Salaam does not generally provide protection or assistance services to urban refugees. Officially, it offers assistance to camp-based refugees referred to Dar es Salaam for medical reasons. Refugees who leave the camps for security reasons live in Dar es Salaam without assistance unless they are being considered for resettlement or their risks in the camp are temporary in nature.

Unofficially, UNHCR occasionally provides confirmation of refugee or asylum seeker status when urban refugees are arrested to protect them from deportation. Assistance is also extended to asylum seekers who have arrived in Dar es Salaam pending their transfer to a camp, or to rejected asylum seekers pending refugee status recognition by mandate. However, with a limited budget for urban refugee protection, scarce staff resources, and the lack of a legal protection framework for refugees living outside camps, UNHCR has a restricted ability to expand this assistance.

Refugees who originally resided in the camps, but for various reasons were unable or unwilling to go through internal UNHCR referral channels to leave the camps, are turned away, told to return to the camp to seek assistance and an external residency permit there. Asylum Access has seen and assisted several refugees with *bona fide* reasons to not remain in camps, who fall through the cracks of these protection referral channels and for whom returning to the camp is not feasible. Other NGOs and church groups operating in Dar es Salaam occasionally offer aid to urban refugees, including food and shelter assistance as well as some health care.

No recent official estimation of the number of refugees living outside camps in Tanzania exists, and little is known about their current coping strategies or protection needs. Three significant efforts at profiling the lives of refugees in Dar es Salaam are worth referencing here: Marc Sommers's 2001 'Fear In Bongoland'⁴ presents a thorough study of the fears and risks young Burundian refugees face when living outside camps, demonstrating their resilience under adverse circumstances. Similarly, Willems Roos's 2003 doctoral thesis⁵ profiled the refugee experience through social network analysis, highlighting nationality, age group and gender as important determinants of refugees' coping mechanisms in Dar es Salaam. A comprehensive survey prepared locally by Juliana Masabo in 2006⁶ confirmed that lack of documentation and work permits are among the most important life constraints urban refugees face, resulting in widespread poverty. Masabo's report estimated the number of refugees established and settled in Dar es Salaam at 3,000 in 2006.

⁴ Marc Sommers, *Fear in Bongoland: Burundi Refugees in Urban Tanzania* (New York and Oxford: Berghahn Books, 2001).

⁵ Willems Roos, *Embedding the Refugee Experience: Forced Migration and Social Networks in Dar es Salaam, Tanzania* (PhD Dissertation University of Florida, 2003). http://etd.fcla.edu/UF/UFE0002281/willems_r.pdf

⁶ Juliana Masabo, *Report on the Survey of Refugee Population in Dar es Salaam* (Unpublished Report, January 2006).

Surveyed Population

The reported data was collected through a survey of 122 adult refugees living in Dar es Salaam between July and December 2010. The participants were chosen through **convenience sampling** of refugees who volunteered to be interviewed, given the risks associated with self-identifying as an urban refugee.⁷ Approximately 75 percent of participants were male and the remaining 25 percent were female. Ninety-five percent of participants were Congolese and the average age was 35 years. A little over half of participants were married, and each participant had an average of three children. Based on a conservative estimate, the survey reached a total of approximately 500 refugees living in Dar es Salaam, including the participants' immediate family members.

Category	Description
Gender	Male: 75% Female: 25%
Country of Origin	Democratic Republic of Congo: 95% Burundi: 5%
Age	Average: 35 years Oldest: 58 years Youngest: 17 years
First Country of Refuge	Tanzania: 77% Other: 23% <ul style="list-style-type: none">• Burundi: 9%• Uganda: 5%• Rwanda: 3%• Zambia: 3%• DRC: 3%
Religion	Christian: 82% Muslim: 18%
Marital Status	Married: 52% Single: 32% Widowed: 8%
Number of Children	Average: 3 children Maximum: 16 children

Participants were considered “refugees” (as opposed to other types of migrants) if the interviewer found they could have a colorable claim to refugee status under the 1951 Convention relating to the Status of Refugees or the 1969 OAU Convention governing the specific aspects of refugee problems in Africa. The interviewers were lawyers trained in international refugee law and survey interview techniques.

⁷ The participant population is not representative of the urban refugee population at large, thus the conclusions of this report cannot be generalized for the entire urban refugee population. The sampling technique has been identified as leading to an over-representation of male and Congolese participants because they are less fearful of talking to foreigners (Roos, 2003). Juliana Masabo’s 2006 survey indicates that the range of refugee nationalities in Dar es Salaam includes: Congolese, Burundians, Somalis, Rwandans, Ethiopians, Eritreans, Kenyans, Ugandans, Mozambicans, Malawians, Zimbabweans and Sudanese (Masabo, 2006).

Survey Results

Arrival in Tanzania

The average date of arrival in Tanzania was 1999, with refugees arriving as early as 1972 and as late as 2010. Most travelled directly from their country of origin to Tanzania; 23 percent passed through another country before reaching Tanzania.

Claim to current refugee status

For the purposes of categorizing claims according to refugee status, interviewers conducted semi-structured interviews about each individual's *current* claim to refugee status and decided whether participants' circumstances fit clearly within the 1951 Convention definition or the OAU Convention definition, or both. Because the survey interviews did not allow for follow-up testimony, interviewers were instructed to categorize a claim as 'colorable' if they found that a case could fit either definition.

OAU Convention	1951 Convention	Both Definitions	1951 Convention Grounds (Category Overlaps)	
83%	56%	38%	Social Group	60.2%
			Race	23%
			Nationality	7.3%
			Political Opinion	72%
			Religion	1.4%
			Unclear	2.4%

Eighty-three percent of participants were deemed to have *current* clear and colorable refugee claims according to the OAU Convention definition. Twenty-nine percent of participants met the 1951 Convention definition clearly, while an additional 27 percent had colorable claims to refugee status according to the 1951 Convention. Approximately 38 percent of participants fell under both categories. Most of the participants who were categorized as having circumstances that would meet the 1951 Convention definition fled persecution based on political opinion or membership of a particular social group.

“Because when you are [in the camp], you are like a prisoner, you are not allowed to work. We have been here for 10 years, it is like being in prison, nobody is allowed to work.”

- Interview 0079

Move to Dar es Salaam

Only 41 percent of participants had previously lived in a refugee camp. Thirteen percent of these left because of genuine personal security concerns. Many left the camp because of generalized insecurity, outbreak of diseases, insufficient support and services, poverty and lack of employment. Though informed

that they are highly unlikely to receive assistance in Dar es Salaam, and that remaining outside the camps violates domestic law in most cases, only 9 percent of the participants are willing to return to camps.

Registration, permits and lack of trust

Refugee participants living in Dar es Salaam fall into three legal categories:

- **‘Permit’ refugees:** A refugee who has been registered in a camp and has a permit to live outside the camp or reside out of a camp temporarily. Permit refugees live outside camps legally, and have legal protections in theory. Three percent of respondents belong to this category.
- **‘Non-permit’ refugees:** A refugee who has lived in a camp before leaving without obtaining the necessary permit to reside outside the camp. Thirty-one percent of participants belong to this category.
- **Non-registered refugees:** A refugee who lives in Dar es Salaam, but has never lived in or registered in a camp. Sixty-five percent of respondents fall under this category. Among the respondents who moved directly to Dar, most come from urban areas in their countries of origin and had previous professions unrelated to agriculture. Refugees who recently arrived at Dar es Salaam and have attempted, but have been unable to register to be transferred to Kigoma fall under this category.

Only a few refugees had visited either the United Nations High Commissioner of Refugees (UNHCR) office (14 percent) or the Ministry of Home Affairs (11 percent) in the city upon arriving at Dar es Salaam, even though both offices are dedicated to addressing refugee issues. When questioned why they failed to report to these offices, the majority responded that they were afraid of being deported or imprisoned. One refugee recounted her attempt to apply at the Ministry of Home Affairs for a permit to stay in Dar es Salaam. Upon seeing a group of soldiers outside the office, she walked away immediately.

Livelihood and sustenance

Of the participants, only 3 percent are formally employed. In contrast, 79 percent of participants are informally employed. Among the latter group, participants’ employers are aware of their undocumented status 42 percent of the time. Where the participants’ employers knew of their status, about 18 percent of employers used this

“It is difficult to get a job. I am educated and an intellectual and that could allow me to get a job, but because of the lack of the papers, I cannot.”

- Interview 0051

knowledge to exploit the participants, withholding wages and threatening to call the police or immigration authorities. Jobs that our participants held include: tailor; water seller; musician; day laborer; bricklayer; wood carver; church leader; rent-exchanger; hair dresser; sofa maker; domestic worker; gardener; construction worker; street vendor; clothes sellers; bartender; mechanic; security guard. The chart below shows the distribution of monthly incomes of the respondents.

Household Income	
0-20,000 TZs	20%
20,000-60,000 TZs	8%
60,000-100,000 TZs	13%
100,000-150,000 TZs	4%
150,000-300,000 TZs	5%
>300,000 TZs	<1%

Most of the participants live in rented rooms with an average of five other people, two of them children. Their accommodation costs over TZS16,000 per month. In 25 percent of the cases, the participants provided services in lieu of rent. Only 9 percent of participants responded that they and their family had sufficient food on a daily basis, while 37 percent responded that they had sufficient water.

Education

Participants had an average of three children living with them in Dar es Salaam. Only 25 percent of participants with children were able to send at least one child to school. In Tanzania, primary education is purportedly free for all, but in reality, the cost of uniforms, desks and other necessities have priced education out of the reach of a majority of the participants. Participants identified at least one private school that enrolled Congolese students regularly but lacked formal government registration. This school was shut down on November 2011 for non-compliance with Tanzanian regulations.

“... when you are a foreigner, your children will not get an education, you will be segregated from the community and you will be harassed.”

- Interview 0079

When asked why they were unable to send their children to school, 74 percent responded that prohibitive costs were a barrier. Six percent responded that they could not afford to bribe school staff not to report their children to immigration authorities and 14 percent felt that their children faced discrimination in school. One participant said her son was regularly beaten at school because he

was a refugee. When she complained to the bully’s parents, they hit her and threatened to call the authorities. As a result, she decided to keep her son at home instead.

Regarding education attained by participants, over 25 percent attended secondary school and 10 percent had at one point attended university, although few completed their studies. In their countries of origin, jobs held by participants included: businessman; government official; church leader; lawyer; mine detection engineer; small business owner; football player; taxi driver; security guard; electrician; cameraman; teacher.

Challenges in Dar es Salaam

As mentioned above, only 3 percent of participants are legally entitled to live in Dar es Salaam. The remaining participants live as undocumented immigrants, in constant fear of imprisonment and deportation. As a coping mechanism, 78 percent of participants said that they conceal their identities as refugees or foreigners from Tanzanian citizens, citing fears of being reported, discrimination and withheld wages.

Reasons for concealing identity as a refugee from private citizens	
Doesn't want to be reported	30%
Discrimination	32%
Not paid wages	2%
Peace of mind	5%

Only 14 percent of participants initiated contact with the UNHCR office in Dar es Salaam. When questioned why, over half of them said that they were afraid of being arrested and imprisoned or repatriated. Other reasons included: the participants did not know where the UNHCR office was; did not know it existed; did not think going would be helpful; did not have the chance to visit yet. This points to a need for better understanding among participants of UNHCR's role and protection activities for urban refugees in Tanzania.

“... I have understood the tricks of UNHCR and that is why I have not gone there. They may come to you and say that you may go back to your country because we feel that it is now safe and peaceful.”

- Interview 0030

In contrast, fewer participants visited the Ministry of Home Affairs, the government office in charge of dealing with governmental issues related to refugees. Only 11 percent of participants had ever visited their office. Again, the predominant reason for not approaching them was fear and lack of trust. When asked why they did not seek assistance, participants would frequently laugh, explaining that the idea of going to the Ministry seemed ridiculous.

Almost 40 percent of the participants said they had been arrested at least once for not having proper documentation, and up to 5 percent said they had been arrested at least 4 times. More than half of the participants who had been arrested stated they had to bribe the police to get out of jail.

Number of times arrested or detained	
At least once	39%
2 times or more	18%
4 times or more	5%
6 times or more	2%

Health issues

Thirty-five percent of participants reported having a chronic medical problem and 25 percent reported having mental health issues. Seventy-one percent of participants had been to the hospital for either themselves or a family member, but 36 percent reported difficulty accessing medical care. For most participants, expense was the determining factor, but 12 percent discovered that they could not access medical care as a result of discrimination against refugees and the lack of legal status.

“... if a Tanzanian discovers that you are a foreigner, then that will be the start of the humiliation.”

- Interview 0068

Conclusion

UNHCR’s 2009 Urban Refugee Policy states: “The rights of refugees and UNHCR’s mandated responsibilities towards them are not affected by their location, the means whereby they arrived in an urban area or their status (or lack thereof) in national legislation.”⁸ Despite this pronouncement, refugees in Dar es Salaam face significant challenges in accessing international protection and enjoying their rights.

The results of Asylum Access Tanzania’s survey indicate that there is a population of foreigners in Dar es Salaam who are refugees under either the 1951 Convention or the OAU Convention, or both, but who have no legal immigration status and limited access to rights in Tanzania. Unable or unwilling to live in refugee camps, they have no practical formal avenue for obtaining the legal status to which they are entitled under the Refugees Act. This lack of documentation results in widespread fear, along with discrimination and arrests.

As presented in the survey results above, most of the refugee participants living in Dar es Salaam fear being identified as refugees. They are reluctant to approach UNHCR and the Ministry of Home Affairs. Their livelihood and coping mechanisms are curtailed by their lack of legal status and inability to obtain formal permission to reside in Dar es Salaam. Because of this, participants attempt to live anonymously, forced into invisibility. Participants in Dar es Salaam are unaccustomed to receiving assistance and fear exposing their identities to organizations like UNHCR even for purposes of obtaining assistance. These refugees cannot secure official employment and when they do find informal work, they are often exploited and underpaid. Though some are educated and held highly skilled jobs in their countries of origin, the work they manage to find in Tanzania does not utilize these talents. Education, even purportedly free primary education, is either too expensive or too costly in terms of discrimination for refugee children to attend.

The participants’ circumstances indicate that this population of refugees living in Dar es Salaam lacks access to key rights such as employment, labor protections, education, equal protection before the law and protection from discrimination. In this context, UNHCR and NGOs may have a limited space to increase

⁸ UN High Commissioner for Refugees, *UNHCR Policy on Refugee Protection and Solutions in Urban Areas* (September 2009), para.14.

protection for urban refugees. Funding priorities, and tradeoffs in UNHCR-government negotiations, may also play a role in the lack of existing initiatives to improve urban refugees' access to rights and ability to survive. Asylum Access looks forward to being part of the ongoing dialogue with local and international stakeholders to improve the lives of urban refugees as highlighted in this report.

Recommendations

To the government of Tanzania:

Pursuant to its international obligations as State Party to the 1951 Convention and its 1967 Protocol, the government of Tanzania should:

- Continue to lead in rule of law innovations by ensuring full implementation of the Refugees Act in accordance with international refugee law.
- Enact an urban refugee policy that enables the government to register and regulate the urban refugee population and that allows refugees to provide for themselves and contribute to the economy as well as to Tanzanian society.
- Continue to work towards expanding the protection space available to refugees in urban Tanzania, particularly looking toward the future of refugee protection outside camps as the government administration advances in closing the country's refugee camps.
- Engage in an open dialogue about refugee hosting management mechanisms with international organizations, local urban stakeholders, private sector and civil society to provide adequate international protection for urban refugees.

To other countries:

Pursuant to the principle of international solidarity and responsibility-sharing, donor countries and other countries supporting international refugee protection should:

- Engage with the government of Tanzania to find viable solutions for urban refugees in areas where donor and other countries can play a complementary role.
- Support government, inter-governmental and civil society efforts to improve urban refugees' access to rights.

To UNHCR:

Pursuant to UNHCR's 2009 Urban Refugee Policy, UNHCR's Tanzania office should:

- Continue to preserve and seek to expand the protection space⁹ available to urban refugees in Tanzania, and to civil society, humanitarian organizations and individuals providing these refugees with access to solutions and assistance.
- Ensure that urban refugee populations in Tanzania are mapped and monitored through its participatory assessment guidelines to better assess their needs, include them in program objectives, and represent them in budget allocations.
- Establish mechanisms for community outreach in collaboration with civil society and humanitarian assistance organizations to build trust and create awareness of UNHCR's role and activities with urban refugees.
- Establish, through a participatory process, efficient appointments and cross-referral mechanisms with agency partners, operational partners and other organizations providing services to urban refugees in Tanzania. Improved referral channels should ideally provide priority reception to people who wish to report urgent protection problems, security threats, and specific and serious vulnerabilities.
- Support civil society efforts to produce a more comprehensive needs assessment in Dar es Salaam that investigates a representative sample of refugees.

To civil society and religious institutions in Dar es Salaam:

Within their respective spheres of influence and pursuant to their mandates, civil society actors should:

- Participate in, and actively collaborate on, a comprehensive needs assessment for urban refugees, in collaboration with international agencies and government stakeholders.
- Explore, in collaboration with international agencies and government stakeholders, the possibility of creating a joint action plan for urban refugees in Dar es Salaam to meet the needs identified.
- Work together to improve referral channels to better serve vulnerable refugee populations.

⁹ While the notion of protection space does not have a legal definition, it is a concept employed by the UNHCR to denote the extent to which an environment exists for the internationally recognized rights of refugees to be respected and their needs to be met. UNHCR's 2009 Urban Refugee Policy notes it can be assessed in a qualitative manner on the basis of certain indicators, including the extent to which refugees:

- are threatened (or not) by *refoulement*, eviction, arbitrary detention, deportation, harassment or extortion by the security services and other actors;
- enjoy freedom of movement and association and expression, and protection of their family unity;
- have access to livelihoods and the labour market and are protected from exploitative treatment by employers, landlords and traders;
- enjoy adequate shelter and living conditions
- are able to gain legal and secure residency rights and are provided with documentation;
- have access to public and private services such as healthcare and education;
- enjoy harmonious relationships with the host population, other refugees and migrant communities; and,
- are able to benefit from the solutions of voluntary repatriation, local integration and resettlement.

-
- Ensure that refugees are included in broader rights-based assistance and advocacy efforts, such as efforts to protect and promote the rights of women, children, and other vulnerable groups.
 - Continue to provide non-discriminatory access to services and assistance to urban refugees, building on improved referral mechanisms and solidified assistance networks.