Refugee Law Project

CRITIQUE OF THE REFUGEES ACT (2006)

INTRODUCTION

Refugees in Uganda

Uganda's refugee experience dates back to the Second World War, when it played host to many Europeans displaced by the war. The next wave came in 1955 from the then Anglo-Egyptian condominium of the Sudan. Soon after, the Kenyans fled the Mau Mau struggle into Uganda, and Sudanese also fled to Uganda in large numbers as a result of post-Independence conflict. Considerable number of Congolese escaped to Uganda during the turmoil following Lumumba's assassination. The Rwandese civil war of 1959 displaced large numbers into Uganda, and the SPLA/M struggle in southern Sudan displaced the highest number of refugees so far into Uganda. More recently the Rwandan Genocide in 1994 forced thousands of Rwandese into exile in Uganda, and the decade-long conflict in the DRC involving not only the Kinshasa government and various Congolese rebel factions but also a whole range of regional governments, has caused further heavy inflows of Congolese refugees into Uganda. Today, Uganda hosts an officially registered refugee population of just under 220,000 refugees, of whom approximately 78% are Sudanese, 11% Congolese, and 7.5% Rwandese. The remaining 3.5% is made up of refugees from a variety of African countries including Burundi, Somalia, Eritrea, Ethiopia, Kenya, Liberia and a few asylum seekers from Pakistan, Nigeria and other west African countries. Given ongoing repatriation to Sudan and Burundi, and new inflows from Somalia and eastern DRC, the absolute numbers and the relative importance of different nationalities within them, is in a constant state of flux.

Legal protection frameworks in Uganda (1960-2006)

Prior to the introduction of the Refugees Act (2006), the protection of these refugees in Uganda was regulated by both International legal instruments and domestic legislation, but these were not always in harmony with each other. Uganda is a party to the 1951 Convention relating to the status of refugees and its 1977 protocol. It is also a signatory of the 1969 OAU Convention Governing the Specific Aspects of the Refugee problem in Africa. These two basic international instruments provide for who a refugee is, who is excluded from international protection, when refugee status ceases, the rights of refugees, their obligations and administrative matters. They set the standards of international protection for refugees internationally and regionally in Africa. However, they are not enforceable in local courts without first having been domesticated through the enactment of enabling legislation by the Ugandan parliament.

Uganda's domestic legislation relative to refugees was the Control of Alien Refugees Act 1960 (CARA). As the title of the Act suggests, the CARA was a law that was meant to

"control" alien refugees in Uganda rather than to ensure their protection. As such it largely disregarded the question of refugee protection and fell far short of human rights standards, as well as being unconstitutional when measured against Uganda's 1995 Constitution.

The problems of the CARA begin with its failure to objectively define the term "refugee" or to set clear criteria for refugee recognition. Refugees were defined as a class of persons declared by the Minister to be refugees, a somewhat circular definition which implied group recognition or *prima facie* recognition rather than considering cases of individual persecution. Furthermore, the institutional structures and processes for refugee status determination were not provided for and therefore were *ad hoc*. A refugee who fell within such a class of persons declared would then be authorized to stay in Uganda pursuant to a permit issued to him or her by an authorized officer. Having granted status, the CARA isolated refugees in rural refugee camps and made it an offence for a refuge to leave the camp without the authorization of the camp authorities. It also made it criminal for a Ugandan to harbor a refugee without the permission of the director in charge of refugees.

The CARA also made no mention of the international rights of refugees which are spelled out in the international conventions to which Uganda is a party. These include the right to identity papers, the right to property, the right to gainful employment, the right to Convention Travel Documents, freedom of movement, the right to protection against *non refoulement*, the right to protection from arbitrary expulsion, the right to education, the right to public relief, the right of access to courts of law and the general right of protection.

Furthermore, the CARA directly contradicted and thereby violated certain refugee rights specifically provided under the international instruments. The right to freedom of movement and choice of place of abode for refugees, as granted under the 1951 Convention on the status of Refugees was over-ruled by the requirement that refugees must live in settlements. Property rights were severely abused. Authorized officers were allowed to confiscate and dispose of properties of refugees with impunity including animals and vehicles. Camp commandants had excessive powers to give orders, arrest, detain and discipline refugees outside the due process of the Law.

Overall, therefore, the CARA could best be described as oppressive and archaic, leaving the in principle generous legal protection provided for refugees under the international legal instruments a matter of treaty provision from 1960's up to 1990s.

The Refugees Act 2006

With the developments in Uganda from the 1990s, including strides in political, social economic and legal development, and with the quest to measure-up to international standards, the government of the day came to see that the CARA was wholly unsatisfactory. It therefore refrained from total implementation of the provisions of the CARA, adopting instead practices which were at least partly informed by the international instruments on refugees to which Uganda is party. This departure from the implementation of the CARA created a legal vacuum and gave rise to the need to enact a new law with which to repeal the CARA. The process of enacting a new Refugees Act began in 1998 and culminated with the final enactment of the Act in 2006.

The Refugees Act has been commenced and is in force with the exception of certain parts that require additional institutional and structural establishments under the Act beyond the existing structures. Overall, the Refugees Act reflects international legal standards of refugee protection provided in the 1951 Convention Relating to the Status of Refugees and its 1977 protocol and the 1969 OAU Convention Governing the Specific Aspects of the Refugee Problem in Africa. It is progressive, human rights and protection oriented.

There are however some deficits, loopholes, inadequacies, room for excesses, and glaring omissions in the Refugees Act, all of which potentially erode the progressive and protection orientation of the Act and threaten to lower its compliance with international protection standards considerably. The critique of the Act which follows systematically highlights and discusses these deficits, inadequacies, loopholes, omissions and potential reserves for excesses and makes appropriate recommendations for amendment consideration.

CRITIQUE

1. Part I – Preliminary

The Title to the Act **(THE REFUGEES ACT 2006)** for the first time makes reference to the 1951 convention relating to the status of refugees and other international obligations of Uganda and specifically states that the Act is enacted to make new provisions for matters relating to refugees in line with the 1951 convention and other international obligations of Uganda relating to the status of refugees;[1] to establish office of refugees[2], to repeal the Control of alien Refugees Act and to provide for other related matters.

The short title to the Act, which cites it as the Refugees Act, sounds appropriate. It does not underscore any negative theme as was the case with the previous legislation; The control of Alien Refugees Act, which thematically impliedly reflected and emphasized on control of alien refugees other than their protection.

[1] An implied acknowledgement that Uganda's national legislation prior to the Act, in relation to refugees has not been in line with the 1951 Convention relating to the status of refugees and other international instruments relating to refugees; yet principle xxviii (b) of the guiding principle and national objectives of the 1995 constitution states that the foreign policy of Uganda is to adhere to its treaty and other international obligations in line with international law. The resonance of this assertion is pretty apparent in the letter and sprit of the Control of Aliens Refugees Act, which the Refugees Act has repealed by virtue of section 49 thereof. It is succinct from conclusion that the Refugees Act is a critical reaction to the sprout up of the 1995 constitutional order, which renders null and void legislation, policy and public action, which is inconsistent with the provisions of the constitution by virtue of article 2 thereof. The constitution provides for rights for all persons in Uganda irrespective of status, except citizen rights, which are seriously curtailed for refugees under the Control of Refugees Act. The Refugees Act is also a product of international and civil society pressure on the Government of Uganda to adhere to its international obligations under international law.

[2] The Control of Aliens Refugees Act repealed by the Refugees Act established an office for refugees, The Directorate for refugees, in the governmental structure, which was so disjointed that it belonged to no specific government ministry. Before the Act, it moved from one ministry to another. Today, the Act pins it to the constitutionally questionable office of the Prime Minister and the ministry of disaster preparedness.

Interpretation – Section 2
Unless otherwise critiqued below, the definitions contained in section 2 of the Act are deemed appropriate and fitting in the circumstances of their application in the Act except the ones pointed out, mentioned, discussed and analyzed below.

1.1 *'Members of the family'*

Commentary 1
The Act contains a broad definition of members of a family that takes into consideration the realities of African family units; it includes a spouse or spouses, children under the age of eighteen and any person who is dependent on the refugee.

The provision for *any person dependent on the refugee* is potentially very wide indeed, although *a person dependent/ a dependant* is not defined in the Act, reference to succession law where the term is defined, suggests that dependant in this context could mean any person who is substantially dependant on the refugee for provision of ordinary necessities of life suitable for that person's situation[3]. By referring to *any person*, the Act potentially provides a wider definition of a dependant than that provided for in the Succession Act; the Succession Act restricts the term to relatives including spouses, children under 18, parents, brothers and sisters[4].

While the suggestion of a broad definition of dependant is welcome, we note that the lack of a definition in the Act may cause some practical difficulties in the asylum determination process. We recommend that the Act clearly states the meaning of a dependant, taking into account the realities of African family units. Much as the Act is accommodative of dependants, the practical difficulties relating to this inevitably presents itself in the operationalization of resettlement to a third country as a protection tool and or as a durable solution. The definition of family by the traditional resettlement countries revolves around the core/nuclear family. Dependency is rarely considered in cases of extreme vulnerabilities, where the dependant is not a member of the nuclear family.[5] Uganda as a country is getting overburdened with its refugee caseload, given the turmoil in its neighborhood. There is need for burden sharing and further protection by way of resettlement to third countries. The absence of a clear definition or the generality of the term in the Act presents practical problems in resettlement process thus hampering burden sharing, further protection by resettlement and the possibility of alternative durable solution by way of resettlement.

Recommendation 1
The Act should limit the definition of a member of a family to include the nuclear family; spouse or spouses, children and dependants within the meaning of a dependant adopted in the Succession Act.

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[3] See section 2 (b) of the Succession Act
[4] Under section 2 of the Succession Act a dependant relative includes a spouse; children below 18 or above 18 who are wholly dependant on the deceased; and a parent brother or sister who are substantially dependant on the deceased for the provision of the ordinary necessities of life.
[5] The Refugee Law Project has practical examples of families denied resettlement particularly by Australia on grounds of family composition, where the dependants of the principal applicants extended to distant relatives. Whereas this was not stated in the rejection letters, it was informally confirmed from immigration officers who conducted the interviews.

1.2 The definition of an asylum seeker
An asylum-seeker is defined as *a person who has made an application for the grant of refugee status under section 19 of this Act.*

Section 19(1) further expands to state that *any person who enters Uganda and wishes to remain in Uganda as a refugee shall make a written application to the Refugee Eligibility Committee for the grant of refugee status within thirty days after the date of his or her entry into Uganda.*

Commentary 2
In our view, this definition is too narrow because it excludes persons who, despite entering Uganda with the intention of applying for asylum, are prevented from doing so by circumstances beyond their control, such as detention, illness or even unawareness regarding the process of acquiring refugee status. (Sometimes they take long at the police and Inter Aid before OPM meets them).

Recommendation 2
We recommend that this section be rephrased to include *a person who demonstrates an intention or who intends to apply for refugee status at the earliest possible opportunity.*

Thus, an asylum seeker is *a person who has applied for refugee status under section 19 of this Act or who demonstrates an intention to apply for the grant of refugee status at the earliest possible opportunity.* Much as section38 forbids prosecution of an alien in Uganda who *"intends to make an application to be recognized as a refugee under the Act",* meaning that an asylum seeker includes a person intending to apply for refugee status in Uganda, The definition of an asylum seeker should come clear with the express definition of that implication in section 38.

1.3 The definition of persecution
Persecution is defined as including *any threat to the life or freedom, or serious violation of the human rights of a person on account of that person's race, religion, nationality, sex, political opinion or membership of a particular social group; and as long as a person is threatened with any harm which can reasonably be seen as part of a course of systematic conduct directed against that person as an individual or as a member of a class of persons, on account of race, religion, nationality, sex, political opinion or membership of a particular social group, that person is being persecuted for the purpose of this Act.*

Commentary 3
The definition of persecution is ambiguous. The first part of the definition reflects the widely recognized position that persecution includes *any threat to life or freedom or serious violation of human rights*. The definition then goes further to provide: *and as long as a person was threatened with any harm*… It is not entirely clear whether the latter clause is intended to qualify or add to the first part of the definition. In either case we can find no basis both in international refugee law and our national laws for the inclusion of such a provision. Persecution as defined by the 1951 Convention does not necessarily require a systematic series of threats. As pointed out in the UNHCR handbook at paragraph 51 *'from Article 33 of the 1951*

convention, it may be inferred that a threat to life or freedom on account of race, religion, nationality, political opinion or membership of a particular social group is always persecution.[6]

Recommendation 3
The language of this section should be amended to exclude the additional qualification on systematic conduct and instead should mirror the language from Article 33 of the 1951 Convention. Otherwise, the second part of the definition undermines the proper scope and content of the term. The unnecessary appendage in the definition be deleted.

1.4 The definition of country of nationality
Country of nationality *means each of the countries of which that person is a national.*

Commentary 4
The definition of a country of nationality is in line with the international consensus; however, the term is used synonymously with *'country of origin'* in other parts of the Act, which is quite misleading. In refugee status determination, country of nationality means country of citizenship. In case of statelessness, the term country of habitual residence is used. The drafters of the 1951 Convention defined country of habitual residence to mean the country in which the refugee resided and where he had suffered or fears he would suffer persecution if he returned.

Recommendation 4
The term *country of origin* is preferable because it is a wider term connoting both the country of nationality and habitual residence.

1.5 'Granting of refugee status a humanitarian act' – section 3(2)
Section 3(2) states that *the Government of Uganda has the sovereign right to grant asylum or refugee status to any person.*

[6] Persecution is not defined in any international instrument, but the consensus is that persecution is a serious violation of basic human rights and that other prejudicial acts may also, on a cumulative basis, amount to persecution. In its 1998 note on International Protection, the Executive Committee of the UNHCR stated that 'persecution commonly takes the form of violations of the rights to life, to liberty, to security of the person-including through torture or cruel inhuman treatment or punishment, motivated by race, religion, nationality, membership of a particular social group or political opinion. In addition, individuals who are denied the enjoyment of other civil, political, economic, social and cultural rights may have a valid claim for refugee status where such denial is based on any of the relevant grounds, and its consequences are substantially prejudicial for the concerned to the point where daily life becomes intolerable. Serious, particularly cumulative, violations of the rights to freedom of opinion and expression, to peaceful assembly and association, to take part in the government of the country, to respect family life, to own property, to work and t o an education, among others, could provide valid grounds for harm.' See also paragraph 53 of the UNHCR handbook. It could be that the second part of the definition in section 2 of the Bill is referring to this form of 'less serious' harm that could if cumulative or systematic amount to persecution.

Commentary 5

Although the state has the sovereign right to grant asylum, the granting of refugee status is bound by the provisions laid out in the 1951 and OAU Conventions particularly the principle of *non-refoulement.*[7] To state that the government of Uganda has the sovereign right to grant refugee status derogates from the international conventions that the Act purports to uphold and weakens the provisions in the Act that lay out the principles for granting refugee status. The provision reserves the state a right to make arbitrary decisions of denial of refugee status with a legal backing.

Recommendation 5
We recommend that the sovereign right to grant refugee status be deleted from this section.

2. Part II – Determination of refugee status

2.1 Qualification for refugee status – Section 4(c)

This section states that refugee status can be granted on the basis of *external aggression, occupation, foreign domination or events seriously disturbing public order in either a part or the whole of his or her country of origin or nationality, that person is compelled to leave his or her place of habitual residence in order to seek refuge in another place outside his or her country of origin or nationality.*

Commentary 6
Section 4(c) fails to cater for refugees *sur place*. Refugees sur place are persons who, while already abroad, determine that they cannot or will not return because of risk of persecution in their country of origin. This may be as a result of a significant change of circumstances in the country of origin while the claimant is abroad or as a result of the claimants' activities abroad which have been brought to the notice of the authorities in the claimants' country of origin. The reference to persons *outside their country of origin* in article 1(1) of the OAU Convention and article 1(A)(2) of the 1951 Convention encompasses both persons compelled to leave and those who are already outside their country of origin. By only referring to people who are *compelled to leave* their countries of origin, section 4 [c] does not include refugees *sur place* who are already outside their country of origin.

Recommendation 6
We recommend that this section include refugees sur place by making reference to persons who are unable to return to their country of origin as a result of the specified reasons. It should read as follows: *' owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of the country of origin or nationality, that person is compelled to leave* ***or is unable to return to his or her place of habitual residence or nationality.***

[7] The Principle of non refoulement is the cornerstone of international refugee law; it provides broadly that no refugee should be returned to any country where he or she is likely to face persecution or torture. This principle is expressed, inter alia, in article 33 of the 1951 Convention Relating to the Status of Refugees.

2.2 Fear of persecution for failing to conform to discriminatory gender practices – Section 4(d)

Commentary 7
The inclusion and introduction of an additional ground of persecution for failing to conform to gender discrimination practices[8] is highly welcome and very progressive. The only problem is that the provision is not mirrored in the international conventions on refugees and may not also have its parallel in the national refugee legislations of other countries. It is feared that third country resettlement of refugees under this criterion may prove difficult especially where resettlement presents the only viable durable solution or protection tool for a concerned refugee unless where the case can be argued as falling under a "particular social group".

Recommendation 7
UNHCR adopts this definition for future recommendations to the United Nations General Assembly and the Social and Economic Council for the amendment of the 1951 convention relating to the status of refugees to include this phenomenon as a convention ground for refugee status, thereby creating a base for its universal application.

2.3 Disqualification for refugee status based on prior crime – Section 5

Section 5 lays out the grounds for disqualification of refugee status. Section 5(a) for instance disqualifies a person who ***has committed*** *a crime against peace, a war crime or crime against humanity as defined in any international instrument to which Uganda is a party.*

Commentary 8
The use of the words *'has committed'* throughout this section raises questions of standard of proof. It seems to imply that there already exists conclusive proof that the asylum seeker has committed one of the specified crimes, i.e. it states that that person 'has committed' or 'has been guilty' of specified crimes. On the other hand article 1F of the 1951 Convention and article 5 of the OAU Convention state that '*the convention shall not apply to any person with respect to whom there are* ***serious reasons for considering*** *that he has committed…'*
By implying that there is already some form of conclusive proof that the asylum seeker committed the crime in question, section 5 of the Act sets a higher standard of proof than the Conventions.

While the implication of a higher standard of proof has its advantages,[9] the wording of section 5 begs two interrelated questions. First, what exactly is the standard of proof and/or how is the guilt of the asylum seeker determined? Second, will there need to be a separate procedure to determine the guilt of the asylum seeker before a decision on exclusion is made?

[8] Section 4 (d) of the Refugees Act.
[9] The consequences of exclusion are very grave. A decision to exclude an asylum seeker under the exclusion clauses of the conventions is a determination that a person does not deserve protection, that the fundamental principle of non refoulement does not apply and consequently that person can be returned to a country where he/she has well founded fear of persecution. A higher standard of proof would thus help to ensure against the exclusion of persons genuinely deserving of protection.

Recommendation 8
The standard of proof should be clearly defined; the 'serious reasons for considering' standard in the 1951 Convention could be adopted. It should be noted however that this standard has been subjected to different interpretations, in some jurisprudence a standard below a balance of probabilities has been adopted[10] while others have adopted a slightly higher standard[11]. Given the grave consequences of a decision to exclude, we suggest that a standard slightly higher than a balance of probabilities is adopted.

2.4 Disqualification for refugee status based on multi-nationality – section 5(d)

Section 5(d) includes disqualification for a person with more than one nationality when *that person has not availed himself or herself of the protection of the second country of which he or she is a national and has no valid reason, based on a well founded fear of persecution or on a reason referred to in section 4(c) of this Act, for not having availed himself or herself of that second country's protection.*

Commentary 9
Article 5(d) excludes a person who having more than one nationality has not availed him or herself of the protection of the second country of which he or she is a national. This provision is not necessary in light of the definition of a country of nationality in section 2. Section 2 defines a country of nationality to mean *in relation to a person with more than one nationality, each of the countries of which that person is a national.* This means that a person who has more than one nationality and can still claim protection from one of his/her countries of nationality would not fall within the definition of a refugee under section 4.

It should further be noted that exclusion under the 1951 and OAU Conventions is based on the asylum seeker not deserving protection, not on the availability of protection elsewhere. The above provision is thus misplaced.

Recommendation 9
The section on disqualification based on availability of protection under an alternative nationality should be removed given its inherent contradiction with Section 2 of this Act.

2.5 Cessation of refugee status – section 6(1)(f)

This section states that cessation of refugee status can occur when a person *of a class of persons declared to be refugees in accordance with section 25 of this Act –*
(i) that person has committed a serious non-political crime outside Uganda after admission into Uganda as a refugee; or
(ii) that person has seriously infringed the purposes and objectives of the Geneva Convention or the OAU Convention.

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[10] See the case of *Ramirez v Canada* 1992 2 FC 306 – a number of decisions have followed this approach
[11] See *Cardenas v Canada 23 IMM L.R. 92d, 244 (1994)* referenced in Michael Bliss, '*serious reasons for considering': Minimum standards of procedural fairness in the application of the Article 1F exclusion clauses,* International Journal of Refugee Law, Vol 12.

Commentary 10
Section 25 of the act deals with group recognition in situations of mass influx. Section 25[3] provides that persons in this category would be allowed to stay in Uganda for a specified period without having their individual status determined. We assume that the provisions of section 6 (1) (f) are meant to guard against fugitives taking advantage of the system. If this is the case, it is essential that certain procedural safeguards be laid out to ensure against an erroneous determination. Without such procedures, it is likely that people could be excluded on mere suspicion.

Further, by using the terms *has committed* or *has seriously infringed*, section 6 (1) (f) has the same standard of proof implications as section 5 discussed above..

Recommendation 10
We recommend that persons subject to cessation under article 6 (1) (f) have an individual determination of their case. This individual determination should at minimum involve a right to be heard, to be represented and a right of appeal extending even up to the courts of law.

We further recommend that the convention standard '*serious reasons for considering'* be adopted as discussed in the commentary to section 5.

2.6 Cessation by reacquisition of lost nationality Sec 6 (c)

Commentary and Recommendation 11
Section 6(1)(a) requires that re-availing oneself of the protection of one's country of nationality, or re-establishing oneself there, must be voluntary in order to be grounds for cessation of refugee status. In the same way, acquisition of a lost nationality should be voluntary in order to trigger cessation of refugee status thus subsection (c) should be amended to read *'having lost his or her nationality, he or she <u>voluntarily</u> acquires it again.'*

3. <u>Part III -Administrative set up for refugee matters</u>

3.1 Composition of the Refugee Eligibility Committee (REC) – section 11
The Refugee Eligibility Committee consists of persons from ten government departments, and *the UNHCR may attend meetings of the Eligibility Committee in an advisory capacity*; this is very much in line with current practice.

Commentary 12
This composition is fairly representative but purely political only to cater as priority for the interests of the state other than the protection needs of the asylum seeker. Given that Section sec 4 (2) reserves the state the sovereignty to grant or deny asylum, the utterly political composition of the REC is bound to enhance possibilities of arbitrary decisions of denial of asylum in disregard of the eligibility of an applicant under the Act.

Recommendation 12

We recommend that the political overtones of the REC be mitigated by allowing for NGO observer status.

We further recommend that it be made a requirement for REC members to have experience/training in refugee/humanitarian law. The REC is constituted to make decisions on asylum claims,[12] it is a tribunal and its composition should have a judicial character. It would be appropriate to include legal professionals and people with refugee protection competence on the REC. Much as the UNHCR sits on the REC, it merely has an observer status.[13]It has no power to vote.

3.2 Subcommittees of the Eligibility Committee – sections 14 and 15

Sections 14 and 15 provide for the delegation of functions of the REC to subcommittees. Specifically, the Eligibility Committee *may appoint one or more subcommittees to – a) inquire into and advise the Eligibility Committee on any matters within the scope of its functions as the Committee may refer to the subcommittee b) to exercise such powers and perform such duties of the Eligibility Committee as the Committee may delegate or refer to the subcommittee.*

Commentary 13

It can be envisaged that under section 15(1)(b) subcommittees could be formed for the purpose of considering applications for refugee status since it is not explicitly stated that determination of refugee status is non-delegable. This would be very welcome in that it would help speed up the status determination process. However, in light of this and other REC functions that the subcommittees may be formed to determine, it is essential that the background and training of the members of these committees be specified. It is already provided that the chairperson of the committee should be a member of the REC.

Recommendation 13

We recommend that the other members of the subcommittees be persons who have knowledge and/or experience in refugee/humanitarian law. We further recommend that the subcommittee's decision-making powers be expressly stated; this is particularly pertinent in light of the possible status determination function that the subcommittees may be constituted to perform.

3.3 Refugee Appeals Board – sections 17 and 18

Sections 17 and 18 stipulate the role of an appeals board and the potential for UNHCR participation, respectively.

Under section 17(2), *the appeals board may confirm the decision of the Eligibility Committee, set aside the decision of the Eligibility Committee and refer the matter back to the Committee for further consideration, order a rehearing of the application or dismiss the appeal.*

[12] Section 12 of the Act.
[13] Section 11 (2) of the Refugees act.

Section 17(1) allows for appeals from decisions of the Eligibility Committee *on questions of law and procedure*.

Commentary 14

Before the enactment of the Refuges Act,, there was no appeal process from the decisions of the REC. asylum applicants whose applications were rejected by REC had to apply to the same REC for a review of the decision. Impartiality on review was always compromised. The creation of an appeals board offers an opportunity for an independent evaluation of the case and is highly welcome. However, the Appeal Board has a glaring lack of authority of an appeal body. Much as within its powers it can set aside the decision of the REC,[14] it cannot overrule the decision of the REC; it has to remit the matter back to the REC for reconsideration. The section makes it explicitly clear and in categorical terms that the Appeals Board does not have power to grant refugee status to an applicant on appeal.[15] This provision renders the Appeal Board impotent but rather a perfunctory body created as a lip service to create an impression that there is an appeal process in refugee status determination in Uganda.

The conditions for due process would not be satisfied if sole appeals body was not permitted to re-evaluate the whole case on its merits. It should be noted that in our jurisprudence an appeal in the first instance is by way of retrial, considering both questions of fact and law.[16]

Article 42 of the Constitution provides that *'any person appearing before any administrative official or body has a right to be treated justly and fairly and shall have a right to apply to a court of law in respect any administrative decision taken against him or her';* the right to apply to court is thus regarded as an important component of just and fair treatment in administrative decisions. Current practice has interpreted the right to apply to court under Article 42 of the Constitution to mean judicial review and not a right of appeal.

Case law has established that the right to appeal to a court against a decision of an administrative body depends on the existence of a statutory provision conferring such a right in a particular circumstance, but there is no inherent right of appeal.[17] Judicial review is within the 'inherent' jurisdiction of the court; however, it does not permit a reconsideration of an administrative decision on its merits. Based on the assumption that the administrative body in question has usurped, exceeded, abused or failed to properly exercise its statutory functions, the duty of the court is to review the legality of an action and not to scrutinize and then quash any action or decision that they disapprove or that they may feel does injustice to the complainant.[18]

Recommendation 14

We recommend that the appeals board, like an appellate court, be bestowed with the power to *'reverse and substitute its own decision for that of the REC'.*

[14] Section 17 (b)
[15] section 17 (4).
[16] See, for example, Selle and anor vs. Associated Motor Boat Co. Ltd 1968 EA 123.
[17] See the case of Uganda vs. Semogerere [1985] HCB 4.
[18] BL Jones, *Garners Administrative law,* 17th Edition, Butterworths, London and Edinburgh 1989.

Second, we recommend that the grounds for appeal be expanded to include questions of fact in addition to questions of law and procedure.

Third, we strongly recommend that a provision be made for final appeal to courts of law.

4. Part IV – Applications for refugee status and related matters

4.1 Application for refugee status – section 19(1)

Section 19(1) requires a refugee to *make a written application to the Eligibility Committee for the grant of refugee status within thirty days after the date of his or her entry into Uganda.*

Commentary 15

The 30 day deadline is very unrealistic and will result in a large number of valid refugee claims being arbitrarily dismissed. Imposing such a deadline assumes that applicants will be able within that timeframe to figure out what procedures are to be followed, make a written application, and deliver that application to the department of refugees. Our experience has shown such preconditions will not be possible for a large number of refugees. Many refugees arrive in Uganda sick and traumatized, speaking languages that are not widely understood in Uganda; they enter Uganda from various entry points some of which do not have a refugee desk or UNHCR office; and a large section of the Ugandan population is unaware of the refugee status determination procedures.

The requirement for a written application is also problematic since it presumes that asylum seekers are all educated and can write and read or that they will receive some form of assistance in the preparation of their applications. Some asylum seekers may be illiterate, and others require assistance to articulate their claim. In practice, there is very little assistance available for asylum applicants.

Recommendation 15

We recommend that a longer deadline be imposed and exception be granted for late filers if *'just cause'* is demonstrated.

Given the written application requirement, we recommend that either a provision be made for assistance in the preparation of asylum claims, or it should be made clear that applicants may furnish additional information during consideration of their claims. Assistance could be provided within the department of refugees or the offices of other authorized officers and/or the department of refugees may liaise with human rights/refugee rights NGOs to provide this service.

4.2 Investigations – section 20(1)(b)

In this section, the Commissioner is granted the ability to *carry out any inquiry or investigations as he or she may think fit.*

Commentary 16

In carrying out investigations concerning the asylum seeker's application for status, or indeed for any other purpose as provided in the Act, it is essential that the Eligibility Committee, or

any other body carrying out this function, protect the confidentiality of applications for refugee status.

There is need to impose a legal duty on the REC or any other person performing the role of investigation of claims to protect the confidentiality of the applicant. Failure to keep confidentiality of the application may expose the applicant to the dangers from which he or she has fled.

Further, it is essential that the applicant and/or his lawyer be informed of the results of any investigations before the hearing. This will enable the applicant to adequately prepare a response to anything that might be brought against him.

Recommendation 16
We recommend that two new subsections be introduced:

Subsection [c] would read *'in carrying out investigations under subsection b, the commissioner shall protect the confidentiality of the applicants asylum application'*.

Subsection [d] would read '*...Where the investigations under subsection (b) yield any further information critical to the applicant's asylum application, the applicant and/ or his lawyer will be informed before the hearing of the application'*.

4.3 An asylum claim to be determined within 90 days – section 20(2)

According to section 20(2), the *Eligibility Committee shall, within ninety days after the date of receipt of the application by the Commissioner, consider and determine the refugee status....*

Commentary 17
We commend the intention to deal quickly with asylum claims especially in light of the excessive hardships caused by the current humanitarian assistance gap.[19].

Recommendation 17
We recommend, however, that provision be made for an extension of the period for circumstances for which a decision cannot be reached in time, with a corresponding extension of the applicant's temporary documentation.

It is proposed that the Act sets up reception centers for the reception of these new arrivals and provide necessaries of life to the asylum seekers as their status is being determined.

[19] The Jesuit Refugee Service is the only organisation that has a program specifically providing material assistance to asylum seekers in Kampala. Asylum seekers are given food assistance [the amount varies according to family size] for a maximum of six months and rent allowance for a maximum of two months, with some exceptions made for emergency cases. Asylum seekers in settlements are also not given full assistance, although exceptions are sometimes made.

4.4 Written reasons for rejection of an asylum claim – section 20(4)

This section states that *where an application is rejected under subsection (2) of this section, the Eligibility Committee shall state the reasons for its decision in writing and the applicant shall be provided with a copy of the statement.*

Commentary 15

We commend and stress the importance of this provision. Without written reasons it would be almost impossible for the asylum seeker to make a good case for appeal. At present, rejected asylum seekers are rarely given reasons for their rejection. Most rejected asylum seekers just find their names listed as rejections on the notice board of the Office of the Prime Minister (OPM) Directorate of Refugees offices. When they are given reasons, it is usually restricted to one or two sentences to the effect that there was lack of sufficient evidence to support the claim.

Recommendation 15

Given the lack of actionable responses for general or brief reasons of rejected stated, it is perhaps important to underscore the need for ***detailed*** reasons in this section. These reasons should include an analysis of the relevant pointer facts of the case (on which the decision is based) against the relevant legal criteria

4.5 Clearly abusive and manifestly unfounded claims – section 22(1)

Section 22 states that *without prejudice to the requirement for a just and equitable determination procedure for the determination of refugee status, the Commissioner shall deal in an expeditious manner with applications, which are considered to be clearly abusive and manifestly unfounded…*

Commentary 16

To avoid the grave consequences of an erroneous determination, it is essential that certain procedural safeguards be laid out. At minimum, the applicant should be granted the right to a hearing and an appeal/review of a dismissal on this ground. The UNHCR Executive Committee Conclusion No. 30 (on the problem of manifestly unfounded or abusive applications for refugee status or asylum) lays out the following procedural guidelines for a quick and accelerated procedure for purposes of these claims:

- A complete personal interview by a fully qualified official (wherever possible an official of the authority competent to determine refugee status)
- The manifestly unfounded or abusive character of an application should be established by the authority competent to determine refugee status
- An unsuccessful applicant should be able to have the decision reviewed before removal or rejection at the frontier

Recommendation 16

The section on unfounded claims should be revised to include more detailed procedural guidelines such as those delineated by the UNHCR EXCOM. Resolution 30.

4.6 Entitlement of refugees after submission of application

Temporary documentation – Section 24(1) (a)

According to this section, an applicant will *be issued with a temporary document valid for a period of ninety days from the date it is issued, and thereafter the document is renewable every two months until all rights connected with or incidental to applications for refugee status are exhausted.*

Commentary 17

The requirement for a three-month initial period and further renewal every two months may prove to be a tedious and rather unnecessary process, both on the part of the administration and the refugees.

Recommendation 17

We recommend that asylum applicants be given temporary documentation that covers at least nine months, the approximate ideal time provided in the Act for the determination of asylum applications. After this period, there could be provision for renewal every two to three months in case of an appeal or time allowed for a rejected asylum seeker to prepare and leave the country. Applicants who have their cases determined within the nine month period could be required to surrender their temporary documentation before receiving their refugee identification.

4.7 The right to a hearing – section 24(2)

Section 24(2) provides that *the applicant is entitled, during the consideration of the application, to a hearing, and where necessary, shall obtain the services of a competent interpreter at his or her own expense.*

Commentary 18

The reference to '*a hearing'* implies that the applicant will be entitled to only one hearing, leaving any subsequent hearing(s) to the discretion of the committee.

Recommendation 18

We recommend that the '*right to a hearing'* be substituted with the '*right to be heard.'* Hence, the first part of the above section should read '*the applicant is entitled to be heard during the consideration of the application.'*

4.8 Legal or other assistance – section 24(3)

This section states that *in the exercise of his or her rights under subsection (2) of this section, the applicant may be represented or assisted by a person of his or her own choice, including an advocate at his or her own expense.*

Commentary 19

The provision allowing legal assistance during a hearing before the REC is without a doubt welcome. We also suggest that provision be made for some form of legal or other assistance during the preparation of the applicant's case both at the initial stage and on appeal.

The Act provides for legal representation at the expense of the applicant.[20] Most of the refugees and asylum seekers flee into exile without even the mere necessaries of life. Where will they get the resources to foot the expenses of legal representation? The Act should provide for a probono scheme for applicants who need legal representation.

Persons of the refugee's own choice that may assist in the hearing[21] may have to be screened by the department of refugees to ensure against abuse of the system and the risk of intimidation and breach of ethical codes relating to legal representation dring refugee status determination..

Recommendation 19
In our discussion of section 19(1)[22], we suggested that provision for legal assistance be made either within the department of refugees or the offices of other authorized officers and/or the department of refugees liaises with human rights/refugee rights NGOs to provide this service.

Secondly, ethical codes of conduct and standards of representation of asylum seekers, including eligibility criteria for the legal advisors for asylum seekers during refugee Status determination are urgently required to operationalize legal representation during RSD.

4.9 Family reunification of a recognized refugee – section 27(5) and (6)

Section 27(5) provides that *the Commissioner shall investigate and ascertain the family situation of an unaccompanied child who enters Uganda and wishes to remain in Uganda as a refugee, and may make recommendations regarding the adoption of the child.*

Under Section 27(6), the *Minister may, in writing, revoke the permission of a person to enter and reside in Uganda under this section in the interest of national security or in the public interest.*

Commentary 20
Subsection 5 clearly has nothing to do with family unification; it is more in line with catering for the welfare of the unaccompanied minor.

We note that a review of the Minister's decision is not within the competence of the appeals board established under this Act.

Recommendation 20
Subsection 5 on unaccompanied minors should be removed from this section, as it is currently misplaced.

With regard to the Minister's right to revoke the permission of a family member to enter and reside in Uganda on grounds of public interest and national security under subsection 6, we recommend that a provision be included for a review appeal of the decision of the minister.

[20] Section 24 (3)
[21] Section 24(3) provides that a refugee may be assisted by a person of his/her own choice.
[22] See page 9 above

5 Part V Rights and obligations of refugees

5.1 Entitlements under international conventions – section 28

This section mentions *(a) the Geneva Convention; (b) the OAU Convention; and (c) any other convention or instrument relating to the right and obligations of refugees to which Uganda is a party.*

Commentary 21

This section fails to recognize explicitly other human rights treaties that have equal application to refugees as human beings.

Recommendation 21

We recommend that section 28 on the entitlement of refugees to rights in conventions acknowledge the applicability of other human rights treaties to which Uganda is a party.

5.2 Prohibition of 'political activities' – section 35(d)

Subsection (d) of section 35 provides that a refugee shall not engage *in any activity contrary to the principles of the Charter of the United Nations and the Statute of the African Union, and in particular, shall not undertake any political activities within Uganda against any country, including his or her country of origin.*

Commentary 22

This provision is based on Article III of the OAU Convention that prohibits refugees from engaging in any *subversive activities* against any member state of the OAU. It goes further than the OAU convention, however, by prohibiting any form of *political* activity. The scope of *political activity* is very wide indeed; it could include involvement in an opposition political party, writing articles in newspapers or journals against oppressive policies of the refugee's home government, engaging in the activities of human rights NGO's that are criticizing the activities of home governments or lobbying international bodies to put pressure on home governments *inter alia.* This provision is likely to have very serious effects on the refugee's rights to freedom of expression and association guaranteed in the Constitution,[23] the ICCPR,[24] the UDHR[25] and the African Charter on Human and People's Rights.[26] Further, the Act has a wider scope than the Convention in that it restricts political activity against *any country* and not just member states of the OAU.[27]

Recommendation 22

For these reasons, the prohibition of 'political activities' should be modified to a more specific harmful activity such as subversive activity.

5.3 Freedom of Movement – Section 30

Section 30 (1) grants refugees the right to freedom of movement in Uganda. The freedom of movement is immediately curtailed by subjecting it to restrictions specified in the laws of

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23 Article 29(1)(a) and (e) of the Constitution of Uganda.
24 Article 19 and 22 of the ICCPR.
25 Article 19 and 20 of the UDHR.
26 Article 10 of the African Charter on Human and People's Rights.
27 See Article III of the OAU Convention.

Uganda or directions issued by the commissioner, which applies to aliens generally in the same circumstances, especially on the grounds of national security, public order, public health, public morals or other protection of the rights and freedoms of others.

Commentary 23
The restriction by law is reasonable but directions issued by the commissioner may be arbitrary. There are no detailed criteria upon which the commissioner may issue directions restricting freedom of movement. Section 44 further empowers the minister to create settlement camps for settlement of refugees in designated areas on public land. The section impliedly obliges refugees to live in these settlements in that a person who wishes to live out in a place other than the settlement has to apply to the commissioner for permission to live outside the camps.[28] The provision in effect curtails a refugee's right to choose his/her place of abode and his/her freedom of movement.

Recommendation 23
It is recommended that the directions issued by the commissioner in respect of restrictions on freedom of movement be subjected to an appeal if deemed unfair.

It is further recommended that the requirement that the commissioner give permission to enable a refugee to live outside the designated refugee settlements be deleted.

6. Part VI – Miscellaneous

6.1 Principles of conventions to be followed –section 37

According to section 37, *the Eligibility Committee and the Appeals Board shall be guided by the principles laid down in relevant or applicable international conventions or instruments.*

Recommendation 24
We recommend that the provision for the Eligibility Committee and the Appeals Board to be *'guided by'* the principles of the international instruments listed be amended to read that they be *'bound by'* these principles.

6.2 Procedure for withdrawal of recognition of refugee status – section 39

Section 39 outlines the reasons and procedures for withdrawing recognition of refugee status.

Under section 39(3), t*he Eligibility committee may withdraw the recognition of that person as a refugee on the grounds of gross misrepresentation of facts of a material or substantial nature regarding his or her nationality or his or her qualification for refugee status.*

Commentary 25
In general, this provision should be subject to strict procedural safeguards since it involves the withdrawal of protection/status from persons who have already been considered to be in need of protection.

[28] Section 44 (2)

While section 39(1) encompasses persons who *should not have been recognized* as refugees and persons *whose status may be subject to cessation*, subsection 3 only makes reference to the first category.

We welcome the Appeal Board's power to *set aside and recommend that the person should still be recognized as a refugee* in subsection 6(a) rather than simply remitting the case back to the committee as provided for in the provisions relating to determination of status.

Recommendation 25
We recommend the following:
- The notice of withdrawal should clearly state the basis for withdrawal.
- The time limit of fourteen and seven days for the refugee to respond to a notice of withdrawal/apply for an appeal is extended to allow for adequate preparation and legal assistance.
- The refugee is heard and represented both on appeal and at the first determination of the Eligibility Committee.

We recommend that the subsections 39(1) and 39(3), which only references one of the categories in 39(1), be reconciled to include a provision in subsection 3 to cover withdrawal of refugee status by virtue of the application of cessation clauses..

We also strongly recommend that the decision of the appeal board be binding and that it is expressly stated so under subsection 6.

6.3 Expulsion of refugees – section 40(1)

Section 40 (1) allows *the Minister, after consultation with the Minister responsible for internal affairs, to expel any recognized refugee, if the Minister considers the expulsion to be necessary or desirable in the interests of national security or public order.*

Commentary 26
This section appears to be based on Article 32 of the 1951 Convention that provides for expulsion only in '*pursuance of a decision reached in accordance with due process of law'*. There is no similar provision for due process in section 40. The Minister is only required to give *due consideration to any representation made by the expelled refugee or his or her representative or the representative of the UNHCR*, under section 40(b).

Section 12(d)(i) provides that the Eligibility Committee may recommend cases of expulsion or extradition to the Minister. This seems to imply that the Eligibility Committee may have a role to play in the proceedings under section 40, but that does not equate to due process.

Recommendation 26
We recommend that section 40 be significantly altered to reflect Article 32 of the 1951 Convention to include due process of the law.

We refer, of course, to the necessity for due process in cases of expulsion. We recommend that the following be expressly provided for:

- Adequate notice of expulsion proceedings.
- The Refugee Eligibility Committee handles expulsion proceedings with a provision for appeal to the Appeals Board and the courts of law.
- Provision for the refugee to be heard in these proceedings and to obtain legal assistance.
- The expelled refugee is given sufficient time to remain in the country while seeking legal admission to another country.
- The above will be subject to compelling reasons of national security.

6.4 Extradition of Refugees – section 41(1)

Section 41(1) of the Act states that on request from a country with which Uganda has signed an extradition treaty or an international tribunal, *the Minister may, after consultation with the Minister responsible for internal affairs, order the extradition of a refugee in accordance with the provisions of the applicable extradition law.*

Commentary 27

Our Extradition Act provides for an extradition hearing and a review of the initial decision through habeas corpus proceedings in the high court. It can thus be assumed that since extradition under section 41(1) can only be ordered *under the law in force,* the refugee in question will have a hearing and an opportunity to challenge the decision of the committing magistrate in the high court.

Recommendation 27

Although this is generally acceptable procedure, we strongly recommend that the Act specifically state that due regard be given to the principle of *non-refoulement* in extradition proceedings in section 41(1).

6.5 Naturalization of refugees – section 45

Commentary and Recommendation 28

There are substantial restrictions on acquisition of citizenship by registration and naturalization by refugees in the Uganda Citizenship and immigration control Act. Section 45 of the Refugees Act only provides that "*the constitution and any other law in force in Uganda regulating naturalization shall apply to the naturalization of a recognized refugee."*

Under the Uganda Citizenship and immigration Control Act, the Uganda citizenship and Immigration Board is responsible for granting and canceling citizenship by naturalization.[29] An alien qualifies for naturalization as a citizen if he or she meets the following criteria.

- ✓ Has resided in Uganda for an aggregate period of 20 years.
- ✓ Has resided in Uganda throughout the period of two years immediately preceding the date of the application.

[29] Section 16 of the Uganda Citizenship and immigration Control Act

- ✓ Has adequate language of a prescribed vernacular language or of the English language.
- ✓ Is of good character.
- ✓ Intends if naturalized to continue to reside permanently in Uganda.

Some of these requirements present almost insuperable hurdles for the naturalization of a recognized refugee into Ugandan citizenship and should not be applied to refugees on the same basis as to other aliens. The time factor is singled out as the most restrictive factor. Aliens generally and refugees specifically have completely different circumstances. While other aliens continue to enjoy the protection of their home countries, refugees do not. The restriction on the rights of aliens generally and refugees specifically has very grave consequences on the refugees. While aliens can participate in politics back in their countries of origin, refugees can not. Their status robes them of essential political rights for as long as they remain refugees. Particular consideration should be paid to the following category of refugees separately;

1. Refugees who have lost their nationality and are in Uganda as a result and have no prospect of reacquiring their citizenship.
2. Refugees who are unwilling or unable to return to their countries of origin and carry no possibility of any kind of voluntary repatriation. These include refugees who for one reason or the other can not return to their countries of origin during their life time.
3. Refugees who demonstrate a high prospect of local integration with demonstrated possibility of contributing to the economy of Uganda.
4. Refugees whose countries of origin continue to harbor and are expected to harbor the reasons for their flight for a very long time probably beyond the reasonable life expectancy of the concerned refugee applicant.

The Refugees Act should be amended to make provisions for the above category of refugees to naturalize fairly easily. The time limit for their residence prior to their application be reduced to five years of continuous residence in Uganda after the grant of refugee status to them. The other conditions under section sections 16 (4) and (5) of the Uganda Citizenship and Immigration Control Act remain applicable to them.

Citizenship by registration

The board is responsible for granting and canceling citizenship by registration to aliens generally on application. Under section 14 of the Uganda Citizenship and Immigration Control Act, only persons born in Uganda and neither of whose parents or grand parents had diplomatic status in Uganda and or refugee status and who has lived in Uganda continuously since the day of Uganda's independence are eligible. There is no logical reason behind the exclusion of refugees in this category. Provision ought to be made for their inclusion under section 14 (1).

However under subsection 2, any alien person in Uganda may apply for registration as a citizen if he or she satisfies the following criteria:

- ✓ Persons legally married to Ugandan citizens for five years and more.

- ✓ Persons who have legally and voluntarily migrated to Uganda and have at least 20 years residence in Uganda.
- ✓ Persons who on the commencement of the constitution had lived in Uganda for at least 20 years.

The Refugee Act makes no mention on refugees' acquisition of Ugandan citizenship by registration. Under section 14 (2) refugees qualify for registration if they satisfy the requirements therein. Particular provision should be made for this in the Refugees Act.

Challenge: The provisions contained in three different laws (the Constitution, the Refugees Act and the Uganda Citizenship and Immigration Control Act) must be harmonized.

6.6 Work permits

Commentary 29

The reading of Section 29 (e) (v), (vi) and Section 35 (f) is to the effect that refugees who will be gainfully employed must pay taxes. However, there is ambiguity in the right to have access to employment opportunities and to engage in gainful employment in so far as refugees are to receive the same treatment accorded to aliens generally in similar circumstances with regard to work permits. What are the similar circumstances referred to in section 29 (e) of the Act? Read against the requirements of entry permits, certificate of permanent residence and passes[30] for aliens in the Uganda Citizenship and Immigration Control Act, there can be no similar circumstances between aliens generally and refugees specifically. Aliens generally have to apply and be granted work permits in the form of entry permits, certificate of permanent residence and passes in order to work in Uganda, which requirements do not apply to refugees given the cross reference interpretation of the two Acts[31] regarding entry and presence in the country. If the right to be permitted to remain in Uganda is comparable to a certificate of permanent residence, then there is no legal requirement for a refugee to apply for work permit to engage in gainful employment in Uganda because then phrase "*same treatment ….in similar circumstances"* would have been satisfied, given that holders of certificates of permanent residence have automatic right to work under the Uganda Citizenship and Immigration Control Act. Where the right of residence granted to refugees under section 29 (b) is not comparable to a certificate of permanent residence, then refugees have to apply and be granted work permits to engage in gainful employment. If this is the position, it presents three practical complications:

1. The requirements in the application for work permits by means of entry permits under sections 53, 54 and the fourth schedule to the Uganda Citizenship and Immigration Control Act, certificate of permanent residence under section 55 of the same Act are not ordinarily satisfiable by any refugee, given circumstance of flight and reasons for entry.

[30] Section 53

[31] There are no entry requirements for asylum seekers. They are not to be denied entry because they have no valid passports or other travel documents. They are not to be charged, prosecuted or punished for their illegal entry and presence. They only have to make or express intention to make an application to be recognized as refugees under the Refugees Act (see section 38 of the Refugees Act.)

2. The procedures for application for work permits under the Uganda Citizenship and Immigration Control Act are designed/tailored for voluntary immigrants and are entirely inapplicable to refugees.
3. Given the peculiar circumstances of refugees the cost of a work permit is prohibitive to their right to work. The practice of paying 1000 US dollars for work permits per year for aliens would render refugees unable to realize their right to work.

Recommendation 29
For avoidance of any doubt, the Refugees Act should clearly stipulate that the refugees' right to work excepts the requirement of a work permit which is a requirement for aliens generally under the Uganda Citizenship and Immigration Control Act.

Where the intention of the drafters of the Refugees Act was to subject refugees to the requirement of work permits, then the procedure applicable for its acquisition by refugees should be provided for and a reasonable cost be fixed, which is affordable by refugees in their circumstances.

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