



Refugee Law Project

LEGAL AID & COUNSELLING

ANNUAL REPORT

2005

ABOUT THE REFUGEE LAW PROJECT

RLP's VISION

RLP's vision is **Human Rights for All**. All people in Uganda are entitled to the enjoyment of human rights, irrespective of their status as Ugandan citizens, refugees, or aliens. That vision is informed by the proclamations stipulated in the Charter of the United Nations, the Universal Declaration of Human Rights, and subsequent international human rights treaties, all of which have found expression in Uganda's constitution.

OUR MISSION

To remove the obstacles embedded in policies and institutions that prevent asylum seekers, refugees, internally displaced persons and host communities in Uganda from enjoying their human rights and leading dignified lives.

OUR APPROACH

RLP believes that the basis for social progress is the ability of individuals and communities to enjoy fundamental human rights and freedoms, for therein lays the foundation for democracy, peace, and stability. Our work thus endeavours to ensure that political systems and structures, social policy, economic policy, and the law promote greater independence for the individual, the basic unit of the community. Similarly, refugee policy and law should promote independence and should consider refugees as people with skills and capabilities that can benefit host communities. With these goals in mind, RLP works to:

- ♦ **promote** the protection, well-being and dignity of forced migrants and their hosts
- ♦ **empower** forced migrants, communities and all associated actors to challenge and combat injustices in policy, law and practice
- ♦ **influence** national and international debate on matters of forced migration and justice and peace in Uganda
- ♦ **be a resource** for forced migrants and relevant actors

RLP also believes that the extent to which refugees and legal aliens enjoy human rights and other freedoms reflects the extent to which citizens of the host country enjoy their rights and demonstrates the effectiveness of democratic institutions and other mediating structures. Thus, in advocating for refugee rights, we believe we will influence the general process of democratisation and respect for human rights in Uganda.

1 PRO BONO LEGAL SERVICES

The department continued to provide free legal services to refugees and asylum seekers in 2005. In addition to the normal load of status determination cases, the legal staff also worked on cases of judicial review, family reunification, refugees in detention, resettlement and employment. Details of select cases may be found below.

1.1 Status determination cases - Procedural fairness in the status determination process both by the UNHCR and the Refugee Eligibility Committee (REC) remains a significant problem for many asylum seekers in Uganda. One cases of particular interest arose in April, when LAC represented four Congolese asylum seekers who were denied refugee status. The asylum seekers were interviewed by one government official for about five minutes - each in Nakivale refugee settlement in south western Uganda - and were immediately rejected on suspicion that they were Rwandan spies and given 5 days to leave the country. The asylum seekers came to our offices and sought help. Our legal officers intervened and applied to the REC for a review of the cases and as a result, the REC granted them refugee status.

1.2 Judicial Review and UNHCR - In April 2005, the department intervened in a case in which the UNHCR had attempted to withdraw the status of an Ethiopian Refugees under its mandate on grounds that he had allegedly committed a serious non-political crime prior to entering Uganda that they were unaware of at the time of granting him mandate status. This refugee was actually denied refugee status both by the REC and UNHCR in 2003 and we applied to court for a judicial review of the decision of REC. When UNHCR learnt that we had petitioned the High Court on behalf of this refugee, they suddenly decided to re-grant him mandate status.

In February 2005, the High Court ruled in favour of the REC and against us.. Two months later, UNHCR informed the refugee that they intend to withdraw his mandate status because they realised he had committed a serious non-political crime, namely, that he had breached Kenyan immigration law and was convicted and sentenced as a result. The refugee informed us and we called UNHCR and requested to be present during the process of withdrawal.

At the court hearing we argued that: a) breaking of immigration laws of States Parties to the 1951 Refugee Convention (hereinafter, the Convention) by asylum seekers and convictions resulting from such breach do not constitute 'non-serious political crime' within the meaning of Article 1 F of the Convention; b) under Article 31 of the Convention, Contracting States Parties to the Convention cannot penalise asylum seekers for using means of escape that tantamount to illegal acts or omissions under their national laws; and c) the refugee had disclosed in his testimony and the brief that we prepared and submitted to both REC and UNHCR that he had been arrested in Kenya and charged, convicted, and sentenced for entering illegally into Kenya. In the end, the refugee's mandate status was reinstated.

1.3 Family reunification - In July 2005 we helped to reunify two Rwandan minors with their mother in the United Kingdom. The minors had been separated from their mother in 1996 while in flight from Rwanda to the DRC. The minors were discovered by a friend of their mother's in a refugee camp in Eastern DRC, who brought them to Uganda so that they could find ways of being reunited with their mother through the UNHCR. This friend subsequently abandoned them and they found their way to our office. The department was able to negotiate their reunification with their mother through the British High Commission in Kampala. Although the High Commission had initially insisted that the minors first be granted refugee status in Uganda. We thought that was unnecessary and besides, it would have taken a long time before they were granted refugee status. In the end, the High Commission accepted our suggestions and within two months of approaching our office, the minors were reunified with their mother in the United Kingdom.

1.4 Refugees in detention - Between April and May 2005, legal officers visited prisons in the West Nile region to look into the cases of refugees detained there with a view to providing representation to those whose cases had refugee protection implications. This visit was prompted by information given legal officers by the Research and Advocacy team that went for a field trip in the area in which they established that some asylum seekers and refugees had been detained for illegal entry and presence in Uganda. While the findings of the legal team that went to West Nile demonstrated that there were no cases of asylum seekers in detention at the time of the visit, there were cases of refugees who had been detained for long without trial or legal representation and we resolved to make regular visits to local and district prisons in the districts hosting refugees.

Between October and December we sent two lawyers to Arua district to represent the refugee who was in detention. The refugee had been charged with assaulting an official of the government in charge of refugees in the district. In September the refugee's wife had travelled more than 300km to seek our help. Our preliminary interviews with her had indicated that the charges against the refugee were trumped up by the Desk Officer, who was apparently unhappy with the way this refugee challenged his decision to relocate his family to a settlement he believed was not secure, and thus 'was defying' his authority. The lawyers took the following actions: applied for bail for the refugee and it was granted; applied for the prosecution witnesses to be recalled so that they could cross-examine them and the application was granted; argued the case against the refugee should be dismissed because it was an abuse of due process to settle personal scores - judgment will be delivered on 19th January 2006.

While following the case of this refugee, our lawyers also discovered an Ethiopian asylum seeker who had been languishing in detention for more than two months. The lawyers made an oral application for bail, arguing that a) his detention was in breach of Uganda's international obligations under Article 31 of the 1951 Refugee Convention. He was granted bail and they handed

him to UNHCR protection officers in Arua so that it could help him apply for refugee status. We could not represent him directly with the government for fear of jeopardising his application since we were already challenging the government's decision in court in another case. UNHCR field officers in Arua are now more willing to collaborate with the LAC/RLP.

Following our investigative field visits of prisons in April in the region and discussing our findings with UNHCR and OPM, UNHCR has since started visiting prisons regularly to try to identify asylum seekers and refugees in detention. During the course of representing the two refugees, UNHCR protection officers followed the cases closely, including attending the court proceedings.

1.5 Physical Security and Resettlement - The department continued to receive cases of refugees having concerns with physical security in Uganda. Depending on the gravity of each case, legal officers have sought both local solutions to their concerns and third country resettlement when local solutions are not feasible or available. Of the 78 cases of physical security concerns received during the grant period, 38 were considered to be very serious cases and referred to the HIAS Refugee Trust of Kenya for possibility of third country resettlement.

When three of the AMERA UK Board members visited the RLP in June and August, they were concerned about our high resettlement caseload and suggested that processing resettlement cases was not the best way to use grant monies. The legal officers too had expressed their concern about the raising cases of all physical security complaints amongst refugees who came to the RLP. While some legal officers were frustrated with the time they spent verifying the claims of insecurity, many of which turn out to be false, it would still not be right to simply refuse to receive complaints by refugees concerning threats to physical security on the ground that they will lead to resettlement. Although, the vast majority 85% of refugees who claim physical insecurity in Uganda appear to be motivated primarily by the desire to be resettled in the rich western countries, it is not right to assert that the efforts put in by lawyers to investigate their cases are wasted. We believe that it is better for 99 criminals go free than have one refugee whose life is in serious danger be killed or live with the trauma of fear.

In August 2005, a refugee, whose case had been referred for resettlement to HIAS, attempted to bribe one of our legal officers in order that he might favourably consider the case of another colleague for resettlement. Given that RLP has zero tolerance to corruption, we immediately terminated legal assistance to him and his colleague and his referral to HIAS for resettlement was withdrawn.

While this incidence demonstrates some of the problems involved with handling cases for resettlement, we do not believe that it warrants stopping to receive refugees with genuine risks or fears of physical insecurity in Uganda. We have however reviewed the process and we believe some changes needs to be effected without having to affect our liberal or open door policy

towards refugees and asylum seekers who walk into our offices. We believe in the respect of fundamental human rights and dignity and that human beings do not become less human when they err. Therefore, we agreed that:

- resettlement still remains a protection tool and we should continue to review cases on merit;
- asylum seekers and refugees should be, once again reiterating our mandate, reminded that resettlement is not our **main** work;
- weak cases involving claims of insecurity should be identified immediately and not be allowed to drag on. Files of those ‘non-deserving’ cases should be closed and clients given reasons why;
- cases considered serious and appropriate for third country resettlement should be approved by the Senior Legal Officer and the director of the RLP, as in the past, before being submitted to either UNHCR or HIAS for consideration for third country resettlement;
- increase our creativity in search for local solutions including a) regular use of courts of law to secure the human rights of refugees; b) helping refugee organisations secure registration with the relevant government organs in order to allow them mobilise resources for their own development; and c) continued identification of local actors who can support refugees’ socio-economic needs in Uganda.

1.6 Employment issues - Refugees in Kampala often find themselves exploited by employers who take advantage of their vulnerability. In one case, a Congolese refugee who taught in a private Kampala school had not been paid his full salary for three years; he was normally paid much less than half his salary and even this was infrequent. We filed a complaint on his behalf to the Commissioner for Labour, who is mandated to intervene in cases involving violation of workers rights under the Employment Act, to intervene. The refugee was able to receive part payment after the intervention of the Commissioner’s office.

In another case, the LAC was able to secure National Social Security Fund (NSSF) benefits for repatriating Sudanese refugee. Although the man had been making the compulsory remittances to the NSSF for many years, because he was a refugee the NSSF was unsure about paying his benefits and sent him to the UNHCR to solve his problem. The UNHCR and OPM made several requests for his benefits to no avail. When this refugee sought our intervention, the legal officer successfully explained to the NSSF the legal basis of the refugee’s claim. The legal officer who handled these cases has been assigned to look more closely into refugee’s employment issues in 2006. The exact parameters of this work will be determined in a strategic planning exercise to be held in January.

1.7 Unaccompanied minors - We are developing a strategy to specifically deal with the situation of unaccompanied minors and children in general, which is being carried jointly by the LAC and the Research and Advocacy department.

1.8 Extending pro bono legal services beyond Kampala - In April, following complaints received by the LAC that demonstrated that cases involving violation of the human rights of refugees in Kyaka II were on the rise, the LAC together with the research and advocacy department sent out a team of two legal officers, an intern and a researcher fellow Kyaka II settlement to investigate the accuracy of the allegations of human rights violations in the settlement. The team focused on understanding the general livelihood of refugees in the camp, the security situation, access to justice for refugees and abuse of authority by the camp authorities.

The team established that many refugees in Kyaka II faced serious problems with regard to access to adequate health services, access to education for children, no proper measures in place to address the needs of children unaccompanied either by parents or next of kin and there was widespread abuse of power by camp officials. The findings indicated that there was need for major interventions to address these abuses.

2 PSYCHOSOCIAL SERVICES

Most of the refugees who seek assistance at RLP have some form of psychosocial problem. This year we recruited a psychosocial counselor for the first time at the RLP.. The main objectives of the counseling component as stated in the proposal to Comic Relief are to provide psychosocial counseling to refugees and asylum seekers during and after their cases are being handled, and to debrief legal officers. The psychosocial counselor has so far focused more on developing the first objective although she frequently sees overstressed lawyers.

To date, the psychosocial counselor has worked with 126 refugees; 80 (approximately 63%) of whom have been women and 46 (approximately 36%) men. Additionally 25 (approximately 19%) of these people have been teen aged below 18. While initially refugees were referred for counseling by the legal officers, as the refugee community became aware of this service, many began to seek counseling directly.

Many of the people who have undergone counseling have shown significant improvement; in the words of one woman after a month of counseling “you have removed the scales from my eyes. I can only say thank you and God Bless you”. This woman was having difficulty surviving in Kampala with her four children. She had run away from a refugee settlement because she found life too difficult there and had hoped that the UNHCR would provide for her in Kampala. UNHCR told her to go back to the camp and refusing to do so, she slept on the street with her four young children. She came to the LAC hoping that we could find someone to provide for her in Kampala or refer her case for resettlement. Counseling encouraged her to take charge of her own life again, she found work on a construction site in Kampala and managed to save enough money to rent a small room for three months.

In another case, the counselor was able to get a severely traumatized woman to walk out of her house and tell her story to a legal officer for the first time. The woman's case had been brought to the LAC by her children and it raised some very serious protection concerns. However, for weeks, the legal officer was unable to get a word out of the woman who refused to speak, eat or leave her house. The counselor had several sessions with the woman in her home and took her for more specialized counseling at Butabika hospital (the only mental health hospital in Uganda). The woman has since been able to tell her story and has been referred for resettlement through HIAS; she is also receiving medical treatment for a serious physical problem that resulted from her depression.

3 CONTRIBUTING TO THE DEVELOPMENT OF RIGHTS ENHANCING DOMESTIC LEGISLATION

The LAC prepared a critique of the current version of the Refugee Bill, which was tabled in parliament in February 2004 and sent to the Presidential and Foreign Affairs Committee for consideration. During the course of 2004 the senior legal officer was in regular contact with the clerk to the committee in order to ensure an opportunity to present our critique to the committee during its deliberations. However, to date, the committee has not deliberated on the refugee bill.

We have been able to review all sections of the Bill, and we are yet to send it to experts on refugee law for opinions. The Refugee Bill as well as the current Control of Aliens Refugees Act can now be accessed on the RLP website.

4 IMPROVING INFORMATION FLOWS

In early 2005, it was decided that the LAC should start information sessions for refugees to inform them about their rights and obligations, resettlement, and the role of the Refugee Law Project. It was initially agreed that the information sessions should take place at our premises, but poor turn up at the first information session necessitated a change in strategy. It was decided that information sessions should take place where refugees live. In June 2005 a successful information session was held at the home of Father Micheal Lingisi, a well-known Congolese priest. The LAC is preparing for more information sessions within this community. The LAC has also been in discussions with a prominent Sudanese priest for similar information sessions within the Sudanese community.

5 PROMOTING KNOWLEDGE OF REFUGEE LAW AMONGST LEGAL AND PSYCHOSOCIAL PROFESSIONALS

Makerere Internship program

The LAC continued with its internship program for Makerere law students. Two Makerere interns were taken on during the funding period.

LDC clerkship students

Between March and June 2005, the LAC took on a clerkship student from the law development center (where law graduates study for the Bar). As part of their course, students are required to undertake clerkship in a legal practice. In 2004, the LAC was issued with a chamber certificate that confers on it the status of a legal practice. 2005 was the first year that the LAC participated in this clerkship program and it will continue to do so in the coming years.

Refugee law training for lawyers

We are going to apply to the Uganda Law Council to allow us incorporate refugee law training into their Continuing Legal Education Program (CLE) for lawyers. Once granted we shall be able to train lawyers in Uganda about the refugee law and practice.

6 EXPANSION OF OFFICE SPACE AND EQUIPMENT

This year RLP worked to expand the structural capacity of the Legal Aid and Counselling Department so that it could increase the number of legal officers and be able to provide quality pro bono legal services for more asylum seekers and refugees in Uganda. Thus, during the 2005 we did the following: built and furnished two additional offices and a reception center for refugees; recruited one lawyer, one LDC fellow, one psychosocial counsellor, and one driver; purchased five computers and two printers; and purchased a complete set of the Laws of Uganda, 2000 edition.

7 VISIT BY AMERA-UK BOARD MEMBERS

Dr. Barbara Harrell-Bond visited the LAC this year from 8-22 June 2005 with the purpose of reviewing the results of the comic relief funding on the expansion of the Legal Aid Clinic. The main issues she raised included the following:

Writing skills and Improving the Quality of Legal Submissions

Dr. Harrell-Bond observed that the quality of legal briefs prepared by some legal officers could be improved, and recommended further training and improvement in writing skills,. We acknowledge that legal officers require training. Before Comic Relief funding was available, we had already discussed the problem and were only constrained by lack of funding to provide training in writing that would improved the skills of legal officers. In addition, we had already started reviewing

each other's cases. For example, legal officers gave their cases to the Senior Legal officers for review. The senior legal officer then passes on some of the cases to the director for further review. We are still looking for funding for staff development.

High resettlement caseload

We have already commented on our reaction to the advice of the AMERA UK Board on our heavy emphasis on resettlement.

Training Visits to Cairo by RLP/LAC Legal Officers

After the visits by AMERA UK Board members to our offices, the offer was made to have one of our legal officers to visit AMERA Egypt in order to share experiences. He worked with the AMERA-Egypt staff and Professor Barbara Harrell-Bond during the month of October. During his stay in Cairo he learnt quite a lot of new things and expanded his knowledge of refugee law and practice, as well as learning better practices of case management and organization. He was exposed to the client data base system run on the Abacus law software, and was very helpful in installing it at the RLP. He returned with copies of training materials, which we hope to incorporate into our training manual where necessary. His report is attached.

While he appreciated the opportunity offered to him and strongly recommend that other staff of the LAC should get the opportunity of learning from other legal aid providers, he emphasized that the different contexts in which the legal aid providers operate must always be kept in mind. For example, he noted RSD in Cairo is handled at the first instance interviews. In Uganda it is not. In addition, activities are arranged under thematic team leaders, such as gender, minors, detention, while at RLP gender issues are mainstreamed; every legal officer is capable of handling any case, although we are sensitive to the needs of women to sometimes have a woman lawyer. We hope that it is possible to send another legal officer to Egypt for training early next year.

Need for closer collaboration between the departments

We have since had a strategic planning meeting with Department heads, where it was agreed that the three departments should work more closely and synergistically. Currently there is a project on minors that is being handled by both the LAC and the Research and Advocacy departments. So far there have been preliminary interviews, and actual fieldwork will start in January. We also have a plan in conjunction with the Education and Training department to carry out refugee law training for lawyers (To be implemented in 2006).

8 DEPARTMENT EVALUATION

In December 2005, Dr. Sharryn Aiken evaluated the LAC; we are eagerly awaiting her report, which inform our work plans in our strategic meeting in January.



Refugee Law Project
Faculty of Law



Plot 9 Perryman Gardens Opposite Old Kampala Primary School Old Kampala
