

A REVIEW OF THE LEGAL FRAMEWORK OF REFUGEES IN UGANDA

A Thesis

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Postgraduate Studies and Research
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In partial fulfillment of the Requirements
for the Degree of Master of Laws in
Public International Law

By

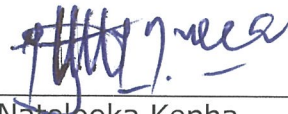
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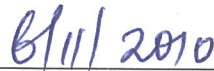


DECLARATION A

"This Dissertation is my original work and has not been presented for a Degree or any other academic award in any University or Institution of learning".



Natolooka Kepha



Date

DECLARATION B

"I confirm that the work reported in this Dissertation was carried out by the candidate under my supervision".

Dr. Tutus Bittok

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APPROVAL SHEET

This Dissertation entitled" *A Review of the Legal Framework of Refugees in Uganda*" prepared and submitted by Natolooka Kepha in partial fulfillment of the requirements for the Degree of Master of Laws in Public International Law has been examined and approved by the panel on Oral Examination with a grade of PASSED.

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DEDICATION

To my beloved Wife, Norah K. Natolooka, and our beloved Children,
Joseph Mutaasa, David Waiswa and Elijah Natolooka.

ACKNOWLEDGEMENT

I am greatly indebted to many people who helped me to succeed in this work. To begin with, am greatly beholden to my Supervisor: Dr. Tutus Bittok, whose good counsel greatly helped in shaping this work.

Second, am heartily grateful to the United Nations High Commissioner for Refugees (UNHCR) and all scholars and authors whose material I used in the study. Without their material, completion of this work would either be very difficult or impossible.

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Lastly, I express my sincere deepest heartfelt gratitude to the Almighty God for the gift of life, knowledge, wisdom, and enablement. Without Him, I would have achieved nothing. To Him be the Glory.

NK

ABSTRACT

The study reviewed the Legal Framework of Refugees in Uganda, and was guided by three research questions: what legal procedures are adopted in vetting refugees who enter Uganda? What rights as guaranteed by the international instruments do the refugees enjoy while in Uganda? What roles have the United Nations High Commissioner for Refugees (UNHCR) and Government played in facilitating the realization of refugees' rights in Uganda? Using a triangulation study design, and a Researcher Devised Documentary Review Guide, the researcher studied 10 (out of the 30) years UNHCR's Global Reports. In relation to the research questions, the study revealed as follows. First, to be determined for refugee status in Uganda, one has to qualify to be a refugee by applying to the Refugee Eligibility Committee (REC) for refugee status, properly identify himself or herself to the refugee reception officer, furnish proof to the satisfaction of the REC that he/she is eligible to be granted refugee status, be issued with a temporary pass valid for ninety days, after which the Commissioner has to issue him/her an identification document signifying his/her refugee status. Second, the study also found that while in Uganda, refugees enjoy several rights which include: being issued with an identity card and protection; being permitted to remain in Uganda; being entitled to fair and just treatment without discrimination; receiving at least the same treatment as is generally accorded to aliens under the Constitution and any other law in force in Uganda; being accorded the same rights as the nationals of Uganda; and getting the same protection as is accorded to the nationals of Uganda in respect of the protection of intellectual property rights, including industrial, inventions, patents, designs, trade names, copyrights and other artistic and scientific works. Lastly, the study found that UNHCR and Government of Uganda worked very closely as partners and complimented and supplemented each other in helping refugees realize their rights by providing support services and logistics in areas of legal assistance, education, crop production, health and nutrition, settlements, shelter and other infrastructure, and peaceful return (repatriation) of refugees. In order to adequately handle the issues relating to refugees in Uganda, the researcher recommends that the Government and UNHCR should: increase their inter-face and ensure effective communication on all issues relating to refugees; jointly produce and circulate the Refugees Act 2006 and the Refugees Regulation 2010 to the refugees as well as the general public; and carry out nation-wide sensitization campaigns about the rights and obligations of refugees, and the responsibilities and obligations of the general public in assisting them.

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CHAPTER ONE

THE PROBLEM AND ITS SCOPE

This chapter presents the background to the study, statement of the problem, purpose and objectives of the study, research questions, hypotheses, scope and significance of the study, and concludes with the operational definitions of the key terms.

Background of the Study

Overview on refugees

The phenomenon of refugees is not only a national and regional issue but a global one. As a matter of fact, it is one of the cardinal issues that (have) caught the attention of both developed and developing countries since World War II. At the end of 2009, as UNHCR noted, there were 43.3 million forcibly displaced people worldwide, the highest number since the mid-1990s. Of these, 15.2 million were refugees, of whom 10.4 million fell under UNHCR's responsibility.¹ By implication, therefore, about 35% of the global 43.3 million forcibly displaced people in 2009 were refugees.

At regional level, and particularly, in the sub-Saharan Africa, there were more than 10 million people of concern to UNHCR including some

¹ UNHCR, 'The 2009 Global Trends: Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons' (Division of Programme Support and Management, 15 June 2010,1)

2.1 million refugees, at the beginning of 2009. To assist ameliorate the situation, comprehensive strategies, including voluntary repatriation, local integration and resettlement, have been adopted, and indeed have helped many refugees in the region find a durable solution. While repatriation has remained the main solution, it is encouraging that local integration is also becoming a more realistic option. This is particularly the case in asylum countries in West Africa, but also elsewhere, most notably the United Republic of Tanzania, which is reviewing the applications for citizenship of some 165,000 Burundian refugees.² Uganda is also one of the countries in Sub-Saharan Africa that are well known for accommodating, and generally assisting, refugees.

Uganda is bordered by five countries, three of which (Rwanda, Democratic Republic of Congo, and Sudan) have continually been involved in armed conflicts. This has been and still remains a precarious position, and the numbers of refugees living within Uganda both exemplify the situation and exacerbate it. Given the circumstances, Uganda has been relatively effective at accommodating refugees. However, there have always been numerous problems associated with the socio-political and humanitarian conditions under which refugees live within Uganda.

² UNHCR 'UNHCR Global Appeal 2010-2011', 78.

The country's most dispossessed and vulnerable have been in the most unstable regions of the country, especially Northern, where the refugees lived in a state of constant fear due to the inadequacy of protection within the settlements. At the same time, refugees have suffered from the long-term implications of living with short-term solutions. As a result, there has always been a backlog of issues which need(ed) addressing, most essentially the enactment of the Refugees Act, so that Uganda could begin to live up to its claim to being a friend to refugees.³

Refugees in Uganda: a historical perspective

Uganda has been, and still continues to be, an epicenter for refugees, standing at the geographical centre of a region characterized by instability and conflict. As early as the Second World War, events in Uganda had been inextricably linked to the numerous issues surrounding the presence and creation of varying numbers of refugees. Uganda has presented several different images to the outside world during the course of its recent history, yet one that has received little recognition in the international arena is that of Uganda as one of the first countries to host refugees. The country has constantly had to

³ Lomo, Zachary, Naggaga, Angela and Hovil, Lucy. The Phenomenon of Forced Migration in Uganda: An Overview of Policy and Practice in an Historical Context (Refugee Law Project Working Paper No. 2, June, 2001,10).

balance the implications of its location within the Great Lakes Region with the need to promote stability inside its own borders. At the same time, Uganda has itself generated, and continues to generate, considerable numbers of refugees, most notably through the notorious years of social and political strife under Idi Amin (1971-79) and of civil war during the second Milton Obote government (1980-85).⁴

Uganda's history with refugees began after World War II when over 4,000 Polish refugees were hosted in Uganda in Mpumude in Mukono District, much earlier than the UN Refugee Convention of July 1951 and its protocol of January 1967. Moreover, Uganda is surrounded by refugee producing countries like the Democratic Republic of Congo, Rwanda, Burundi, Sudan, and Kenya. Refugees also come to Uganda from as far as Somali, Eritrea, Malawi, Pakistan, Tanzania, Central African Republic, Chad, Iraq, Iran, Kuwait, Sierra Leone, Liberia, Ivory Cost and Guinea.⁵ It goes without saying, therefore, that during the Second World War, Uganda became the home to many Europeans displaced by the war.⁶ They were allocated specified camps where they remained for the duration of the war.

⁴ *ibid*, 3

⁵ See <http://www.alertnet.org/thenews/newsdesk/UNHCR/eb8e707514f32e84f798e96be86ce3e6.htm>

⁶ Gingyera-Pinyawa (1998, 5).

The next wave of refugees into Uganda came in 1955 from the then Anglo–Egyptian condominium of the Sudan.⁷ This influx was soon followed by numerous refugees generated by unrest in the aftermath of the various struggles for independence in neighboring countries: Kenyans during the Mau Mau struggle, Sudanese fleeing the conflict that followed its independence, Rwandese escaping the disastrous civil war of 1959 (which forced 78,000 “official” refugees into Uganda)⁸, and Congolese in the aftermath of Lumumba’s assassination in 1961.⁹

At the same time, Uganda’s own upheaval under Obote and Amin generated additional refugees within the region who fled to Sudan, Kenya, Tanzania, and others. For example, in 1972 Amin expelled all Ugandan citizens of Asian origin— an exodus that was shortly followed by the flight of large numbers of political and academic intelligentsia. In 1980 almost the entire population of the West Nile and Madi Region was forced into exile, while those living in the notorious Luwero Triangle and in North/North-eastern Uganda who could not cross international boundaries became internally displaced.¹⁰ By 1985, refugees and internally displaced made up 7% of the population.¹¹

⁷ Ibid., 6.

⁸ Prunier (1999, 62-63).

⁹ Lomo et al., op cit, 3.

¹⁰ Nabuguzi (1998, 53).

¹¹ Hansen and Twaddle (1998, 20).

Uganda continued to receive refugees from other countries during its own struggles in the 1970s and early 1980s and, just as the country was beginning to stabilize, a new wave of refugees entered Uganda fleeing conflicts in neighbouring states. Thus, with Uganda's war ended and its attention turned to post-war construction, the country was faced not only with border disputes, rebel uprisings, a collapsed economy, and an inefficient public service system, but also with thousands of refugees and Internally Displaced Persons (IDPs) who required assistance. In 1986, the same year that Yoweri Museveni came to power, Uganda became one of seven countries that represented the primary destination for forced migrants.¹² By 1995 Uganda was hosting over 300,000 refugees, with approximately 500 arriving per day in northern Uganda from the civil war in southern Sudan.¹³

Following the relative stability heralded by Museveni's rise to power in 1986, Uganda resettled the majority of Ugandan refugees created by earlier regimes. However, some Ugandan refugees and IDPs did not resettle and, instead, were recruited into various rebel movements engaged in various levels of conflict with the National Resistance Movement (NRM) government. At the same time, Uganda's more

¹² Russell (1993, 297 – 349).

¹³ GTZ (1995).

recent history of refugee influxes is loaded with political overtones and complex international implications. The cases of Sudan, Rwanda, and Congo provide varying examples of this.¹⁴

Sudan

For over two decades, the Ugandan government has been locked in a politico-military confrontation with Sudan. In 1980, two groups made up primarily of ex-Amin forces, the Uganda National Rescue Front (UNRF) and the Former Uganda National Army (FUNA), attacked Ugandan targets from southern Sudan.⁸ In the late 1980s and 1990s, a number of refugees from the Amin and Obote years were recruited into the Lords' Resistance Army (LRA) and the West Nile Bank Front (WNBF), two groups that have challenged NRM rule with assistance from the government of Sudan for at least part of their campaigns. At the same time, the Sudanese People's Liberation Army (SPLA) has been recruiting from among Sudanese refugees in Uganda. This has led to increased tension between the Sudanese and Ugandan governments, with each side accusing the other of assisting the unfriendly rebel groups.

As the war in Sudan has intensified, increasing numbers of Sudanese asylum seekers have crossed over into Uganda. Since 1988

¹⁴ Lomo et al., op cit., 4.

approximately 150,000 refugees have been resident in the West Nile districts of Arua, Moyo, and Adjumani in Northern Uganda. Responding to the initial arrival of refugees, Uganda assumed the crisis would be temporary and set up “transit” camps where the Sudanese could wait out the conflict. Yet the war shows no sign of letting up, and many of the temporary policies of the government are acting, insufficiently, as permanent solutions. Furthermore, the proximity of the camps to the Sudanese border has exacerbated the political tensions. Latest statistics estimate that there are currently 173,650 Sudanese refugees in Uganda.¹⁵

Rwanda

Rwanda is another state that has generated considerable numbers of refugees, many of whom have fled to Uganda. The first influx following the civil war in the late 1950s consisted mainly of Tutsi fleeing ethnic discrimination and recrimination. The importance of Rwandese refugees in Uganda goes beyond their mere presence: as a result of persecution under Obote, some 3,000 (mostly Tutsi) Rwandese soldiers had joined Museveni’s 14,000 strong NRA by the time it came to power. By 1990, as the size of the NRA itself increased dramatically, the number of Rwandese in the NRA had risen to about 8,000.

¹⁵ *ibid*, 4-5.

However, these soldiers began turning their efforts towards their homeland. In October 1990, stability in Rwanda began to unravel when a rebel force, composed mainly of Uganda-based Tutsi refugees, formed the Rwandan Patriotic Army (RPA) and invaded northern Rwanda. Although this heralded the return of many refugees, it also generated a new influx of refugees to Uganda. There are currently approximately 10,000 Rwandese refugees in Uganda, many of whom are Hutu who have fled since the 1994 genocide and subsequent formation of a Tutsi-dominated government.¹⁶

Congo

The other main recent influx of refugees has come as a result of the war in the Democratic Republic of Congo (DRC). The war in the Congo is essentially between DRC government forces supported by external troops from Zimbabwe, Namibia and Angola, and rebels backed by Uganda and Rwanda. To date the conflict has resulted in the arrival of over 23,000 Congolese refugees in Uganda. The assassination of President Laurent Kabila and the subsequent succession of his son, Joseph Kabila, has added new impetus to the peace process within the country, but the conflict is far from over.¹⁷

¹⁶ *ibid.*, 5.

¹⁷ *ibid.*

Overall, the influx of refugees in Uganda continued from 1998 to date (2010). While information about refugees abound about the prior period, as indicated above, there were scanty information about the same, especially from 2000 to 2009. This study, therefore, had to be carried out so as to establish details on refugees in the last decade.

Overview on the United Nations High Commissioner for Refugees (UNHCR) in Uganda

As a humanitarian and non-political organization, UNHCR is mandated by the United Nations to protect refugees and help them find solutions to their plight. As the problem of displacement has grown in complexity over the past half century, UNHCR has also grown to meet the challenge. The Office, founded in 1950, has expanded from a relatively small, specialized agency with an envisioned three-year lifespan to an organization of over 4,000 staff members with offices in nearly 120 countries and an annual budget of US\$1 billion. In addition to offering legal protection, UNHCR now also provides material relief in major emergencies, either directly or through partner agencies. In its first fifty years, UNHCR has protected and assisted more than 50 million people and its work has earned two Nobel Peace Prizes.¹⁸

¹⁸ Jastram and Achiron, UNHCR Refugee Protection: A Guide to International Refugee Law, 21 <www.ipu.org/pdf/publications/refugee_en.pdf> Accessed 12 July 2010.

At the international level, UNHCR promotes international refugee agreements and monitors government compliance with international refugee law. UNHCR staff promote refugee law among all people who are involved in refugee protection, including border guards, journalists, NGOs, lawyers, judges and senior governmental officials. At the field level, UNHCR staff work to protect refugees through a wide variety of activities, including responding to emergencies, relocating refugee camps away from border areas to improve safety; ensuring that refugee women have a say in food distribution and social services; reuniting separated families; providing information to refugees on conditions in their home country so they can make informed decisions about return; documenting a refugee's need for resettlement to a second country of asylum; visiting detention centers; and giving advice to governments on draft refugee laws, policies and practices.¹⁹

In Uganda, UNHCR started its operations in 1962. However, it suspended its operations in 1971 following a Coup D'état that put Idi Amin into power. UNHCR's operations were only revived in 1980 following the overthrow of Amin. From then, to date, UNHCR has been working closely with the government to help refugees in Uganda.

¹⁹ *ibid*

UNHCR seeks long-term solutions to the plight of refugees by helping refugees repatriate to their home country, if conditions are conducive to return, integrate into their countries of asylum, or resettle in second countries of asylum. UNHCR has been given a mandate to provide international protection to refugees and seek permanent solutions to their problems through its Statute, adopted by the UN General Assembly in December 1950. UNHCR's mandate is now, therefore, significantly more extensive than the responsibilities assumed by States Parties to the Refugee Convention and Protocol.²⁰

Legal framework in relation to Refugees in Uganda

Domestic Legal Instrument (Control of Alien Refugees Act)

From the very beginning, onwards (1960-1999), Uganda had an insufficient legal structure. Its first legislation relating to refugees was the Control of Alien Refugees Act (CARA). Enacted in 1964 - over a decade before Uganda ratified the 1951 Convention relating to the status of refugees and the OAU convention governing specific aspects of refugee problems in Africa. The Act was enacted in response to a mass influx of refugees from Rwanda, Congo and Sudan in the late 1950s and early 1960s. This Act, however, posed several challenges. First, as a panicky measure by a newly independent state, the Act

²⁰ *ibid.*, 22.

focused on the control of a large number of unwanted aliens who were considered to be a threat to the stability and development of the new nation. Second, whereas international instruments relating to refugees clearly define a refugee as a person fleeing specific persecution,²¹ external aggression, occupation, foreign domination, or disruption of public order,²² the Act left the determination of who is a refugee solely to the Minister in charge.²³

Third, the CARA did not provide for any formal individual status determination procedure. By statutory instrument, the minister declared the class of aliens to be regarded as refugees, then it was left to the discretion of an authorized officer to grant or refuse a residence permit.²⁴ A Director of refugees was set up for the purpose of supervising the establishment and running of refugee settlements, not for the determination of refugee status.²⁵ The Act set up a system in which refugees were to be confined to refugee settlements: it prohibited refugees from moving out of settlements without the permission of a settlement commandant and made it an offence for any person to harbour a refugee outside the settlements.²⁶ Under the

²¹ Convention relating to the status of refugees 1951, Art. 1.

²² OAU convention, Art. 1.

²³ Control of Alien Refugees Act, 3 (1).

²⁴ *ibid.*, 6(1).

²⁵ *ibid.*, 4.

²⁶ *ibid.*, 17(3), 13.

Act, the rule of law was not respected with regard to refugees. Refugees were deprived of some of their most basic rights like the right to liberty, freedom of movement and the right to property.²⁷ They were instead governed by an administrative system that was oppressive and in many instances, diverged from the then existing national and international laws.²⁸

As a result of the foregoing anomalies, the CARA was never strictly applied in Uganda. Uganda, therefore, choose to be guided by Global/International and Regional legislation on matters of refugees' protection, as follows.

Global/International Instruments in relation to Refugees in Uganda

Under the International Instruments, Uganda is a signatory to, and therefore governed by, the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees.

The 1951 Convention relating to the Status of Refugees

Uganda is a signatory to the Convention Relating to the Status of Refugees is the foundation of international refugee law. The Refugee Convention defines the term "refugee" as someone who: *has a well-*

²⁷ *ibid.*, 9, 10, 13, 19, 21.

²⁸ Lomo et al., *op cit.*, 8.

founded fear of persecution because of his/her race, religion, nationality, membership in a particular social group, or political opinion; is outside his/her country of origin; and is unable or unwilling to avail him/herself of the protection of that country, or to return there, for fear of persecution. As such, therefore, the 1951 Convention relating to the Status of Refugees sets minimum standards for the treatment of persons who are found to qualify for refugee status. Because the Convention was drafted in the wake of World War II, its definition of a refugee focuses on persons who are outside their country of origin and are refugees as a result of events occurring in Europe or elsewhere before 1 January 1951. As new refugee crises emerged during the late 1950s and early 1960s, it became necessary to widen both the temporal and geographical scope of the Refugee Convention. Thus, a Protocol to the Convention was drafted and adopted.²⁹

The 1967 Protocol relating to the Status of Refugees

In addition to the 1951 Convention Relating to the Status of Refugees, Uganda is also a signatory to the 1967 Refugee Protocol. The 1967 Refugee Protocol is independent of, though integrally related to, the

²⁹ UNHCR, Refugee Protection: A Guide to International Refugee Law (1 December 2001, 8-9) <http://www.ipu.org/pdf/publications/refugee_en.pdf> Accessed 18 June 2010.

Uganda is also a signatory to the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. The conflicts that accompanied the end of the colonial era in Africa led to a succession of large-scale refugee movements. These population displacements prompted the drafting and adoption of not only the 1967 Refugee Protocol but also the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa.

Asserting that the 1951 Refugee Convention is "the basic and universal instrument relating to the status of refugees", the OAU Convention is, to date, the only legally binding regional refugee treaty. Perhaps the most important portion of the OAU Convention is its definition of a refugee. The OAU Convention follows the refugee definition found in the 1951 Convention, but includes a more objectively based consideration: any person compelled to leave his/her country because of "*external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality*". This means that persons fleeing civil disturbances, widespread violence and war are entitled to claim the status of refugee in States that are parties to this Convention, regardless of whether they have a well-founded fear of persecution.³¹

³¹ *ibid.*, 13.

Uganda's Commitment and practice gaps in relation to refugee international obligations

Although there were no amendments to CARA between 1964 to 1988, Uganda's international obligations resulting from the ratification of the 1951 Convention relating to the Status of Refugees, the 1967 protocol, and the 1969 Organization of African Unity (OAU) Convention governing the Specific Aspects of Refugee Problems in Africa forced the creation of a system that was more in line with international standards.

However, the lack of written law and transparent policy on refugees resulted in an ad-hoc system depriving refugees of a number of their basic rights. Underlying these issues was the divide between obligations and practice that prevailed in Uganda, then. While the Government of Uganda is a signatory to the 1951 Refugee Convention, the 1967 protocol, and the 1969 OAU Convention, it was hard for it (Uganda) to reflect this generosity of commitments in practice. For instance, the fact that large influxes of refugees were entering Uganda at a time when it was recovering from prolonged civil war meant that although refugees were accepted, the government's priority was, inevitably, the rehabilitation of the economy and infrastructure. In addition, the government was aware of the security implications of having large influxes of refugees entering Uganda at a time when its

own stability was fragile - refugees can exacerbate tensions as their presence is as much a political issue as a humanitarian one. And with voluntary repatriation considered the ideal, there has been a prevailing attitude that refugees are a temporary phenomenon, leaving the integration and assimilation of refugees largely overlooked.

Thus, despite Uganda's goodwill on a rhetorical level, the perception of refugees as an economic burden, a political/security problem, and as a temporary phenomenon has generally led to practices aimed at controlling, segregating, pacifying, depoliticizing, and therefore, marginalizing, the refugees so that they do not become a source of conflict in intra and inter-state politics.³² This state of affairs, inevitably, led to the need to harmonize the Ugandan municipal law with its international obligations in relation to refugees.

The Uganda Refugee Bill 2000

Recognizing the need to harmonize Ugandan municipal law with its international obligations in order to adequately promote and protect the rights of refugees, the Ugandan Refugee Law Group (URLG) was formed in 1997 for the purpose of developing new legislation for refugees. The result was the Refugee Bill 2000. The Refugee Bill was written in order to fulfill Uganda's obligations under the 1951 UN

³² Nabuguzi (1998, 57).

Convention and the 1969 OAU Convention. Some of the notable features of the Refugee Bill were: the creation of a department of refugees for the purpose of processing asylum claims, handling complaints from refugees and advising government on refugee policy (Section 7); the creation of an independent appeals body (Section 16); the right to be heard and have legal representation during asylum determination proceedings (Sections 21 (3), 24 (2)); and the incorporation of a Bill of Rights for refugees (Part V).³³

Uganda's gap between commitments and practice meant that it was vital for the Refugee Bill to be passed through parliament as soon as possible. The bill would address legal issues such as taxation, freedom of movement, employment, and other pertinent issues. Through a transparent framework, it would enable the government to provide a legal framework within which asylum seekers and refugees can appeal, and create better accountability for those officials dealing with refugees. Most importantly, refugees would no longer be reliant on official goodwill that is unreliable at best, and profoundly unjust at worst.³⁴

³³ Lomo et al., op cit., 9-10.

³⁴ Lomo et al., op cit., 10.

It should, however, be noted that the Refugees Bill 2000 was just a proposal, which had to be deliberated on in parliament. Until it was discussed, and passed into law, the foregoing provisions would not hold. Most importantly, and as Lomo et al., put it, the Refugees Bill 2000 remained shelved in Parliament by June 2001³⁵. The researcher was therefore very inquisitive to establishing whether that Bill was finally discussed and passed into law, and whether such provided for the rights and legal procedures for vetting refugees in Uganda.

Statement of the Problem

As already noted, many scholars (including Russell, 1993; Gingyera-Pinyawa, 1998; Hansen and Twaddle, 1998; Nabuguzi, 1998; and Prunier, 1999) have written about the phenomenon of refugees in Uganda; however, their literature captures only refugees' details before the year 2000. Besides, their main areas of focus were not on the legal procedures adopted in vetting refugees who enter Uganda. Similarly, they neither focused on the rights enjoyed by refugees in Uganda nor the role that the Government and UNHCR played in helping refugees realize their rights in Uganda. This study, therefore, was carried out to get empirical facts that would be used to fill the foregoing information gaps.

³⁵ *ibid*

Purpose of the Study

The main purpose of the study was to review the legal framework of refugees in Uganda from January 2000 to July 2010.

Research Objectives

The study sought to achieve the following objectives.

- a) To establish the legal procedures adopted in vetting refugees who enter Uganda.
- b) To establish the rights enjoyed by refugees in Uganda as guaranteed by the international instruments, and
- c) To establish the role that UNHCR and Government of Uganda have played in facilitating the realization of refugees' rights in Uganda.

Research Questions

In order for the researcher to gather data that would help in achieving the foregoing objectives, the following research questions were used.

- a) What legal procedures are adopted in vetting refugees who enter Uganda?
- b) What rights as guaranteed by the international instruments do the refugees enjoy while in Uganda?
- c) What roles have the UNHCR and Government played in facilitating the realization of refugees' rights in Uganda?

Hypothesis

The researcher aimed at testing the following hypotheses.

- a) Uganda does not have well stipulated legal procedures adopted in vetting applicants seeking for refugee status.
- b) Laws in Uganda don't guarantee any rights for refugees.
- c) There is no close partnership between UNHCR and Government in assisting refugees in Uganda.

Scope

While the study was mainly desk-based, it had both content and time scope. Content-wise, the study mainly focused on three issues, namely: legal procedures adopted in vetting refugees entering Uganda; rights enjoyed by refugees while in Uganda; and the role played by UNHCR and Government in facilitating the realization of refugees' rights in Uganda. In terms of time scope, the study focused on a period from January 2000 – July 2010. Specifically, the analysis of the role played by UNHCR and Government of Uganda in facilitating the realization of refugees' rights in Uganda, were done for the period 2000-2009 because data for 2010 were not yet published at the time of the study. On the other hand, the period for details on the legal procedures adopted in vetting refugees and the rights enjoyed by

refugees while in Uganda stretched to July 2010. The study was conducted in July and August 2010.

Significance of the Study

The significance of this study is three-fold.

First, although refugee studies have previously been carried out by many scholars, none of them had comprehensively written about: legal procedures adopted in vetting refugees; and rights that refugees enjoy while in Uganda. This study is, therefore, very significant in that it has comprehensively generated empirical facts which have filled all the foregoing intellectual and information gaps.

Second, the empirical facts generated by this study, more so, the recommendations, may be very vital in helping the Government of Uganda and UNHCR to plan, handle, and/or make relevant policies relating to the refugee phenomenon in Uganda. In essence, therefore, the empirical facts generated by this study may be instrumental, especially if used, in shaping good planning, policy formulation and implementation, and amending the law on issues pertaining to refugees not only in Uganda, but Africa at large.

Lastly, this study has generated results which may be used to (and for) further research, especially, the recommended areas for further

research in chapter five. Besides, the study findings may be used for validation and/or invalidation purposes by other scholars and researchers.

Operational Definitions of Key Terms

The following definitions were adopted for the purpose of defining the operational terms³⁶ used in the study.

A Treaty. A formal agreement, principally between States, that creates binding legal obligations between its parties. Treaties are one source of international law.

African Charter on Human and People's Rights. Means the charter adopted by the OAU at the Assembly of the heads of state and government held in Nairobi, Kenya, on 26th June, 1981.³⁷

Assistance. Aid provided to address the physical and material needs of persons of concern. This may include food items, medical supplies, clothing, shelter, seeds and tools, as well as the provision of infrastructure, such as schools and roads. "Humanitarian assistance" refers to assistance provided by humanitarian organizations for humanitarian purposes (i.e., nonpolitical, non-commercial, and non-

³⁶ Apart from those whose sources have been footnoted, all the rest of the terms' definitions were adopted from Jastram and Achiron, UNHCR Refugee Protection: A Guide to International Refugee Law, 125-134 < www.ipu.org/pdf/publications/refugeen.pdf > Accessed 12 July 2010.

³⁷ The Refugees Act 2006,4.

military purposes). In UNHCR practice, assistance supports and complements the achievement of protection objectives.

Asylum. The grant, by a State, of protection on its territory to persons from another State who are fleeing persecution or serious danger. A person who is granted asylum is a refugee. Asylum encompasses a variety of elements, including *non-refoulment*, permission to remain on the territory of the asylum country, and humane standards of treatment.

Asylum-seeker. A person whose request or application for asylum has not been finally decided on by a prospective country of refuge.

Cessation clauses. Legal provisions that indicate when refugee status comes to an end. Cessation clauses are found in Article 1(C) of the 1951 Convention, and in Article 1 (4) of the 1969 OAU Convention.

Convention on the Elimination of All Forms of Discrimination against Women. Means the Convention adopted and opened for signature, ratification and accession by the United Nations Resolution 34/180 of 18th December, 1979.³⁸

³⁸ The Refugees Act 2006, 4.

Exclusion Clauses. Legal provisions that deny the benefits of international protection to persons who would otherwise satisfy the criteria for refugee status. In the 1951 Convention, the exclusion clauses are found in Articles 1D, 1E and 1F. These clauses apply to the following categories: persons who are receiving protection or assistance from UN agencies other than UNHCR; persons who possess the rights and obligations attached to the possession of nationality of their country of residence; and persons in respect of whom there are serious reasons for considering that they have committed a crime against peace, a war crime, a crime against humanity, a serious non-political crime, or acts contrary to the purposes and principles of the United Nations.

Expulsion. Removal of a lawful resident from the territory of a State by government authorities. Under Article 32 of the 1951 Convention, national security and public order are the only permissible grounds for the expulsion of a refugee. The procedures by which a decision for expulsion is reached should be fair and just, and the refugee should be allowed a reasonable time to seek admission into another country.

Family reunification. Any process by which the family unity principle may be implemented. It has a special application in the context of durable solutions, in general, and resettlement, in particular.

Family Unity Principle. A principle that gives effect to the protection of the family as the natural and fundamental group unit of society. Under this principle, refugee status may be granted to the spouse and dependents of a person who meets the refugee criteria. When spouses and dependents acquire refugee status by application of the family unity principle, they are said to enjoy “derivative status”.

Group Determination of Refugee Status. A practice by which all persons forming part of a large-scale influx are regarded as refugees on a *prima facie* basis. Group determination ensures that protection and assistance needs are met without prior individual status determination.

Human Rights. Agreed international standards that recognize and protect the dignity and integrity of every individual, without any distinction. Human rights form part of customary international law and are stipulated in a variety of national, regional and international legal documents generally referred to as human rights instruments. The most prominent of these are the United Nations Charter, and the UN Bill of Rights (made up of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic and Social Rights).

Human Rights Law. The body of customary international law, human rights instruments and national law that recognizes and protects human rights. Refugee law and human rights law complement each other.

Internally Displaced Persons. Those persons forced or obliged to flee from their homes, "...in particular as a result of or in order to avoid the effects of armed conflicts, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border" (according to the Guiding Principles on Internal Displacement).

International Protection of Refugees. Interventions by States or UNHCR on behalf of asylum-seekers and refugees to ensure that their rights, security and welfare are recognized and safeguarded in accordance with international standards. Such interventions include: ensuring respect for the principle of *non-refoulment*; admission to safety; access to fair procedures for the determination of refugee status; humane standards of treatment; and the implementation of durable solutions. UNHCR is the only United Nations agency with a mandate for the protection of refugees.

Irregular Movement of Refugees. The phenomenon of refugees or asylum-seekers moving without formal authorization from countries in



principle of *non-refoulement* is a part of customary international law and is therefore binding on all States, whether or not they are parties to the 1951 Convention.

OAU (Organization of African Unity) Convention Governing the Specific Aspects of Refugee Problems in Africa. The regional complement to the 1951 Convention whose refugee definition is broader than that provided in the 1951 Convention. Adopted in 1969, the OAU Convention provides that "the term 'refugee' applies to those fleeing from external aggression, occupation, foreign domination or events seriously disturbing public order in either part or whole of the country of origin.

OAU. Means the Organization of African Unity established by the Heads of State and Government of Africa in Addis Ababa, Ethiopia on 25th May- 1963, and renamed as "Africa Union" on 9th July, 2001.⁴⁰

Persecution. Generally refers to any severe violation of human rights. In the refugee context, "persecution" refers to any act by which fundamental rights are severely violated for reasons of race, religion, nationality, political opinion or membership of a particular social group.

Persecution. Includes any threat to the life or freedom, or serious violation of the human rights of a person on account of that person's

⁴⁰ *ibid*, 6.

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.⁴¹

Persons of concern to UNHCR. A generic term used to describe all persons whose protection and assistance needs are of interest to UNHCR. These include refugees under the 1951 Convention, persons who have been forced to leave their countries as a result of conflict or events seriously disturbing public order, returnees, stateless persons, and, in some situations, internally displaced persons. UNHCR's authority to act on behalf of persons of concern other than refugees is based on General Assembly resolutions.

Refoulment. The removal of a person to a territory where she/he would be at risk of being persecuted, or of being moved to another territory where she/he would face persecution. Refoulment constitutes a violation of the principle of non-refoulment, and is therefore a breach of refugee law and of customary international law.

⁴¹ *ibid*

Refugee centers. Locations where refugees reside or may gather to receive information, counseling, material assistance or other services.

Refugee law. The body of customary international law and various international, regional, and national instruments that establish standards for refugee protection. The cornerstone of refugee law is the 1951 Convention on the Status of Refugees.

Refugee Status Determination Procedures. Legal and administrative procedures undertaken by UNHCR and/or States to determine whether an individual should be recognized as a refugee in accordance with national and international law.

Refugee. Every person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events is unable or, owing to such fear, is unwilling to return to it.⁴² The term "refugee" also applies to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or

⁴² OAU Convention, Art 1 (1)

the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.⁴³

Refugees sur place. Persons who were not refugees when they left their countries of origin, but who become refugees at a later date, owing to intervening events. Refugees *sur place* may owe their fear of persecution to a change in the country of origin, such as through a *coup d'etat*, or to *bona fide* political activities undertaken in the country of refuge.

Regional Refugee Instruments. International legal documents relating to refugees that are adopted by States or intergovernmental organizations within a geographical region or sub-region. Such instruments normally complement the 1951 Convention and reflect the peculiar character of refugee issues within the particular geographical area. A notable example of a regional instrument is the OAU Convention of 1969.

Reintegration. The process by which refugees resume a normal life in their country of origin. Ideally, reintegration should follow from the durable solution of voluntary repatriation.

⁴³ *ibid*, Art 1 (2)

Resettlement. The transfer of refugees from the country in which they have sought refuge to another State that has agreed to admit them. The refugees will usually be granted asylum or some other form of long-term resident rights and, in many cases, will have the opportunity to become naturalized citizens. For this reason, resettlement is a durable solution as well as a tool for the protection of refugees.

Statelessness. The condition of not being considered as a national by any State under the operation of its law.

Statutory refugees. Persons considered refugees under the provisions of the international instruments that were in force before the 1951 Refugee Convention.

United Nations High Commissioner for Refugees (UNHCR).

Established on December 14, 1950, also known as The UN Refugee Agency is a United Nations agency mandated to protect and support refugees at the request of a government or the UN itself and assists in their voluntary repatriation, local integration or resettlement to a third country. Its headquarters are in Geneva, Switzerland.⁴⁴

⁴⁴See < http://en.wikipedia.org/wiki/United_Nations_High_Commissioner_for_Refugees> accessed 20 July 2010.

Voluntary repatriation. Return to the country of origin based on the refugees' free and informed decision. Voluntary repatriation may be *organized*, (i.e., when it takes place under the auspices of the concerned governments and UNHCR), or *spontaneous* (i.e., the refugees return by their own means with UNHCR and governments having little or no direct involvement in the process of return).

Well-founded Fear of Persecution. A key phrase in the 1951 Convention's definition of a refugee. This phrase contains a subjective element (fear of persecution) as well as an objective element (the fear must have an objectively justifiable basis). According to the 1951 Convention, persecution must be linked to any one of the five specified grounds: race, religion, nationality, membership of a particular social group, and political opinion.

CHAPTER TWO

REVIEW OF RELATED LITERATURE

Introduction

In this chapter, the researcher reviewed relevant related literature on the various issues under investigation. Specifically, literature was reviewed on: vetting and determining of refugees status including the criteria, procedures, and methods adopted; the rights of refugees, the theoretical context of human rights, the global, regional, and national instruments guaranteeing people's rights; and Governments' and UNHCR's roles in helping refugees realize their rights.

Concepts, Ideas, Opinions from Authors/Experts

The review of related literature is done thematically in relation to the study objectives, and the utility and gaps in the reviewed literature are put at the end of each theme.

Vetting and determining of refugees status

Vetting and determining the status of refugees involve adopting certain criteria and procedures. Principles and Methods, especially for purposes of establishing facts about Refugees.

Criteria adopted in determining/vetting of refugees

A person is a refugee within the meaning of the 1951 Convention as soon as he fulfills the criteria contained in the definition. This would necessarily occur prior to the time at which his refugee status is formally determined. Recognition of his refugee status does not therefore make him a refugee but declares him to be one. He does not become a refugee because of recognition, but is recognized because he is a refugee. Determination of refugee status is a process which takes place in two stages. Firstly, it is necessary to ascertain the relevant facts of the case. Secondly, the definitions in the 1951 Convention and the 1967 Protocol have to be applied to the facts thus ascertained. The provisions of the 1951 Convention defining who is a refugee consist of three parts, which have been termed respectively "inclusion", "cessation" and "exclusion" clauses.⁴⁵

The inclusion clauses define the criteria that a person must satisfy in order to be a refugee. They form the positive basis upon which the determination of refugee status is made. The so-called cessation and exclusion clauses have a negative significance; the former indicate the conditions under which a refugee ceases to be a refugee and the latter

⁴⁵ UNHCR, Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 7 <<http://www.unhcr.org/refworld/pdfid/45f17a1a4.pdf>> Accessed 7 June 2010.

enumerate the circumstances in which a person is excluded from the application of the 1951 Convention although meeting the positive criteria of the inclusion clauses.⁴⁶

Procedures adopted in determining and vetting of Refugee's Status

It has been seen that the 1951 Convention and the 1967 Protocol define who is a refugee for the purposes of these instruments. It is obvious that, to enable States parties to the Convention and to the Protocol to implement their provisions, refugees have to be identified. Such identification, i.e. the determination of refugee status, although mentioned in the 1951 Convention (cf. Article 9), is not specifically regulated. In particular, the Convention does not indicate what types of procedures are to be adopted in determining of refugee status. It is, therefore, left to each Contracting State to establish the procedures that it considers most appropriate, having regard to its particular constitutional and administrative structure.⁴⁷

It should be recalled that an applicant for refugee status is normally in a particularly vulnerable situation. He finds himself in an alien environment and may experience serious difficulties, technical and psychological, in submitting his case to the authorities of a foreign

⁴⁶ *ibid*

⁴⁷ *ibid.*, 31.

country, often in a language not his own. His application should therefore be examined within the framework of specially established procedures by qualified personnel having the necessary knowledge and experience, and an understanding of an applicant's particular difficulties and needs. Due to the fact that the matter is not specifically regulated by the 1951 Convention, procedures adopted by States parties to the 1951 Convention and to the 1967 Protocol vary considerably. In a number of countries, refugee status is determined under formal procedures specifically established for this purpose. In other countries, the question of refugee status is considered within the framework of general procedures for the admission of aliens. In yet other countries, refugee status is determined under informal arrangements or ad hoc for specific purposes, such as the issuance of travel documents.⁴⁸

In view of this situation and of the unlikelihood that all States bound by the 1951 Convention and the 1967 Protocol could establish identical procedures, the Executive Committee of the High Commissioner's Programme, at its twenty-eighth session in October 1977, recommended that procedures should satisfy certain basic requirements. These basic requirements, which reflect the special

⁴⁸ *ibid*

UNHCR participation in such procedures in appropriate form. Determination of refugee status, which is closely related to questions of asylum and admission, is of concern to the High Commissioner in the exercise of his function to provide international protection for refugees. In a number of countries, the Office of the High Commissioner participates in various forms, in procedures for the determination of refugee status. Such participation is based on Article 35 of the 1951 Convention and the corresponding Article 11 of the 1967 Protocol, which provide for co-operation by the Contracting States with the High Commissioner's Office.⁵⁰

Principles and Methods used in establishing facts about Refugees

To ascertain and/or determine refugees' status, certain elaborate principles and methods⁵¹ have to be followed, as follows.

- a) The relevant facts of the individual case will have to be furnished in the first place by the applicant himself. It will then be up to the person charged with determining his status (the examiner) to assess the validity of any evidence and the credibility of the applicant's statements.

⁵⁰ *ibid.*, 32.

⁵¹ *ibid.*, 32-33.

b) It is a general legal principle that the burden of proof lies on the person submitting a claim. Often, however, an applicant may not be able to support his statements by documentary or other proof, and cases in which an applicant can provide evidence of all his statements will be the exception rather than the rule. In most cases a person fleeing from persecution will have arrived with the barest necessities and very frequently even without personal documents. Thus, while the burden of proof in principle rests on the applicant, the duty to ascertain and evaluate all the relevant facts is shared between the applicant and the examiner. Indeed, in some cases, it may be for the examiner to use all the means at his disposal to produce the necessary evidence in support of the application. Even such independent research may not, however, always be successful and there may also be statements that are not susceptible of proof. In such cases, if the applicant's account appears credible, he should, unless there are good reasons to the contrary, be given the benefit of the doubt. The requirement of evidence should thus not be too strictly applied in view of the difficulty of proof inherent in the special situation in which an applicant for refugee status finds himself. Allowance for such possible lack of evidence does not, however, mean that unsupported statements

must necessarily be accepted as true if they are inconsistent with the general account put forward by the applicant.

- c) While an initial interview should normally suffice to bring an applicant's story to light, it may be necessary for the examiner to clarify any apparent inconsistencies and to resolve any contradictions in a further interview, and to find an explanation for any misrepresentation or concealment of material facts. Untrue statements by themselves are not a reason for refusal of refugee status and it is the examiner's responsibility to evaluate such statements in the light of all the circumstances of the case.
- d) Very frequently, the fact-finding process will not be complete until a wide range of circumstances has been ascertained. Taking isolated incidents out of context may be misleading. The cumulative effect of the applicant's experience must be taken into account. Where no single incident stands out above the others, sometimes a small incident may be "the last straw"; and although no single incident may be sufficient, all the incidents related by the applicant taken together, could make his fear "well-founded".

- e) Since the examiner's conclusion on the facts of the case and his personal impression of the applicant will lead to a decision that affects human lives, he must apply the criteria in a spirit of justice and understanding, and his judgement should not, be influenced by the personal consideration that the applicant may be an "undeserving case".
- f) Benefit of the doubt. After the applicant has made a genuine effort to substantiate his story, there may still be a lack of evidence for some of his statements. It is hardly possible for a refugee to "prove" every part of his case and, indeed, if this were a requirement the majority of refugees would not be recognized. It is therefore frequently necessary to give the applicant the benefit of the doubt. The benefit of the doubt should, however, only be given when all available evidence has been obtained and checked and when the examiner is satisfied as to the applicant's general credibility. The applicant's statements must be coherent and plausible, and must not run counter to generally known facts.⁵²

⁵² *ibid.*, 33.

Utility and gaps in the reviewed literature on vetting and determining of refugees status

The foregoing literature is not only a good set of guidelines but serves as a good substitute to the vacuum that would be created given the unlikelihood that all States bound by the 1951 Convention and the 1967 Protocol could establish identical procedures. It also shows the effort and commitment that the Executive Committee of the High Commissioner's Programme attaches to the wellbeing of refugees. Despite these, however, the literature has several gaps, especially in relation to the procedures adopted in vetting refugees in Uganda.

First, and as already noted, the determination of refugee status, although mentioned in the 1951 Convention (Article 9), is not specifically regulated. In particular, the Convention does not indicate what type of procedures is to be adopted for the determination of refugee status. It is, therefore, left to each Contracting State to establish the procedures that it considers most appropriate, having regard to its particular constitutional and administrative structure.

Second, literature has also shown that in a number of countries, refugee status is determined under formal procedures specifically established for that purpose. In other countries, the question of refugee status is considered within the framework of general

procedures for the admission of aliens. In yet other countries, refugee status is determined under informal arrangements or ad hoc for specific purposes, such as the issuance of travel documents.⁵³

With all the foregoing paradoxes, it was very difficult to tell which procedures Uganda adopted in vetting refugees. The literature does not show whether refugee status in Uganda is determined under formal procedures specifically established for that purpose, or is considered within the framework of general procedures for the admission of aliens or refugee status is determined under informal arrangements or ad hoc for specific purposes. To avoid speculation, therefore, the researcher thought it right to carry out the study which would generate empirical data on the actual and factual procedures adopted in vetting refugees in Uganda.

Legal Instruments guaranteeing rights of refugees

Legal Instruments guaranteeing rights of refugees can be reviewed at three levels, namely, the global, regional, and national, as elaborated below.

⁵³ *ibid.*, 31.

Global Instruments guaranteeing rights of refugees

The 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees

As already noted, the 1951 Convention relating to the Status of Refugees, with just one “amending” and updating Protocol adopted in 1967 is the central feature in today’s international regime of refugee protection, and over 144 States (out of a total United Nations membership of 192) have now ratified either one or both of these instruments (as of August 2010). The Convention, which entered into force in 1954, is by far the most widely ratified refugee treaty, and remains central also to the protection activities of the UNHCR.⁵⁴ Being the cornerstone of the international regime of refugee protection, the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees have various rights for refugees, explicitly and implicitly, some of which include the following.

- a) *Non-discrimination.* The Contracting States are obligated to apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.⁵⁵

⁵⁴ See <<http://untreaty.un.org/cod/avl/ha/prsr/prsr.html>> accessed 22 June 2010.

⁵⁵ The 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. United Nations General Assembly Resolution 2198 (XXI). 28 July 1951, Art 3.

- b) Religion.* The Contracting States are supposed to accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practice their religion and freedom as regards the religious education of their children.⁵⁶
- c) Entitlement to other rights.* The Convention states that nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.⁵⁷
- d) Movable and immovable property.* The Contracting States are obligated to accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.⁵⁸
- e) Right of association.* As regards non-political and non-profit-making associations and trade unions, the Contracting States are supposed to accord to refugees lawfully staying in their

⁵⁶ *ibid.*, art 4.

⁵⁷ *ibid.*, art 5.

⁵⁸ *ibid.*, art 13.

l) Identity papers. The Contracting States is required to issue identity papers to any refugee in their territory who does not possess a valid travel document.⁶⁶

m) Travel documents. Similarly, the Contracting States is bound to issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory; they shall in particular give sympathetic consideration to the issue of such a travel document to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence. Travel documents issued to refugees under previous international agreements by parties thereto shall be recognized and treated by the Contracting States in the same way as if they had been issued pursuant to this article.⁶⁷

⁶⁶ *ibid.*, Art 27.

⁶⁷ *ibid.*, Art 28.

n) Expulsion. The Contracting States is prohibited from expelling a refugee unlawfully in their territory save on grounds of national security or public order. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.⁶⁸

o) Prohibition of expulsion or return ("refoulement"). In addition, Contracting State are prohibited from expelling or returning ("refoulering") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion. The

⁶⁸ *ibid.*, Art 32.

benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.⁶⁹

p) Naturalization. The Contracting States are required, as far as possible, to facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.⁷⁰

The Universal Declaration of Human Rights

Under the Universal Declaration of Human Rights (UDHR), all human beings are born free and equal in dignity and rights.⁷¹ Everyone has the right to life, liberty and security of person.⁷² No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.⁷³ No one shall be subjected to torture or to cruel,

⁶⁹ *ibid.*, Art 33.

⁷⁰ *ibid.*, Art 34.

⁷¹ Universal Declaration of Human Rights, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948), Art.1.

⁷² *ibid.*, Art 3.

⁷³ *ibid.*, Art 4.

inhuman or degrading treatment or punishment.⁷⁴ In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.⁷⁵ Everyone is entitled to all the foregoing rights and freedoms, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.⁷⁶

The International Covenant on Civil and Political Rights

Under the International Covenant on Civil and Political Rights (ICCPR), every human being is guaranteed of an inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.⁷⁷ No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.⁷⁸ No one shall be held in slavery and in servitude.⁷⁹ Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in

⁷⁴ *ibid.*, Art 5.

⁷⁵ *ibid.*, Art 29.

⁷⁶ *ibid.*, Art 2.

⁷⁷ International Covenant on Civil and Political Rights. United Nations General Assembly Resolution 2200A [XXI]. 16 December 1966, Art. 6.

⁷⁸ *ibid.*, Art 7.

⁷⁹ *ibid.*, Art 8.

accordance with such procedure as are established by law.⁸⁰ All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.⁸¹ No one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation.⁸² Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.⁸³

On the other hand, an alien lawfully in the territory of a State Party to the present Covenant may be expelled there from only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.⁸⁴ All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be

⁸⁰ *ibid.*, Art 9.

⁸¹ *ibid.*, Art 10.

⁸² *ibid.*, Art 11.

⁸³ *ibid.*, Art 12.

⁸⁴ *ibid.*, Art 13.

entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.⁸⁵

In addition, the ICCPR provides that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation; everyone has the right to the protection of the law against such interference or attacks.⁸⁶ Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.⁸⁷

Similarly, the ICCPR provides that everyone shall have the right to hold opinions without interference.⁸⁸ Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.⁸⁹ All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any

⁸⁵ *ibid.*, Art 14.

⁸⁶ *ibid.*, Art 17.

⁸⁷ *ibid.*, Art 18 (1).

⁸⁸ *ibid.*, Art 19 (1).

⁸⁹ *ibid.*, Art 22 (1).

discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.⁹⁰ Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.⁹¹ Besides, each State which is a Member to the ICCPR is supposed to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the ICCPR, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.⁹²

International Covenant on Economic, Social & Cultural Rights

The International Covenant on Economic, Social and Cultural Rights (ICESC) recognizes the right of all peoples to self-determination, including the right to "freely determine their political status", pursue their economic, social and cultural goals, and manage and dispose of their own resources.⁹³ The ICESC also requires the rights be recognized "without discrimination of any kind as to race, colour, sex,

⁹⁰ *ibid.*, Art 26

⁹¹ *ibid.*, Art 47.

⁹² *ibid.*, Art 2.

⁹³ International Covenant on Economic, Social and Cultural Rights. United Nations General Assembly Resolution 2200A (XXI).16 December 1966, Article 1.

language, religion, political or other opinion, national or social origin, property, birth or other status".⁹⁴ The rights can only be limited by law, in a manner compatible with the nature of the rights, and only for the purpose of "promoting the general welfare in a democratic society". In addition, member states are bound to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.⁹⁵

Besides, the ICESCR guarantees other rights as well, which include: the right to work, under "just and favourable conditions", with the right to form and join trade union⁹⁶; right to social security, including social insurance⁹⁷; right to family life, including paid parental leave and the protection of children⁹⁸; right to an adequate standard of living, including adequate food, clothing and housing, and the "continuous improvement of living conditions"⁹⁹; right to health, specifically "the highest attainable standard of physical and mental health"¹⁰⁰; right to education, including free universal primary education, generally available secondary education, and equally accessible higher education. This should be directed to "the full development of the

⁹⁴ *ibid.*, Art 2.

⁹⁵ *ibid.*, Art 3.

⁹⁶ *ibid.*, Arts 6, 7, & 8.

⁹⁷ *ibid.*, Art 9.

⁹⁸ *ibid.*, Art 10.

⁹⁹ *ibid.*, Art 11.

¹⁰⁰ *ibid.*, Art 12.

human personality and the sense of its dignity", and enable all persons to participate effectively in society¹⁰¹; and the right to participate in cultural life.¹⁰² Many of these rights include specific actions which must be undertaken to realize them.

The Convention on the Rights of the Child, 1989

Uganda signed the Convention on the Rights of the Child (CRC) on August 17, 1990 and ratified it on September 16, 1990.¹⁰³ The Convention on the Rights of the Child 1989's objective is to protect children from discrimination, neglect and abuse. It is the principal children's treaty, covering a full range of civil, political, economic, social and cultural rights. It grants rights for children in peacetime as well as during armed conflict, and provides for the implementation of those rights. The Convention serves as both a rallying point and a useful tool for civil society and individual people, working to protect and promote children's rights. In many ways, it is an innovative instrument. This Convention is the first legally binding international treaty to give universally-recognized norms and standards for the protection and promotion of children's rights in a single text.¹⁰⁴

¹⁰¹ *ibid.*, Arts 13 & 14.

¹⁰² *ibid.*, Art 15.

¹⁰³ See <<http://www.law.yale.edu/rcw/rcw/jurisdictions/afe/uganda/frontpage.htm>> accessed 18 June 2010.

¹⁰⁴ See <<http://cyberschoolbus.un.org/treaties/child.asp>> accessed 18 June 2010.

The Convention on the Rights of the Child it is the most rapidly and widely ratified international human rights treaty in the world. This unprecedented wide participation clearly shows a common political will to improve the situation of children. It creates a new vision of the child, combining provisions aimed at protecting the child through positive action by the child's country, parents and relevant institutions, with provisions that recognize the child as a holder of participatory rights and freedoms. The Convention rests on a foundation of four general principles that express its philosophy and offer guidance to national programs for putting that philosophy into effect. Key provisions focus on: non-discrimination; best interests of the child; right to life, survival and development; and the views of the child.¹⁰⁵ Specifically, the Convention guarantees the following rights to children.¹⁰⁶

a) Survival and development. Children have the right to live.

Governments should ensure that children survive and develop healthily.¹⁰⁷

b) Registration, name, nationality, & care. All children have the right to a legally registered name, officially recognized by the

¹⁰⁵ *ibid*

¹⁰⁶ UNICEF 'Fact Sheet: A summary of the rights under the Convention on the Rights of the Child' <http://www.unicef.org/crc/files/Rights_overview.pdf> accessed 10 June 2010.

¹⁰⁷ *ibid.*, Art 6.

government. Children have the right to a nationality (to belong to a country). Children also have the right to know and, as far as possible, to be cared for by their parents.¹⁰⁸

c) *Preservation of identity*. Children have the right to an identity – an official record of who they are. Governments should respect children's right to a name, a nationality and family ties.¹⁰⁹

d) *Separation from parents*. Children have the right to live with their parent(s), unless it is bad for them. Children whose parents do not live together have the right to stay in contact with both parents, unless this might hurt the child.¹¹⁰

e) *Freedom of expression*. Children have the right to get and share information, as long as the information is not damaging to them or others. In exercising the right to freedom of expression, children have the responsibility to also respect the rights, freedoms and reputations of others. The freedom of expression includes the right to share information in any way they choose, including by talking, drawing or writing.¹¹¹

f) *Freedom of thought, conscience and religion*. Children have the right to think and believe what they want and to practice their

¹⁰⁸ *ibid.*, Art 7.

¹⁰⁹ *ibid.*, Art 8.

¹¹⁰ *ibid.*, Art 9.

¹¹¹ *ibid.*, Art 13.

religion, as long as they are not stopping other people from enjoying their rights. Parents should help guide their children in these matters. The Convention respects the rights and duties of parents in providing religious and moral guidance to their children. Religious groups around the world have expressed support for the Convention, which indicates that it in no way prevents parents from bringing their children up within a religious tradition. At the same time, the Convention recognizes that as children mature and are able to form their own views, some may question certain religious practices or cultural traditions. The Convention supports children's right to examine their beliefs, but it also states that their right to express their beliefs implies respect for the rights and freedoms of others.¹¹²

g) Freedom of association. Children have the right to meet together and to join groups and organizations, as long as it does not stop other people from enjoying their rights. In exercising their rights, children have the responsibility to respect the rights, freedoms and reputations of others.¹¹³

¹¹² *ibid.*, Art 14.

¹¹³ *ibid.*, Art 15.

h) Right to privacy. Children have a right to privacy. The law should protect them from attacks against their way of life, their good name, their families and their homes.¹¹⁴

i) Access to information; mass media. Children have the right to get information that is important to their health and well-being. Governments should encourage mass media – radio, television, newspapers and Internet content sources – to provide information that children can understand and to not promote materials that could harm children. Mass media should particularly be encouraged to supply information in languages that minority and indigenous children can understand. Children should also have access to children's books.¹¹⁵

j) Protection from all forms of violence. Children have the right to be protected from being hurt and mistreated, physically or mentally. Governments should ensure that children are properly cared for and protect them from violence, abuse and neglect by their parents, or anyone else who looks after them.¹¹⁶

k) Adoption. Children have the right to care and protection if they are adopted or in foster care. The first concern must be what is

¹¹⁴ *ibid.*, Art 16.

¹¹⁵ *ibid.*, Art 17.

¹¹⁶ *ibid.*, Art 19.

best for them. The same rules should apply whether they are adopted in the country where they were born, or if they are taken to live in another country.¹¹⁷

l) Refugee children. Children have the right to special protection and help if they are refugees (if they have been forced to leave their home and live in another country), as well as all the rights in this Convention.¹¹⁸

m) Children with disabilities. Children who have any kind of disability have the right to special care and support, as well as all the rights in the Convention, so that they can live full and independent lives.¹¹⁹

n) Health and health services. Children have the right to good quality health care – the best health care possible – to safe drinking water, nutritious food, a clean and safe environment, and information to help them stay healthy. Rich countries should help poorer countries achieve this.¹²⁰

¹¹⁷ *ibid.*, Art 21.

¹¹⁸ *ibid.*, Art 22.

¹¹⁹ *ibid.*, Art 23.

¹²⁰ *ibid.*, Art 24.

o) Social security. Children – either through their guardians or directly – have the right to help from the government if they are poor or in need.¹²¹

p) Adequate standard of living. Children have the right to a standard of living that is good enough to meet their physical and mental needs. Governments should help families and guardians who cannot afford to provide this, particularly with regard to food, clothing and housing.¹²²

q) Right to education. All children have the right to a primary education, which should be free. Wealthy countries should help poorer countries achieve this right. Discipline in schools should respect children's dignity. For children to benefit from education, schools must be run in an orderly way – without the use of violence. Any form of school discipline should take into account the child's human dignity. Therefore, governments must ensure that school administrators review their discipline policies and eliminate any discipline practices involving physical or mental violence, abuse or neglect. The Convention places a high value

¹²¹ *ibid.*, Art 26.

¹²² *ibid.*, Art 27.

on education. Young people should be encouraged to reach the highest level of education of which they are capable.¹²³

r) Children of minorities/indigenous groups. Minority or indigenous children have the right to learn about and practice their own culture, language and religion. The right to practice one's own culture, language and religion applies to everyone; the Convention here highlights this right in instances where the practices are not shared by the majority of people in the country.¹²⁴

s) Leisure, play and culture. Children have the right to relax and play, and to join in a wide range of cultural, artistic and other recreational activities.¹²⁵

t) Child labour. The government should protect children from work that is dangerous or might harm their health or their education. While the Convention protects children from harmful and exploitative work, there is nothing in it that prohibits parents from expecting their children to help out at home in ways that are safe and appropriate to their age. If children help out in a family farm or business, the tasks they do be safe and suited to

¹²³ *ibid.*, Art 28.

¹²⁴ *ibid.*, Art 30.

¹²⁵ *ibid.*, Art 31.

their level of development and comply with national labour laws. Children's work should not jeopardize any of their other rights, including the right to education, or the right to relaxation and play.¹²⁶

Under the Convention on the Rights of the Child 1989, Parents and State/Government have specific responsibilities to execute. For example both parents share responsibility for bringing up their children, and should always consider what is best for each child. On the other hand, Governments must respect the responsibility of parents for providing appropriate guidance to their children – the Convention does not take responsibility for children away from their parents and give more authority to governments. It places a responsibility on governments to provide support services to parents, especially if both parents work outside the home.¹²⁷

In addition, Governments have a responsibility to take all available measures to make sure children's rights are respected, protected and fulfilled. When countries ratify the Convention, they agree to review their laws relating to children. This involves assessing their social services, legal, health and educational systems, as well as levels of

¹²⁶ *ibid.*, Art 32.

¹²⁷ *ibid.*, Art 18.

funding for these services. Governments are then obliged to take all necessary steps to ensure that the minimum standards set by the Convention in these areas are being met. They must help families protect children's rights and create an environment where they can grow and reach their potential. In some instances, this may involve changing existing laws or creating new ones. Such legislative changes are not imposed, but come about through the same process by which any law is created or reformed within a country.¹²⁸

Further, Governments have the duty to respect the rights and responsibilities of families to direct and guide their children so that, as they grow, they learn to use their rights properly. Helping children to understand their rights does not mean pushing them to make choices with consequences that they are too young to handle. Parents are encouraged to deal with rights issues "in a manner consistent with the evolving capacities of the child". The Convention does not take responsibility for children away from their parents and give more authority to governments. It does place on governments the responsibility to protect and assist families in fulfilling their essential role as nurturers of children.¹²⁹

¹²⁸ *ibid.*, Art 4.

¹²⁹ *ibid.*, Art 5.

The Convention applies to all children, whatever their race, religion or abilities; whatever they think or say, whatever type of family they come from. It doesn't matter where children live, what language they speak, what their parents do, whether they are boys or girls, what their culture is, whether they have a disability or whether they are rich or poor. No child should be treated unfairly on any basis.¹³⁰

Regional Instruments guaranteeing rights of refugees

The Convention Governing the Specific Aspects of Refugee Problems in Africa

The Convention Governing the Specific Aspects of Refugee Problems in Africa (CGSARPA), commonly known as the 1969 OAU Refugee Convention was instituted by member states recalling Resolution 2312 (XXII) of 14 December 1967 of the United Nations General Assembly, relating to the Declaration on Territorial Asylum; convinced that all the problems of our continent must be solved in the spirit of the Charter of the Organization of African Unity and in the African context, and recognizing that the United Nations Convention of 28 July 1951, as modified by the Protocol of 31 January 1967, constitutes the basic and universal instrument relating to the status of refugees and reflects the

¹³⁰ *ibid.*, Art 2.

deep concern of States for refugees and their desire to establish common standards for their treatment.¹³¹

According to George Okoth-Obbo, the UNHCR Africa Bureau Director, member states of the Organization of African Unity (OAU), since renamed the African Union, adopted landmark legislation on refugees, commonly known as the 1969 OAU Refugee Convention. Adopted in a context of decolonization struggles across the continent, the 1969 OAU Refugee Convention is considered the most generous and flexible international agreement on refugee protection, for several reasons.¹³²

First and foremost, it set down a basis for refugee jurisprudence and practice in Africa to develop in a predictable and asylum-friendly manner. Secondly, in doing so, the Convention cemented in Africa the international refugee framework represented by the 1951 (UN Refugee) Convention, which it incorporated both substantively and in mandating wholesome collaboration with the machinery of enforcement set down in that Convention.

Thirdly, not only did the 1969 Convention thus affirm international refugee law, it also separately made an important contribution to its

¹³¹ The Convention Governing the Specific Aspects of Refugee Problems in Africa: The Assembly of Heads of State and Government at its Sixth Ordinary Session (Organization of African Unity, OAU. Addis Ababa 10 September 1969, Preamble (paras 7, 8 & 9).

¹³² UNHCR <<http://www.unhcr.org/4aa7b80c6.html>> accessed 18 June 2010.

progressive development. Its most celebrated feature in this respect is the expanded refugee definition. The Convention was, however, also the first international refugee instrument that elaborated the principles relating to voluntary repatriation. It also defined features of international solidarity and burden-sharing in the protection domain that, by comparison, were not fleshed out at all in the 1951 Convention. Fourthly, the Convention represented a successful battle against a trend that was pulling strongly for a heavily securitized concept of refugee law in Africa. It reinforced the character of asylum and refugee protection as quintessentially humanitarian, friendly and law-based. Finally, the Convention set down principles which were specific to Africa, including additional exclusion clauses and the prohibition of so-called "subversive activities" within the refugee and asylum context.

The Convention is a framework for the protection of people who are refugees, according to the definition of a refugee contained in that instrument. The second part of that definition is widely viewed as having been elaborated to cover so-called "massive refugee situations." While strictly speaking this is not correct, it is true that the language of the Convention, and the interpretation which has been placed on it in practice, are much more accommodating of large-scale refugee

appeal shall be made through national information media and through the Administrative Secretary-General of the OAU, inviting refugees to return home and giving assurance that the new circumstances prevailing in their country of origin will enable them to return without risk and to take up a normal and peaceful life without fear of being disturbed or punished, and that the text of such appeal should be given to refugees and clearly explained to them by their country of asylum. In addition, refugees who freely decide to return to their homeland, as a result of such assurances or on their own initiative, are entitled to be given every possible assistance by the country of asylum, the country of origin, voluntary agencies and international and intergovernmental organizations, to facilitate their return.¹³⁶

Fourth, refugees are also entitled to the right to travel documents. Member States shall issue to refugees lawfully staying in their territories travel documents in accordance with the United Nations Convention relating to the Status of Refugees and the Schedule and Annex thereto, for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise

¹³⁶ *ibid.*, Art 5 (4 & 5).

require. Member States may issue such a travel document to any other refugee in their territory.¹³⁷

The African Charter on Human and Peoples' Rights

The African Charter on Human and Peoples' Rights (ACHPR) (also known as the Banjul Charter) is an international human rights instrument that is intended to promote and protect human rights and basic freedoms in the African continent. It emerged under the aegis of the Organization of African Unity (OAU) (since replaced by the African Union) which, at its 1979 Assembly of Heads of State and Government, adopted a resolution calling for the creation of a committee of experts to draft a continent-wide human rights instrument, similar to those that already existed in Europe (European Convention on Human Rights) and the Americas (American Convention on Human Rights). This committee was duly set up, and it produced a draft that was unanimously approved at the OAU's 1981 Assembly. Pursuant to its Article 63 (whereby it was to "come into force three months after the reception by the Secretary General of the instruments of ratification or adherence of a simple majority" of the OAU's member states), the African Charter on Human and Peoples' Rights came into effect on 21 October 1986 in

¹³⁷ *ibid.*, Art 6 (1).

honour of which 21 October was declared "African Human Rights Day".¹³⁸

The ACHPR recognizes most of what are regarded universally accepted Civil and Political Rights (CPRs). The CPRs recognized in the Charter include the right to freedom from discrimination¹³⁹, equality¹⁴⁰, life and personal integrity¹⁴¹, dignity (Article 5), freedom from slavery¹⁴², freedom from cruel, inhuman or degrading treatment or punishment¹⁴³, rights to due process concerning arrest and detention¹⁴⁴, the right to a fair trial¹⁴⁵, freedom of religion¹⁴⁶, freedom of information and expression¹⁴⁷, freedom of association¹⁴⁸, freedom to assembly¹⁴⁹, freedom of movement¹⁵⁰, freedom to political participation¹⁵¹, and the right to property.¹⁵²

¹³⁸ See <http://en.wikipedia.org/wiki/African_Charter_on_Human_and_Peoples'_Rights> accessed 18 June 2010.

¹³⁹ African [Banjul] Charter on Human and Peoples' Rights, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982). June 27, 1981, Art 2 & 18(3).

¹⁴⁰ *ibid.*, Art 3.

¹⁴¹ *ibid.*, Art 4.

¹⁴² *ibid.*, Art e 5.

¹⁴³ *ibid.*, Art 5.

¹⁴⁴ *ibid.*, Art 6.

¹⁴⁵ *ibid.*, Arts 7 & 25.

¹⁴⁶ *ibid.*, Art 8.

¹⁴⁷ *ibid.*, Art e 9.

¹⁴⁸ *ibid.*, Art e 10.

¹⁴⁹ *ibid.*, Art 11.

¹⁵⁰ *ibid.*, Art 12.

¹⁵¹ *ibid.*, Art 13.

¹⁵² *ibid.*, Art 14.

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The ACHPR also recognizes certain Economic, Social and Cultural Rights (ESCRs), and overall the Charter is considered to place considerable emphasis on these rights. The Charter recognizes right to work¹⁵³, (Article 15), the right to health¹⁵⁴, (Article 16), and the right to education¹⁵⁵. In addition to recognizing the individual rights mentioned above, the ACHPR also recognizes collective or group rights, or people's rights. As such, the Charter recognizes group rights to a degree not matched by the European or Inter-American regional human rights instruments. The Charter awards the family protection by the state¹⁵⁶ (Article 18), while "peoples" have the right to equality¹⁵⁷ (Article 19), the right to self-determination¹⁵⁸, to freely dispose of their wealth and national resources¹⁵⁹, the right to development¹⁶⁰, the right to peace and security¹⁶¹ and "a generally satisfactory environment"¹⁶².

The African Charter on the Rights and Welfare of the Child 1999

The African Charter on the Rights and Welfare of the Child (ACRWC) 1999 spells out the rights that African States must ensure for children

¹⁵³ *ibid.*, Art 15.

¹⁵⁴ *ibid.*, Art 16.

¹⁵⁵ *ibid.*, Art 17.

¹⁵⁶ *ibid.*, Art 18.

¹⁵⁷ *ibid.*, Art 19.

¹⁵⁸ *ibid.*, Art 20.

¹⁵⁹ *ibid.*, Art 21.

¹⁶⁰ *ibid.*, Art 22.

¹⁶¹ *ibid.*, Art 23.

¹⁶² *ibid.*, Art 24.

language, religion, political or other opinion, national and social origin, fortune, birth or other status.¹⁶⁴

b) Best Interests of the Child. In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration. In addition, in all judicial or administrative proceedings affecting a child who is capable of communicating his/her own views, an opportunity shall be provided for the views of the child to be heard either directly or through an impartial representative as a party to the proceedings, and those views shall be taken into consideration by the relevant authority in accordance with the provisions of appropriate law.¹⁶⁵

c) Survival and Development. Every child has an inherent right to life which has to be protected by law. States Parties are obligated to ensure, to the maximum extent possible, the survival, protection and development of the child; death sentence shall not be pronounced for crimes committed by children.¹⁶⁶

¹⁶⁴ The African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990), entered into force Nov. 29, 1999, Art 3.

¹⁶⁵ *ibid.*, Art 4.

¹⁶⁶ *ibid.*, Art 5.

d) Name and Nationality. Every child has the right from his birth to a name, be registered immediately after birth, and the right to acquire a nationality. States Parties are to undertake to ensure that their Constitutional legislation recognize the principles according to which a child shall acquire the nationality of the State in the territory of which he has been born if, at the time of the child's birth, he is not granted nationality by any other State in accordance with its laws.¹⁶⁷

e) Freedom of Expression. Every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are prescribed by laws.¹⁶⁸

f) Freedom of Association. Every child shall have the right to free association and freedom of peaceful assembly in conformity with the law.¹⁶⁹

g) Freedom of Thought, Conscience and Religion. Every child has the right to freedom of thought conscience and religion. Parents, and where applicable, legal guardians shall have a duty

¹⁶⁷ *ibid.*, Art 6.

¹⁶⁸ *ibid.*, Art 7.

¹⁶⁹ *ibid.*, Art 8.

to provide guidance and direction in the exercise of these rights having regard to the evolving capacities, and best interests of the child. On the other hand, States Parties have to respect the duty of parents and where applicable, legal guardians to provide guidance and direction in the enjoyment of these rights subject to the national laws and policies.¹⁷⁰

h) Protection of Privacy. No child shall be subject to arbitrary or unlawful interference with his privacy, family home or correspondence, or to the attacks upon his honour or reputation, provided that parents or legal guardians shall have the right to exercise reasonable supervision over the conduct of their children. The child has the right to the protection of the law against such interference or attacks.¹⁷¹

i) Education. Every child shall have the right to an education which should be directed to (a) the promotion and development of the child's personality, talents and mental and physical abilities to their fullest potential; (b) fostering respect for human rights and fundamental freedoms with particular reference to those set out in the provisions of various African instruments on human and

¹⁷⁰ *ibid.*, Art 9.

¹⁷¹ *ibid.*, Art 10.

peoples' rights and international human rights declarations and conventions; (c) the preservation and strengthening of positive African morals, traditional values and cultures; and (d) the preparation of the child for responsible life in a free society, in the spirit of understanding tolerance, dialogue, mutual respect and friendship among all peoples ethnic, tribal and religious groups, among others. States Parties are obligated to take all appropriate measures with a view to achieving the full realization of this right.¹⁷²

j) Leisure, Recreation and Cultural Activities. Children have the right to rest and leisure, to engage in play and recreational activities appropriate to their and to participate freely in cultural life and the arts. States Parties are obligated to respect and promote the right of the child to fully participate in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.¹⁷³

k) Health and Health Services. Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual

¹⁷² *ibid.*, Art 11.

¹⁷³ *ibid.*, Art 12.

health. States Parties are obligated to undertake to pursue the full implementation of this right and in particular to take measures: (a) to reduce infant and child mortality rate; (b) to ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care; (c) to ensure the provision of adequate nutrition and safe drinking water; (d) to combat disease and malnutrition within the framework of primary health care through the application of appropriate technology; (e) to ensure appropriate health care for expectant and nursing mothers; (f) to develop preventive health care and family life education and provision of service; (g) to integrate basic health service programmes in national development plans; and (h) to ensure that all sectors of the society, in particular, parents, children, community leaders and community workers are informed and supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of domestic and other accidents, among others.¹⁷⁴

¹⁷⁴ *ibid.*, Art 14.

l) *Child Labour*. Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development. States Parties are obligated to take all appropriate legislative and administrative measures to ensure the full implementation of this Article which covers both the formal and informal sectors of employment and having regard to the relevant provisions of the International Labour Organization's instruments relating to children, States Parties shall in particular: (a) provide through legislation, minimum wages for admission to every employment; (b) provide for appropriate regulation of hours and conditions of employment; (c) provide for appropriate penalties or other sanctions to ensure the effective enforcement of this Article; and (d) promote the dissemination of information on the hazards of child labour to all sectors of the community.¹⁷⁵

m) *Protection against Child Abuse and Torture*. States Parties are bound to take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical

¹⁷⁵ *ibid.*, Art 15.

or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of the child.¹⁷⁶

n) Administration of Juvenile Justice. Every child accused or found guilty of having infringed penal law shall have the right to special treatment in a manner consistent with the child's sense of dignity and worth and which reinforces the child's respect for human rights and fundamental freedoms of others. States Parties are obligated in particular to: (a) ensure that no child who is detained or imprisoned or otherwise deprived of his/her liberty is subjected to torture, inhuman or degrading treatment or punishment; (b) ensure that children are separated from adults in their place of detention or imprisonment; (c) ensure that every child accused in infringing the penal law: (i) shall be presumed innocent until duly recognized guilty; (ii) shall be informed promptly in a language that he understands and in detail of the charge against him, and shall be entitled to the assistance of an interpreter if he or she cannot understand the language used; (iii) shall be afforded legal and other appropriate assistance in the preparation and presentation of his defence; (iv) shall have the matter determined as speedily as possible by

¹⁷⁶ *ibid.*, Art 16.

an impartial tribunal and if found guilty, be entitled to an appeal by a higher tribunal; and (d) prohibit the press and the public from trial.¹⁷⁷

o) Parent Care and Protection. Every child shall be entitled to the enjoyment of parental care and protection and shall, whenever possible, have the right to reside with his or her parents. No child shall be separated from his parents against his will, except when a judicial authority determines in accordance with the appropriate law, which such separation is in the best interest of the child. In addition, every child who is separated from one or both parents shall have the right to maintain personal relations and direct contact with both parents on a regular basis. Besides, where a child is apprehended by a State Party, his parents or guardians shall, as soon as possible, be notified of such apprehension by that State Party.¹⁷⁸

p) Parental Responsibilities. Parents or other persons responsible for the child shall have the primary responsibility of the upbringing and development the child and shall have the duty:(a) to ensure that the best interests of the child are their

¹⁷⁷ *ibid.*, Art 17.

¹⁷⁸ *ibid.*, Art 19.

basic concern at all times- (b) to secure, within their abilities and financial capacities, conditions of living necessary to the child's development; and (c) to ensure that domestic discipline is administered with humanity and in a manner consistent with the inherent dignity of the child. On the other hand, States Parties/Governments are obligated under this Charter to the present and in accordance with their means and national conditions the all appropriate measures; (a) to assist parents and other persons responsible for the child and in case of need provide material assistance and support programmes particularly with regard to nutrition, health, education, clothing and housing; (b) to assist parents and others responsible for the child in the performance of child-rearing and ensure the development of institutions responsible for providing care of children; and (c) to ensure that the children of working parents are provided with care services and facilities.¹⁷⁹

q) Separation from Parents. Any child who is permanently or temporarily deprived of his family environment for any reason is entitled to special protection and assistance; in this case, the States Parties: (a) shall ensure that a child who is parentless, or

¹⁷⁹ *ibid.*, Art 20.

who is temporarily or permanently deprived of his or her family environment, or who in his or her best interest cannot be brought up or allowed to remain in that environment shall be provided with alternative family care, which could include, among others, (a) fostering placement, or placement in suitable institutions for the care of children; and (b) taking all necessary measures to trace and re-unite children with parents or relatives where separation is caused by internal and external displacement arising from armed conflicts or natural disasters. When considering alternative family care of the child and the best interests of the child, due regard shall be paid to the desirability of continuity in a child's up-bringing and to the child's ethnic, religious or linguistic background.¹⁸⁰

r) Refugee Children. States Parties are supposed to take all appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law shall, whether unaccompanied or accompanied by parents, legal guardians or close relatives, receive appropriate protection and humanitarian assistance in the enjoyment of the rights set out in this Charter

¹⁸⁰ *ibid.*, Art 25.

and other international human rights and humanitarian instruments to which the States are Parties. Second, State Parties are supposed to undertake to cooperate with existing international organizations which protect and assist refugees in their efforts to protect and assist such a child and to trace the parents or other close relatives or an unaccompanied refugee child in order to obtain information necessary for reunification with the family. Third, State Parties are supposed to ensure that where no parents, legal guardians or close relatives can be found, the child are accorded the same protection as any other child permanently or temporarily deprived of his family environment for any reason.¹⁸¹

s) *Other rights.* Children supposed to be protected from sexual exploitation¹⁸², drug abuse¹⁸³, and sale, trafficking and abduction. States Parties to the present Charter shall take appropriate measures to prevent: (a) the abduction, the sale of, or traffick in children for any purpose or in any form, by any

¹⁸¹ The Constitution of the Republic of Uganda, 1995, Art. 23.

¹⁸² *ibid.*, Art 27.

¹⁸³ *ibid.*, Art 28.

person including parents or legal guardians of the child; and (b) the use of children in all forms of begging.¹⁸⁴

Member States/Governments are obligated to recognize the foregoing rights, and freedoms of children and are supposed to adopt such legislative or other measures as may be necessary to give effect to the provisions of this Charter; and nothing in the Charter affects any provisions that are more conducive to the realization of the rights and welfare of the child contained in the law of a State Party or in any other international Convention or agreement in force in that State.¹⁸⁵

National Instruments guaranteeing people's rights

The Constitution of the Republic of Uganda, 1995

The current Constitution of Uganda was adopted on October 8, 1995. It is the basis on which all that is legal in the country is hinged. Generally, the Constitution (in Chapter Four) constitutes the rights and freedoms of people in Uganda as follows.

a) Fundamental and other human rights and freedoms. The fundamental rights and freedoms of the individual are inherent and not granted by the State, and they have to be upheld and

¹⁸⁴ *ibid.*, Art 29.

¹⁸⁵ *ibid.*, Art 1.

promoted by all organs and agencies of Government and by all persons.¹⁸⁶

b) Equality and freedom from discrimination. All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law.¹⁸⁷

c) Protection of right to life. No person shall be deprived of life intentionally except in execution of a sentence passed in a fair trial by a court of competent jurisdiction in respect of a criminal offence under the laws of Uganda and the conviction and sentence have been confirmed by the highest appellate court. No person has the right to terminate the life of an unborn child except as may be authorized by law.¹⁸⁸

d) Protection of personal liberty. No person shall unlawfully be deprived of personal liberty.¹⁸⁹

e) Respect for human dignity and protection from inhuman treatment. No person shall be subjected to any form of torture or cruel, inhuman or degrading treatment or punishment.¹⁹⁰

¹⁸⁶ *ibid.*, Art 20.

¹⁸⁷ *ibid.*, Art 21(1).

¹⁸⁸ *ibid.*, Art 22.

¹⁸⁹ *ibid.*, Art 23.

- f) *Protection from slavery, servitude and forced labour.* No person shall be held in slavery or servitude. In addition, no person shall be required to perform forced labour.¹⁹¹
- g) *Protection from deprivation of property.* Every person has a right to own property either individually or in association with others. Besides, no person shall unlawfully be compulsorily deprived of property or any interest in or right over property of any description.¹⁹²
- h) *Right to privacy of person, home and other property.* No person shall be subjected to: unlawful search of the person, home or other property of that person; or (b) unlawful entry by others of the premises of that person. Besides, no person shall be subjected to interference with the privacy of that person's home, correspondence, communication or other property.¹⁹³
- i) *Right to a fair hearing.* In the determination of civil rights and obligations or any criminal charge, a person shall be entitled to a

¹⁹⁰ *ibid.*, Art 24.

¹⁹¹ *ibid.*, Art 25.

¹⁹² *ibid.*, Art 26.

¹⁹³ *ibid.*, Art 27.

fair, speedy and public hearing before an independent and impartial court or tribunal established by law.¹⁹⁴

j) Protection of freedom of conscience, expression, movement, religion, assembly and association. Every person shall have the right to: (a) freedom of speech and expression which shall include freedom of the press and other media; (b) freedom of thought, conscience and belief which shall include academic freedom in institutions of learning; (c) freedom to practice any religion and manifest such practice which shall include the right to belong to and participate in the practices of any religious body or organization in a manner consistent with this Constitution; (d) freedom to assemble and to demonstrate together with others peacefully and unarmed and to petition; and (e) freedom of association which shall include the freedom to form and join associations or unions, including trade unions and political and other civic organizations. Besides, every Ugandan shall have the right: (a) to move freely throughout Uganda and to reside and settle in any part of Uganda; (b) to enter, leave and return to, Uganda; and (c) to a passport or other travel document.¹⁹⁵

¹⁹⁴ *ibid.*, Art 28.

¹⁹⁵ *ibid.*, Art 29.

k) Right to education. All persons have a right to education.¹⁹⁶

l) Rights of the family. Men and women of the age of eighteen years and above have the right to marry and to found a family and are entitled to equal rights in marriage, during marriage and at its dissolution.¹⁹⁷

m) Rights of children. Subject to laws enacted in their best interests, children in Uganda shall have the right to know and be cared for by their parents or those entitled by law to bring them up. Second, A child is entitled to basic education which shall be the responsibility of the State and the parents of the child. Third, no child shall be deprived by any person of medical treatment, education or any other social or economic benefit by reason of religious or other beliefs. Fourth, children are entitled to be protected from social or economic exploitation and shall not be employed in or required to perform work that is likely to be hazardous or to interfere with their education or to be harmful to their health or physical, mental, spiritual, moral or social development.¹⁹⁸

¹⁹⁶ *ibid.*, Art 30.

¹⁹⁷ *ibid.*, Art 31.

¹⁹⁸ *ibid.*, Art 34.

n) Rights of persons with disabilities. Persons with disabilities have a right to respect and human dignity, and the State and society shall take appropriate measures to ensure that they realize their full mental and physical potential.¹⁹⁹

o) Protection of rights of minorities. Minorities have a right to participate in decision-making processes, and their views and interests shall be taken into account in the making of national plans and programmes.²⁰⁰

p) Right to culture and similar rights. Every person has a right as applicable to belong to, enjoy, practice, profess, maintain and promote any culture, cultural institution, language, tradition, creed or religion in community with others.²⁰¹

q) Civic rights and activities. Every Uganda citizen has the right to participate in the affairs of government, individually or through his or her representatives in accordance with law. In addition, every Ugandan has a right to participate in peaceful activities to

¹⁹⁹ *ibid.*, Art 35.

²⁰⁰ *ibid.*, Art 36.

²⁰¹ *ibid.*, Art 37.

influence the policies of government through civic organizations.²⁰²

r) Right to a clean and healthy environment. Every Ugandan has a right to a clean and healthy environment.²⁰³

s) Economic rights. In addition to others, every person in Uganda has the right to practice his or her profession and to carry on any lawful occupation, trade or business.²⁰⁴

t) Right of access to information. Every citizen has a right of access to information in the possession of the State or any other organ or agency of the State except where the release of the information is likely to prejudice the security or sovereignty of the State or interfere with the right to the privacy of any other person.²⁰⁵

u) Right to just and fair treatment in administrative decisions. 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

²⁰² *ibid.*, Art 38.

²⁰³ *ibid.*, Art 39.

²⁰⁴ *ibid.*, Art 40(2).

²⁰⁵ *ibid.*, Art 41.

to a court of law in respect of any administrative decision taken against him or her.²⁰⁶

The Children Act, Chapter 59 (Uganda)

Uganda adopted The Children Act, Chapter 59 of the Laws of Uganda on August 1, 1997. The rights of children in Uganda are fully embedded in the Child Act, Chap.59, as follows.

a) Child's right to stay with parents. A child is entitled to live with his or her parents or guardians.²⁰⁷

b) Duty to maintain a child. It shall be the duty of a parent, guardian or any person having custody of a child to maintain that child and, in particular, that duty gives a child the right to: (a) education and guidance; (b) immunization; (c) adequate diet; (d) clothing; (e) shelter; and (f) medical attention. In addition, any person having custody of a child is required to protect him or her from discrimination, violence, abuse and neglect.²⁰⁸

c) Parental responsibility. Every parent shall have parental responsibility for his or her child. Where the natural parents of a

²⁰⁶ *ibid.*, Art 42.

²⁰⁷ Laws of Uganda 2000, Chapter 59: The Children Act, Art 4.

²⁰⁸ *ibid.*, Art 5.

child are deceased, parental responsibility may be passed on to relatives of either parent, or by way of a care order, to the warden of an approved home, or to a foster parent.²⁰⁹

d) Harmful customary practices. It is forbidden, and therefore, unlawful to subject a child to social or customary practices that are harmful to the child's health.²¹⁰

e) Harmful employment. No child shall be employed or engaged in any activity that may be harmful to his or her health, education or mental, physical or moral development.²¹¹

f) Local councils to safeguard children and promote reconciliation between parents and children. It is the general duty of every local government council from the village to the district level: (a) to safeguard and promote the welfare of children within its area; and (b) to designate one of its members to be the person responsible for the welfare of children; and this person shall be referred to as the secretary for children's affairs.²¹²

²⁰⁹ *ibid.*, Art 6.

²¹⁰ *ibid.*, Art 7.

²¹¹ *ibid.*, Art 8.

²¹² *ibid.*, Art 10.

The Child Act obligates any member of the community who has evidence that a child's rights are being infringed or that a parent, a guardian or any person having custody of a child is able to but refuses or neglects to provide the child with adequate food, shelter, clothing, medical care or education shall report the matter to the local government council of the area.²¹³

Utility and gaps in the literature reviewed on refugees' rights

In section 2.4.2, the literature has highlighted the Theoretical Context of Human Rights. It has shown that there are two theories to the study and understating of human rights, namely, the libertarian and the communitarian theories of human rights. The problem, however, it is not clear which theory is applicable to refugees' rights in Uganda. In consideration of the rights for refugees, does Uganda use the libertarian or the communitarian theory or both? Empirical answer(s) to this were lacking.

In sections 2.4.3.1 and 2.4.4.1, literature on the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees, and the Convention governing the specific aspects of Refugee problems in Africa, respectively, have been reviewed. Whereas Uganda is a signatory to both (conventions), it was not clear

²¹³ *ibid.*, Art 11(1).

whether the rights enjoyed by refugees in Uganda were the same as those in the two conventions.

At the global level (and in addition to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees), Uganda is a signatory to the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; and the Convention on the Rights of the Child, 1989, all of which have a universal character. At the regional level (Africa), on the other hand, Uganda is also a signatory to the African Charter on Human and Peoples' Rights, and the African Charter on the Rights and Welfare of the Child 1999. While literature has been reviewed on both global and regional general human rights instruments, all of them could not and did not explicitly show which rights were enjoyed by and/or applicable to refugees in Uganda. This was another big inadequacy of and in the literature reviewed.

In addition, even the 1995 Constitution of Uganda as well as the Child Act, Chap. 59 which have been reviewed, just give the generic rights of the people and children in Uganda respectively. Do the refugees in Uganda, both mature and young, enjoy all or just some of the rights contained in the foregoing two human rights instruments? Are the

rights enjoyed by refugees the same as those provided for in the Ugandan Constitution and the Child Act, Chap.59? Do the refugees enjoy the same rights like the rest of the people in Uganda? All these are questions which the reviewed literature could not, unfortunately, empirically answer. Getting empirical answers to them, therefore, inevitably made the researcher carry out the study.

Governments and UNHCR roles in helping refugees realize their rights

Since its establishment on 14 December 1950 by the United Nations General Assembly, UNHCR has helped more than 50 million people restart their lives. The UNHCR is mandated to lead and coordinate international action to protect refugees and resolve refugee problems worldwide. Its primary purpose has been and still remains to safeguard the rights and well-being of refugees. It strives to ensure that everyone can exercise the right to seek asylum and find safe refuge in another State, with the option to return home voluntarily, integrate locally or to resettle in a third country.²¹⁴ It should be noted, however, that in doing its work, UNHCR works hand-in-hand with the Governments/Member States, most especially in assisting refugees realize their rights.

²¹⁴ Refugee protection and humanitarian work in Croatia: An overview of UNHCR's operations in the past 18 years, 12 <<http://www.unhcr.hr/eng/index.php/frontpage-right/refugee-protection-and-humanitarian-work-in-croatia-an-overview-of-unhcrs-operations-in-the-past-18-years.html>> accessed 19 June 2010.

In 2001, UNHCR globally resettled almost 30,000 refugees, one quarter less than in the year 2000. Some 77 UNHCR country offices resettled almost 30,000 refugees in 2001, 44 per cent of whom were female. Ten refugee nationalities accounted for 90 per cent of all resettlement departures. The main countries of origin were Sudan (5,400), Afghanistan (5,200) and Iraq (4,100).²¹⁵

For the 151 countries where data was available in 2006, it was reported that Governments carried out Refugee Status Determination (RSD) in 92 countries (61%). UNHCR was responsible for RSD in 43 countries (28%), whereas a shared responsibility was reported for 16 countries (11%). The latter includes asylum procedures which were either jointly established between UNHCR and the Government or where there are parallel procedures within the same country that are conducted independently from each other.²¹⁶

In 2008, UNHCR globally submitted more than 121,000 individual refugees for resettlement consideration by States, the highest number of the past 15 years and 22 per cent above the 2007 level (99,000). The figures were boosted by a major resettlement operation for Iraqis, especially in Jordan, Lebanon, the Syrian Arab Republic, and Turkey,

²¹⁵ UNHCR Statistical Yearbook 2001, 12.

²¹⁶ UNHCR Statistical Yearbook 2006, 44.

and for refugees from Bhutan in Nepal. The significant increase in the number of submissions over previous years reflects the improving ability of UNHCR to identify refugees in need of this solution, and a more conscious and strategic use of resettlement for durable solutions and protection purposes.²¹⁷

During the same year (2008), more than 67,000 individuals departed with UNHCR assistance, 17,000 more than the year before. This was the highest number since the early 1990s. By nationality, the main beneficiaries of the UNHCR-facilitated resettlement programmes in 2008 were refugees from Myanmar (23,200), Iraq (17,800), Bhutan (8,100), Somalia (3,500), Burundi (3,100), and the Democratic Republic of the Congo (1,800). Some 85 UNHCR country offices were engaged in facilitating resettlement during 2008. The largest number of refugees who were resettled with UNHCR assistance departed from Thailand (16,800), Nepal (8,200), the Syrian Arab Republic (7,300), Jordan (6,700), and Malaysia (5,900). These five UNHCR offices together accounted for 7 out of every 10 resettlement departure assisted by the organization in 2008.²¹⁸

²¹⁷ UNHCR 2008 Global Trends, 12.

²¹⁸ *ibid*

In 2009, a total of 112,400 refugees were admitted by Governments of 19 resettlement countries, including the United States of America (79,900), Canada (12,500), Australia (11,100), Germany (2,100), Sweden (1,900), and Norway (1,400). Overall, this was one quarter above the total for 2008 (88,800) and the highest level since 1995 (134,100). In 2009, UNHCR submitted more than 128,000 individual refugees for resettlement consideration by States, the highest number in the past 16 years and 6 per cent above the 2008 level (121,000). Group resettlement programmes in Ethiopia, Malaysia, Nepal and Thailand, as well as the continued streamlining of procedures for Iraqi refugees in the Middle East, contributed to these achievements.²¹⁹

During the same year, more than 84,000 individuals departed for resettlement with UNHCR assistance, 18,000 more than the year before. This is the highest number since the early 1990s. By nationality, the main beneficiaries of the UNHCR-facilitated resettlement programmes in 2009 were refugees from Myanmar (24,800), Iraq (23,000), Bhutan (17,500), Somalia (5,500), Eritrea (2,500), and the Democratic Republic of the Congo (2,500).²²⁰

²¹⁹ UNHCR 2009 Global Trends, 12.

²²⁰ *ibid*

In addition, some 94 UNHCR country offices were engaged in facilitating resettlement during 2009. The largest number of refugees who were resettled with UNHCR assistance departed from Nepal (17,500), Thailand (16,800), the Syrian Arab Republic (10,400), Malaysia (7,500) and Turkey (6,000). The five UNHCR offices in these countries together accounted for 7.5 out of every 10 resettlement departures assisted by the Office in 2009.²²¹

Utility and gaps in the literature reviewed on Governments and UNHCR roles in helping refugees realize their rights

The reviewed literature shows that UNHCR and Governments have supplemented and complimented each other in helping refugees, especially in resettlement, repatriation and determining the status of refugees. The literature also gives us an aggregate picture of the work done by the two actors in assisting refugees at the global level. However, the reviewed literature has some gaps.

First and as already indicated, it focuses more on the global level, with less, if any, emphasis on national levels. Since the researcher was interested in researching on Uganda, not the global level, the reviewed literature therefore were not only inadequate but inapplicable. Second, the reviewed literature were also limited in scope. It portrays the role

²²¹ ibid

of UNHCR and Governments in relation to refugees as being limited to resettlement, repatriation and determination of the status of refugees. These are not the only rights and needs of refugees. Other than the foregoing three areas, didn't UNHCR and Governments assist in realizing refugees' rights in relation to refugees' education, health, income generation, agricultural/crop production, and legal representation, among others? Since the reviewed literature could not answer the foregoing questions, it was imperative that research had to be done to fill the gaps identified in all the reviewed literature.

Theoretical Perspectives in relation to Rights of Refugees

In order to explore refugees' rights, it is necessary to establish a broad theoretical basis in which the terms can be understood. Rights hold relevance at various social levels, from inter-personal relationships to relations between institutions and relations between all social actors and the rule of law. In the modern era, deliberations regarding the balance of rights have taken place predominantly at a national level. Forming a philosophical basis for determining the provision of rights essentially forces governments to ask questions about the fundamentals of human nature. Answers to these questions hold implications for the effective governance of social structures through the administering of rights and determining of responsibilities. To

appreciate the rights of humans (including refugees), it is useful to briefly examine two ostensibly opposing approaches, namely, the libertarian and the communitarian.²²²

The Libertarian Theory of Human Rights

The Libertarian Theory argues that there are aspects of human nature that are universal and that the individual self comes above any other social agent or unit. As a consequence of this reading of human nature, libertarian theory argues for the adoption of an abstract set of rights and assumptions based on universal social norms and values. Social structures following these principles stress the rights of the individual and individual liberty over group rights, with a vertical relationship between governance and the governed. The Human Rights Act in the UK is an illustration of this theory practically applied as universal rights flow directly from the state to the individual. The libertarian principles of human rights often come into conflict with maintaining a respect for group rights, characterized by the debate around multiculturalism. Critics of multiculturalism suggest that by privileging the rights of certain cultural or religious groups, the rights of the individual are either diluted, in the case of free speech, or go

²²² Gareth Morrell, Refugee Rights and Responsibilities in the UK (Information Centre about Asylum and Refugees (School of Social Science, City University, June 2009, 8)

unprotected with respect to inequalities and discrimination that may exist within these groups.²²³

Communitarian Theory of Human Rights

In opposition to libertarian principles, Communitarian Theory argues that human nature is not essentially universal but largely determined by the particularities of time and space, local context and emergent traditions, norms and values. Communitarians oppose what they argue is the atomistic view of society presented by libertarian theory and reproduced by associated practices. As a consequence of this communitarian principles require that rights are conditional on associated responsibilities. In many instances this translates into access to certain rights being conditional on the demonstration of certain responsibilities. Unlike the libertarian approach, therefore, rights are not universal but particular on the basis either of responsibility or membership. One example of this is the UK Welfare State. Although the Welfare State aimed at providing free healthcare to all, it was established on the premise of contribution, that the right to free healthcare was dependent upon paying in to a 'common pot'.²²⁴

²²³ *ibid.*, 8-9.

²²⁴ *ibid.*, 8

Related Studies

As already noted, many scholars (including Russell, 1993; Gingyera-Pinyicwa, 1998; Hansen and Twaddle, 1998; Nabuguzi, 1998; and Prunier, 1999) have written about the phenomenon of refugees in Uganda; however, their literature captures only refugees' details before the year 2000. Besides, their main areas of focus were not on the legal procedures adopted in vetting refugees who enter Uganda. Similarly, they neither focused on the rights enjoyed by refugees in Uganda nor the role that the Government and UNHCR play(ed) in helping refugees realize their rights in Uganda. This study, therefore, had to be carried out to get empirical facts that would be used to fill the foregoing information gaps so that readers and the general public are put in a better stead to know: the legal procedures adopted in vetting refugees in Uganda; the rights that refugees enjoy while in Uganda; and the role that the Government of Uganda and UNHCR play(ed) in helping refugees to realize their rights in Uganda.

CHAPTER THREE

METHODOLOGY

This chapter presents the methodology that was employed in the study. Specifically, it presents the study design, type of data used in the study, study population, sample size and sampling procedure, sample size, sampling procedure, method used to collect data, data gathering procedures data processing and analysis, reliability and validity of the research instrument and findings, ethical consideration, limitations of the study, and concludes with the problems encountered during the study and how they were resolved.

Research Design

A triangulation study design, which involved a combination of three study designs, was used. These included exploratory, descriptive and documentary review study designs. Since the researcher was researching on various issues (pertaining to refugees in Uganda) on which little were known, particularly in the case of Uganda, an exploratory study design (which made it possible to explore what were not known) become very paramount. On the other hand, after exploring what were not known and finally discovering them, their description had to be made so that they are known to the general

public. This, inevitably, made the use of a descriptive study design equally important.

In addition, the study was mainly a retrospective one, which put most emphasis on the past years (2000 chronologically to 2010). Capturing past data, therefore, inevitably required use of a documentary review/historical analysis study design. The researcher, hence, made use of historical sources like Books, Global Trend Reports, Statistical Yearbooks, and Global Reports, among others, to study events and ideas that were pertinent to the issues under investigations.

Research Population

Since UNHCR rejuvenated its operations in Uganda in 1980 (after the overthrow of former president Idi Amin), 30 years had elapsed (at the time the study was done). Similarly, UNHCR had generated 30 Global Reports. The study population, therefore, comprised the 30 years Global Reports that UNHCR had generated from 1980-2009. These reports were used to study the influx of refugees in Uganda, and the role UNHCR and Government had played to help refugees realize their rights in Uganda. As for the procedures adopted in vetting refugees in Uganda, both the Refugees Act 2006 and the Refugees Regulations, 2010 (both of which are the main source of refugee law in Uganda) were used. As for the rights of refugees in Uganda, the two foregoing

instruments, the 1995 Constitution of the Republic of Uganda as well as the Child Act, Chap. 59, of the Laws of Uganda (2000), were used.

Sample Size

A sample of 10 (out of the 30) years UNHCR's Global Reports was used. The sample basically comprised of the last decade UNHCR's Global Reports. In other words, the sample involved the UNHCR's Global Reports for years 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, and 2009.

Sampling Procedure

The 10 years consecutive reports were deliberately and purposively selected to enable the researcher give the general public a chronological trend of influx of refugees in Uganda since 2000. Given the fact that the 10 Years UNHCR's Global Reports were selected purposively, the researcher inevitably used a non-probability sampling procedure.

Research Instrument & Method of Data Collection

The research instrument that was used was a Researcher Devise Documentary Review Guide, which had three main guiding statements: the legal procedures adopted in vetting refugees entering Uganda; rights that refugees enjoy while in Uganda; and the role that UNHCR

Validity and Reliability and of the Research Instrument and Findings

The research instrument used was a Researcher Devised Documentary Review Guide, which contained statements/issues on which data were collected. This instrument was suitable for the study since it dealt with secondary sources. To ensure its validity and reliability, the guiding statements included in the Researcher Devised Documentary Review Guide were directly derived from the research objectives and research questions.²²⁶

On the other hand, and as already noted, the study was purely based on secondary sources. The findings were mainly generated from documents and legal instruments of standard and reputable institutions. Findings on the role of UNHCR and Government of Uganda in facilitating the realization of refugees' rights in Uganda were acquired from UNHCR's Global Reports from 2000-2009. The UNHCR is the principal Organization globally that produces the most trusted information on issues concerning refugees. In addition, the legal procedures adopted in vetting refugees and the rights that refugees enjoy while in Uganda, were secured from Uganda's refugees legal instruments (The Refugees Act, 2006 and the Refugees Regulations, 2010). All the foregoing are documents which were written, edited and publish after very careful scrutiny by legal experts.

Besides, all the documents used were in their original form; hence, there is no any likelihood of distortion of any details contained therein. The researcher's use of such standard documents and legal instruments, therefore, inevitably enabled

²²⁶ See the Researcher Devised Documentary Review Guide in Appendix I.

him to generate findings which were not only reliable but also valid.

Data Gathering Procedures

Before data collection, the researcher made a list of items on which the required data was to be gathered. This list was made in relation to the objectives of the study and research questions – which culminated into a Researcher Devise Documentary Review Guide (the research instrument which was used to guide the study). During data gathering, the researcher visited hundreds of websites for gathering data on various issues that were under investigation. He also visited: the UNHCR's Head Office in Kololo to get relevant data materials; Center for Basic Research in Kololo for materials about refugees; went to Aristoc Bookshop, Uganda Bookshop; Mukono Bookshop; and Uganda Publishing Company, among others, for relevant materials. With all the above deliberations, the researcher secured the required data. After data gathering, the researcher proceeded to data processing and analysis as presented in the next section.

Data Processing & Analysis

Data, after collection, was processed and analyzed in accordance with the purpose made at the time of developing the research plan. This was essential for a scientific study and for ensuring that the researcher

had all relevant data for making contemplated comparisons and analysis.

Data processing went through four main stages. First, the responses were noted and then organized. The second step was editing of data, which involved a process of examining and carefully scrutinizing the collected raw data to detect errors and omissions, and correct them when possible. Editing was done to ensure that data were accurate, consistent with other facts gathered, uniformly entered, and complete as possible.

Coding was the third step. This involved a process of assigning symbols to answers so that data were put in limited categories. Data were labeled according to the corresponding objectives of the study. Data for Objective One were labeled O1; for Objective Two, O2; and O3, for Objective Three. With this arrangement, all data became mutually exclusive, which meant that a specific answer was placed in one and only one category set. The coding exercise saved the researcher from confusing and over-mixing of data, which systematically led to the fourth step.

The fourth step was classification of data. The study inevitably resulted in a large volume of raw data which required to be reduced into

homogeneous classes if meaningful comparisons and interpretations were to be achieved. This fact necessitated classification, which involved putting data having common characteristics into one class and the rest in the others; this way, the entire data got divided into a number of groups.

On the other hand, data analysis started with an in-depth study of data in each of the forecited classes; this first step being called "Within-Case Analysis" or "Thematic Analysis". This entailed sifting through all data in each class, discarding whatever were proved to be irrelevant, and bringing together what seemed most important. The idea was to allow the most significant facts to emerge from all data gathered while reducing the volume of data. The relevant data were then sorted by relating them to the problem areas of the study, after which interpretations, conclusions, and recommendations were made by the researcher.

Ethical Considerations

Basing on the fact that the study was premised on secondary data, all data sources and authors have clearly and adequately been cited. The researcher also ensured that the meaning and facts given by the authors of the study materials were neither faltered nor plagiarized.

Limitations of the Study

As already noted, the study was purely based on secondary materials and secondary sources; hence, its findings are limited to only those facts that were captured in the secondary materials. Second, the study findings are also limited only to the period that was studied (January 2000-July 2010); and so, they cannot be generalized to apply to the period before and/or after. Despite its limitations, however, the study generated very empirical and insightful findings, which, hitherto, were lacking in the intellectual and academic arenas on the issues that were investigated.

CHAPTER FOUR

PRESENTATION, ANALYSIS AND INTERPRETATION OF DATA

This chapter deals with the presentation, analysis and interpretation of data. Specifically, it presents the legal procedures adopted in vetting refugees in Uganda, rights enjoyed by refugees in Uganda, and concludes with the role that the UNHCR and Government of Uganda (GoU) have played in facilitating the realization of refugees' rights in Uganda.

Legal procedures adopted in vetting refugees in Uganda

The first objective of the study was: "to establish the legal procedures adopted in vetting refugees entering Uganda." In relation to this, it was discovered that the real essence of vetting applicants seeking refugee status in Uganda is to determine whether they fit to become or be called refugees. The findings revealed that in Uganda, a person qualifies to become a refugee only if:²²⁷

- a) Owing to a well-founded fear of being persecuted for reason of race, sex, religion, nationality, membership of particular social group or political opinion, that person outside the country of his or her nationality and is unable or owing to that fear, is unwilling to return to or avail himself or herself of the protection of that

²²⁷ The Uganda Refugee Act 2006, Sec. 4.

country;

- b) Not having a nationality and being outside the country of his or her former habitual residence owing to a well-founded fear of being persecuted for reasons of race, sex, religion, membership of a particular social group or political opinion, that person is unwilling or unable to return to the country of his or her former habitual residence;
- c) Owing to 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;
- d) Owing to a well-founded fear of persecution for failing to conform to gender discriminating practices, that person is compelled to leave his or her place of habitual residence in order to seek refuge in another place outside the country of origin or nationality;
- e) That person is considered a refugee under any treaty obligation to which Uganda is a party, or any law in force at the commencement of this act: or

- f) That person is a member of a class of persons declared to be refugees by the Minister responsible for refugees.

To be vetted and/or determined for refugee status in Uganda, several legal procedures have to be followed by both the applicant and Government of Uganda (through the Minister and Ministry staff responsible for refugee affairs). Generally, these procedures (although not chronologically rigid) are as follows.

- a) A person who enters Uganda and wishes to remain in Uganda as a refugee has to apply to the Refugee Eligibility Committee (REC) for the grant of refugee status within thirty days after the date of entry into Uganda.²²⁸
- b) The application made is then submitted in person to the Commissioner through an officer authorized by the commissioner or through the UNHCR representative, who then as soon as practicable forwards the application to the Commissioner for Refugees.²²⁹
- c) The Commissioner, as soon as practicable, then processes the application for presentation before the REC, and may require further information from the applicant as may be necessary to

²²⁸ *ibid.*, Sec. 19 (1).

²²⁹ *ibid.*, Sec. 19 (2) & (3).

support the application, and/or carry out any inquiries or investigations as he or she may think necessary.²³⁰

- d) Should a person wish to remain in Uganda as a refugee, but was not able to apply for refugee status within thirty days after the date of entry into Uganda, he or she has to approach and present himself or herself to a refugee reception officer as soon as practicable, explaining the circumstances of his or her entry into Uganda.²³¹
- e) A person seeking refugee status has to properly identify himself or herself and provide his or her finger prints and photographs to the refugee reception officer,²³² who then records the information provided to him or her by the applicant; receives and gives him or her an application form²³³ and guides him or her on how to apply for refugee status.²³⁴ He/she also furnishes the applicant with the contact address of the nearest office of the UNHCR.²³⁵
- f) Should the refugee status applicant be an unaccompanied

²³⁰ *ibid.*, Sec. 20.

²³¹ The Refugees Regulation 2010 (Uganda), Sec. 3(4).

²³² *ibid.*, Sec. 5.

²³³ See the Application Form for Refugee Status in Uganda in Appendix II.

²³⁴ *ibid.*, Sec. 3(5).

²³⁵ *ibid.*, Sec. 12(3)

minor, he/she may apply for refugee status in his or her own name. Under this circumstance, his/her actual age has to be established; a standing committee of the Eligibility Committee may be tasked to execute that task. An unaccompanied minor who applies for refugee status has to be separated from the adult applicants and as soon as practicable, has to be placed in an appropriate care giving relationship such as a foster care or a special reception centre by the government in cooperation with UNHCR.²³⁶

g) A person applying for refugee status has to furnish proof to the satisfaction of the Eligibility Committee that he or she is eligible to be granted refugee status under the Refugee Act and Regulations. He/she has to adduce all evidence available to him or her and has, in the absence of documentary evidence, to give any evidence that may be considered credible by the Eligibility Committee.²³⁷

h) Where it is established that a person seeking refugee status comes from an area of his or her country that is affected by a highly infectious pandemic disease, that person has to be

²³⁶ *ibid.*, Sec. 6.

²³⁷ *ibid.*, Sec. 17.

interned in a special holding centre in order to ensure public safety and security while his or her application for refugee status is being processed.²³⁸

- i) Should a person enter Uganda or wishes to remain in Uganda after having been granted refugee status in another country, he/she shall not be eligible to apply for refugee status in Uganda. This, notwithstanding, a person who enters Uganda or wishes to remain in Uganda after having been granted refugee status in another country shall not be precluded from applying for refugee status in Uganda where he or she establishes that he or she is likely to suffer persecution on the grounds of race, religion, ethnicity, gender or political affiliation in the country of his or her refuge.²³⁹

- j) Every applicant who submits an application for refugee status in accordance with the Refugee Act and Regulations has to be issued with a temporary pass valid for ninety days, which acts as evidence that the person has applied for refugee status in Uganda. Every member of the family of the applicant has also to be issued with a similar document. Both the applicant and

²³⁸ *ibid.*, Sec. 12(4).

²³⁹ *ibid.*, Sec. 14.

his/her family members have to keep the temporary pass until their applications are granted or rejected and no appeals have been filed with the Appeals Board; or until the applicants have exhausted their right of appeal under the Refugees Act or Regulations.²⁴⁰

- k) Should the applicant for refugee status be in possession of a firearm at the time of applying for refugee status, he/she has to surrender it to Commissioner or a person authorized by the Commissioner, who then finally to hand over all firearms collected to the police. Should the person be seeking refugee status for firearms, the immigration officer at the boarder entry of Uganda has to screen him/her first before being allowed entry. Where there is verifiable information that a person seeking refugee status has, prior to his or her entry into Uganda, whether acting alone or in concert with others, committed an act of terrorism resulting into death or injury of another person or damage to property, whether public or private, that person shall be placed under temporary detention pending his or her repatriation to his or her country of origin or

²⁴⁰ *ibid.*, Sec. 13.

habitual residence.²⁴¹

l) Where there are disarmed combatants and civilians within a group of persons seeking refugee status in Uganda, the civilians shall be separated and accommodated separately from the disarmed combatants in order to maintain the purely civilian character of refugee settlements.²⁴²

m) Should the applicant for refugee status be a combatant or a person engaged in rebellion or other military offensive against his or her country of origin or any other country, he or she has, before being admitted into Uganda for the purposes of seeking refugee status, renounce the rebellion or other military activity²⁴³ by filling Form B²⁴⁴ specified in the Third Schedule of the Refugee Act.

n) If the refugee status applicant is stateless, he/she is eligible and has to apply for permanent residence upon fulfilling the prescribed residence period in Uganda.²⁴⁵ In addition, if a person (refugee), regardless of the change of the circumstances in the country of origin decline to avail himself or herself of the

²⁴¹ *ibid.*, Sec. 19 & 20.

²⁴² *ibid.*, Sec. 22.

²⁴³ *ibid.*, Sec. 23.

²⁴⁴ See Form B which is used to renounce rebellion in Appendix III.

²⁴⁵ *ibid.*, Sec. 8.

protection of or her country and remain in Uganda, he/she will have to re-apply for refugee status on individual basis.²⁴⁶

- o) Once the REC²⁴⁷ has received the applicant's application, it will, within ninety days after the date of receipt of the application by the Commissioner, consider and determine the refugee status of the applicant, and may, after making any inquiry or investigations as it consider necessary reject the application or grant refugee status to the applicant.²⁴⁸ After the REC's decision, the Commissioner then notifies, within fourteen days after the date of the decision of the REC, the applicant in writing of the decision in Form C²⁴⁹ specified in the Third Schedule. Where an application for refugee status is rejected by the REC,

²⁴⁶ *ibid.*, Sec. 10.

²⁴⁷ Refugee Eligibility Committee (REC) consists of (a) the Permanent Secretary of the Ministry responsible for refugees, who shall be the Chairperson of the Committee, or his or her representative; (b) the Permanent Secretary of the Ministry responsible for Internal Affairs or his or her representative; (c) the Solicitor General or his or her representative; (d) the Permanent Secretary of the Ministry responsible for Foreign Affairs or his or her representative; (e) the Permanent Secretary of the Ministry responsible for Local Governments or his or her representative; (f) the Director General of the Internal Security Organization or his or her representative; (g) the Director General of the External Security Organization or his or her representative; (h) the Director, Special Branch, Uganda Police Force, or his or her representative; (i) the Commissioner for Immigration, or his or her representative. The Commissioner for Refugees, or his or her representative, shall be (a) an ex officio member of the Eligibility Committee without power to vote on any matter before the Committee, and Secretary to the Committee. The UNHCR may attend meetings of the REC in an advisory capacity. See The Refugees Act 2006, Sec. 11.

²⁴⁸ *ibid.*, Sec. 20.

²⁴⁹ A specimen for Form C is given in Appendix IV.

it states the reasons for the rejection in writing in Form D²⁵⁰ specified in the Third Schedule.²⁵¹

p) Should the applicant be aggrieved by the decision of the REC, he/she may appeal²⁵² to the Appeals Board in writing within thirty days after receipt of the notice of the decision of the REC. An appeal to the Appeals Board arising out of a decision of the REC is in Form E specified in the Third Schedule. An appeal to the Appeals Board has to be heard and determined within sixty days from the date of receipt of the appeal. The Secretary to the Appeals Board within fourteen days after receipt of an appeal set down the appeal for hearing has to notify the person making the appeal of the date of the hearing of the appeal²⁵³ in Form F²⁵⁴ specified in the Third Schedule. Finally, if the Appeals Board decides otherwise, and the person is aggrieved by its decision, he/she may apply to the court for judicial review.²⁵⁵

q) Where a person is granted refugee status under the Refugees Act and Regulations, the Commissioner has to register the name

²⁵⁰ Find a specimen of Form D in Appendix V.

²⁵¹ *ibid.*, Sec. 24.

²⁵² A specimen for Form E is given in Appendix VI.

²⁵³ *ibid.*, Sec. 30.

²⁵⁴ See Form F in Appendix VII.

²⁵⁵ *ibid.*, Sec. 39.

and particulars of the person in a register of refugees²⁵⁶ maintained by the Commissioner, including the members of his or her family where applicable. The Commissioner allocates to every person registered/granted the refugee status a refugee number which has to be maintained by the person as long as he or she remains a refugee in Uganda.²⁵⁷

- r) Similarly, the Commissioner issues to every person granted a refugee status and every member of his or her family an identification document²⁵⁸ which contains the identity number of the refugee, the name of the refugee, gender, date of birth and the place where he or she was born, the country where the refugee is a citizen, a recent photograph of the refugee, and the fingerprints of the refugee.²⁵⁹ Whenever required by an immigration officer or a police officer, a person who has applied for refugee status or has been granted a refugee status has to produce his or her identity card for inspection. The identity card has to be surrendered to the nearest immigration officer or police officer: before the holder departs from Uganda; when the holder acquires citizenship of Uganda; or where the holder is

²⁵⁶The Register of Refugees is in Form G specified in the Third Schedule of the Refugees Act 2006. See Appendix VIII.

²⁵⁷ *ibid.*, Sec. 40.

²⁵⁸ See Form H in Appendix IX.

²⁵⁹ *ibid.*, Sec. 42.

dead, by the person in possession of the identity card, within thirty days after the death of the holder.²⁶⁰

s) *Expeditious handling of abusive or unfounded application.* It should be noted that the REC, may, notwithstanding any other regulations, expeditiously hear and determine an application that in its opinion is clearly abusive or manifestly unfounded. Where the REC hears and determines an application under this regulation, it will within seven days after hearing the application notify the applicant of its decision and advise him or her on his or her right to appeal. The REC takes appropriate measures in accordance with the law for the deportation of an applicant where the application is rejected under this regulation.²⁶¹

Rights of refugees in Uganda

The second objective of the study was: "to establish the rights of refugees in Uganda as guaranteed by the international instruments." Under this objective, the researcher wanted to establish the various legal entitlements and freedoms that the Government of Uganda gives to people who apply for and are given refugees status in Uganda. The researcher discovered that while in Uganda, refugees have/enjoy the

²⁶⁰ *ibid.*, Sec. 43.

²⁶¹ *ibid.*, Sec. 15 (1-3).

following rights.²⁶²

- a) Are issued with an identity card in a prescribed form stating the refugee status of the holder for purposes of identification and protection;
- b) Are permitted to remain in Uganda;
- c) Are entitled to fair and just treatment without discrimination on grounds of race, religion, sex, nationality, ethnic identity, membership of a particular social group or political opinion;
- d) Receive at least the same treatment as is generally accorded to aliens under the Constitution and any other law in force in Uganda; and be entitled to privileges that may be granted under the laws of Uganda by any administrative agency or organ of the Government:
- e) Receive at least the same treatment accorded to aliens generally in similar circumstances relating to: movable and immovable property and other rights pertaining to property and to leases and other contracts relating to movable and immovable property; the right to transfer assets held and declared by a refugee at the time of entry into Uganda, including those lawfully acquired in Uganda; education, other than elementary education for which refugees

²⁶² See The Refugees Act 2006, Sec. 29.

must receive the same treatment as nationals, and in particular, regarding access to particular studies, the recognition of foreign certificates, diplomas and degrees and the remission of fees and charges; the right to engage in agriculture, industry, handicrafts, and commerce and establish commercial and industrial companies in accordance with the applicable laws and regulations in force in Uganda; the right to practice the profession of the refugee who holds qualifications recognized by the competent authorities in Uganda and who wishes to practice that profession; the right to have access to employment opportunities and engage in gainful employment; and any other right that may legally be accorded to a refugee.

- f) Have the same rights as the nationals of Uganda with respect to practicing their religion and the religious education of their children;
- g) Have a right of association as regards non-political and nonprofit making associations and trade unions;
- h) Have free access to courts of law, including legal assistance under applicable laws of Uganda.
- i) Are accorded the same protection as is accorded to the nationals of Uganda in respect of the protection of intellectual property

rights, including industrial, inventions, patents, designs, trade names, copyrights and other artistic and scientific works.

- j) *Freedom of movement.* Recognized refugee are entitled to free movement in Uganda like other aliens as long as their movements don't national security, public order, public health, public morals or the protection of the rights and freedoms of others.²⁶³
- k) *Right to travel document.* A recognized refugee staying in Uganda is entitled to a travel document for the purpose of travel outside Uganda, unless compelling reasons of national security or public order require otherwise.²⁶⁴
- l) *Rights of refugee children.* Refugee children in Uganda shall be accorded the same treatment as nationals with respect to elementary education. In addition, every refugee child is entitled to the enjoyment of the rights d freedoms contained in (a) The Children Act, Cap. 59²⁶⁵; (b) The African Charter on the Rights

²⁶³ *ibid.*, Sec. 30.

²⁶⁴ *ibid.*, Sec. 31.

²⁶⁵ The rights of children are fully embedded in the Child Act, Chap.59 of Uganda. For example, Article 4 entitles a right to stay with his/her parents. Article 5 states that it shall be the duty of a parent, guardian or any person having custody of a child to maintain that child and, in particular, that duty gives a child the right to: (a) education and guidance; (b) immunization; (c) adequate diet; (d) clothing; (e) shelter; and (f) medical attention. In addition, any person having custody of a child is required to protect him or her from discrimination, violence, abuse and neglect. Article 6 states that every parent shall have parental responsibility for his or her child. Where the natural parents of a child are deceased, parental responsibility may be passed on to relatives of either parent, or by way of a care order, to the warden of

and Welfare of the Child, 1981; (c) The Convention on the Rights of the Child, 1989²⁶⁶; and (d) The Geneva Convention -

m) Irrespective of the child's parent's or legal guardian's race, ethnic group, colour, sex, language, relation, political or other opinion-national and social origin, fortune, birth or other status.²⁶⁷

n) *Rights of women refugees*. A woman refugee shall have equal opportunities and access to procedures relating to refugee status; and affirmative action shall be taken to protect women refugees

an approved home, or to a foster parent. Under Sec. 7, it is forbidden to subject a child to social or customary practices that are harmful to the child's health.

²⁶⁶ The Convention on the Rights of the Child, 1989's objective is to protect children from discrimination, neglect and abuse. It is the principal children's treaty, covering a full range of civil, political, economic, social and cultural rights. It grants rights for children in peacetime as well as during armed conflict, and provides for the implementation of those rights. The Convention serves as both a rallying point and a useful tool for civil society and individual people, working to protect and promote children's rights. In many ways, it is an innovative instrument. This Convention is the first legally binding international treaty to give universally-recognized norms and standards for the protection and promotion of children's rights in a single text. It is the most rapidly and widely ratified international human rights treaty in the world. This unprecedented wide participation clearly shows a common political will to improve the situation of children. It creates a new vision of the child, combining provisions aimed at protecting the child through positive action by the child's country, parents and relevant institutions, with provisions that recognize the child as a holder of participatory rights and freedoms. In this way it creates rights in areas not covered by previous international treaties, such as the right of the child to freely express views and have those views taken seriously, and the right of the child to a name and nationality from birth. The Convention also creates standards for such issues as alternative care, the rights of disabled and refugee children; and the administration of juvenile justice. It also stresses the need for recovery and social reintegration of a child victim of neglect, exploitation or abuse. It serves as a useful tool for advocacy and greater awareness of the new understanding on children's rights, and attaches special importance to international cooperation and assistance as ways of protecting children's rights. The Convention rests on a foundation of four general principles that express its philosophy and offer guidance to national programs for putting that philosophy into effect. Key provisions focus on: non-discrimination; best interests of the child; right to life, survival and development; and the views of the child. See <http://cyberschoolbus.un.org/treaties/child.asp>

²⁶⁷ *ibid.*, Sec. 32.

from gender discriminating practices. In addition, a woman refugee is entitled to equal enjoyment and protection of all human rights and fundamental freedoms in economic, social, cultural, civil or any other fields as provided for in the Constitution and other relevant laws in force in Uganda and international and regional instruments to which Uganda is a party, and in particular the following (a) the Convention on the Elimination of All Forms of Discrimination Against Women, 1979; and (b) the African Charter on Human and People's Rights, 1981.²⁶⁸

- o) *Rights of family member of refugee.* A member of the family of a recognized refugee is entitled to the same rights and subject to the same obligations as the recognized refugee.²⁶⁹
- p) *Right to representation and fair hearing.* A refugee status applicant appearing before the Appeals Board shall have a right to be represented at the hearing by an advocate or any other person appointed by him or her at his or her expense.²⁷⁰ Besides, at the hearing of the appeal, the appellant shall be given a fair hearing with regard to the rules of natural justice.²⁷¹

²⁶⁸ *ibid.*, Sec. 33.

²⁶⁹ *ibid.*, Sec. 36.

²⁷⁰ *ibid.*, Sec. 31.

²⁷¹ *ibid.*, Sec. 33.

q) *Extradition and return of refugee.* Notwithstanding the provisions of any other law, no person shall be refused entry into Uganda, expelled, extradited or returned from Uganda to any other country or subjected to any similar measures, as a result of such refusal, expulsion, return or other measure, that person is compelled to return to or remain in a country where—(a) he or she may be subjected to persecution on account of race, religion, sex, nationality, membership of a particular social group or political opinion; or (b) his or her life, person or liberty would be threatened on account of external aggression, occupation, foreign domination or events seriously disturbing public order in a part of or in the whole of that country. Where necessary, the Minister shall take such steps as he or she considers appropriate to ensure that a person gets admission into another country of his or her choice.²⁷²

r) *Access to employment.* A person who has been granted refugee status and is in possession of a valid identity card issued by the Commissioner for Refugees, shall, in order to facilitate his or her local integration, be allowed to engage in gainful or wage earning employment on the most favourable treatment accorded to foreign residents in similar circumstances; except that recognized

²⁷² *ibid.*, Sec. 42.

refugees shall exceptionally be exempt from any requirement to pay any charges or fees prior to the taking up of any offer of or to continue in his or her employment.²⁷³

s) *Access to land use.* A refugee who is residing in a designated refugee settlement or a refugee area shall have free access to use land for the purposes of cultivation or pasturing, except that they shall have no right to sell, lease or otherwise alienate the land that has been allocated to them strictly for individual or family utilization. In addition, a refugee who resides outside a designated refugee camp as a t may legally acquire or dispose of his or her occupancy or hold interests in land, as the law permits resident aliens generally to do.²⁷⁴

t) *Refugees attaining citizenship.* A person holding refugee status in Uganda, who becomes eligible to apply for citizenship in Uganda, may do so on his or her own behalf and that of his or her spouse and any dependant minor children. A person with refugee status who acquires Ugandan citizenship ceases to be a refugee.²⁷⁵

Findings revealed, however, that while enjoying the foregoing rights, refugees are duty-bound to fulfill the following duties and

²⁷³ *ibid.*, Sec. 64.

²⁷⁴ *ibid.*, Sec. 65.

²⁷⁵ *ibid.*, Sec. 67.

obligations: (a) be bound by and conform to all laws and regulations currently in force in Uganda; (b) conform to measures taken for the maintenance of public order; (c) not engage in activities which may endanger state security. harm public interests or disrupt public order; (d) not engage in any political activities within Uganda, whether at local or national level; (e) 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; and (f) if engaged in gainful employment or fully integrated and has a source of income, pay taxes in accordance with the applicable tax laws of Uganda.²⁷⁶

The Role that the UNHCR and Government of Uganda (have) played in facilitating the realization of refugees' rights in Uganda

The third objective of the study was: "to establish the roles that the UNHCR and Government of Uganda (GoU) (have) played in facilitating the realization of refugees' rights in Uganda." Under this objective, the researcher wanted to answer the question: What roles have the UNHCR and GoU played in facilitating the realization of refugees' rights in Uganda? Findings reveal that indeed, the UNHCR and GoU have

²⁷⁶ *ibid.*, Sec. 35.

played a significant role in facilitating the realization of refugees' rights in Uganda. Both (have) worked as partners, and therefore, complimented and supplemented each other, in helping refugees realize their rights. Their role in realization was very resounding in the provision of support services and logistics to refugees in areas of: legal assistance; education; crop production; health and nutrition; settlements, shelter and other infrastructure; and peaceful return of refugees, as elaborated below.

Legal assistance

Findings reveal(ed) that from the year 2000 onwards, refugees in Uganda received substantial legal assistance. In 2000, UNHCR assisted the Government in dealing with cases awaiting refugee status determination since 1998 and 1999, as well as new cases referred to the refugee eligibility committee for determination in 2000.²⁷⁷ In 2004, UNHCR organized six protection workshops for police officers, implementing partners and its own staff, including sessions on the rights of the child and the documentation and registration of unaccompanied minors. UNHCR signed a Memorandum of

²⁷⁷ UNHCR Global Report 2000, 168.

Understanding with a local NGO to provide legal aid services to refugees charged with criminal offences.²⁷⁸

In 2006, a thorough refugee status determination was done and asylum-seekers in urban areas were issued identity cards. The waiting period for status determination was reduced from 18 months in 2005 to six in 2006. Following adoption of the Refugee Bill, UNHCR helped with its implementation by making local government officials and civil-society workers aware of refugees' rights and obligations. In partnership with the Refugee Law Project, the UNHCR Office trained law enforcement and government officials.²⁷⁹ In 2007, the Standard Operating Procedures for cases of sexual and gender-based violence were adopted by all operational and implementing partners.²⁸⁰

In 2008, refugees were provided with legal assistance when needed. They were also given protection training which made them aware of their rights and obligations.²⁸¹ In addition, the Government of Uganda together with the UNHCR verified and registered some 23,000 urban refugees.²⁸² In 2009, UNHCR provided timely legal assistance to

²⁷⁸ UNHCR Global Report 2004, 234.

²⁷⁹ UNHCR Global Report 2006, 253.

²⁸⁰ UNHCR Global Report 2007, 234.

²⁸¹ UNHCR Global Report, 2008, 75.

²⁸² *ibid.*, 74.

refugees and IDPs. Authorities were trained to better protect refugees. Refugees were sensitized on their basic rights and obligations.²⁸³

Education

Findings indicate overwhelmingly that refugees in Uganda get access to education, especially at elementary levels. In 2000, for example, the education of refugees was further harmonized with the national education system, especially in primary education. In secondary education, UNHCR focused on capacity-building of national schools to absorb refugees, and the provision of scholarships. Income-generating activities led to an increased number of refugee parents being able to contribute meaningfully to the education of their children. A cost-sharing strategy was introduced in the scholarship schemes whereby students' families contributed towards certain allowances. Beneficiaries of the formal education system were between five and 25 years of age.

A total of 18,607 children were enrolled in nursery/pre-school education (49 per cent girls) and 57,564 attended primary education (43 per cent girls). Some 12,720 children were enrolled in secondary education (16 per cent girls) and 378 received vocational or university education (28 per cent females). By the end of the year, the recommended teacher to pupil ratio of one to 55 had been attained in

²⁸³ UNHCR Global Report 2009, 93.

the 37 primary schools and three secondary schools in Adjumani, and in the 14 primary schools and one secondary school in Moyo.

In addition, 15 primary and four secondary schools were registered, and 25 primary schools were licensed. This was possible thanks to the construction of sanitation facilities in several schools. However, the quality of tuition still needed improvement in most of the schools. To this end, teacher training was offered: 186 refugees were trained (or re-trained) as primary school teachers and 34 as secondary school teachers.²⁸⁴

In 2002, UNHCR continued to integrate educational activities for refugees into the national education system, especially at the primary level. A total of 32 refugee schools were handed over to the District Education Offices in Arua, Adjumani and Moyo. In total, UNHCR supported 66 refugee primary schools, 10 self-help secondary schools, and refugee students enrolled in 34 national secondary schools. Out of 81,300 school-aged refugee children, UNHCR assisted 89 per cent from pre-primary up to secondary education (43 per cent of them girls). Preschool enrolment increased by six per cent as a result of a school feeding programme supported by UNHCR and WFP. Secondary school enrolment among girls increased by 23 per cent following an

²⁸⁴ UNHCR Global Report 2000, 170.

affirmative action programme. However, there was a decrease in boys' primary and secondary school enrolment, reportedly due, inter alia, to fears of military recruitment by Sudanese rebels. 720 young refugees (32 per cent female) received vocational or university education. Participation in adult literacy programmes increased by 42 per cent.²⁸⁵

In 2003, some 430 desks were supplied to schools in the new settlements in Ikafé and Madi-Okollo. Examination papers were supplied to all primary schools. Ten teachers in self-help secondary schools received monthly incentives. Sixty-nine students benefited from DAFI scholarships and undertook tertiary education. In Adjumani and Moyo districts, 25,450 pupils were enrolled, 11,824 of them female. The enrollment of female students has increased by 13.2 per cent since 2002, mainly as a result of the school feeding programme and the promotion of education for girls. In secondary education, 2,790 children were enrolled, a 3.2 per cent increase on the previous year. At three secondary boarding schools, 188 girls were supported by UNHCR. Sanitary materials were distributed to schoolgirls.²⁸⁶

In 2006, UNHCR constructed schools in Nakivale and Kyaka, and a five-classroom semi-permanent block for IDP children in Adjumani district.

²⁸⁵ UNHCR Global Report 2002, 195.

²⁸⁶ UNHCR Global Report 2003, 217.

The Office also gave scholarships for secondary education to some 80 refugee girls and to 90 refugees for university studies. The enrolment rate in primary school varied from 35 to 71 per cent, and between 35 and 45 per cent of the students were girls.²⁸⁷ In 2007, there were more than 35,000 refugee pupils and more than 7,000 national pupils in primary schools supported by UNHCR. The UNHCR Office provided textbooks and scholastic materials, and helped some 800 people, most of them Sudanese, learn vocational or teaching skills.²⁸⁸

In 2009, all refugee children in refugee settlements, attended primary school. In Moyo and Adjumani, girls' enrolment stood at 53 per cent. The dropout rate is currently 33 per cent, due mainly to repatriation, marriage or illness. In settlements of Congolese refugees the provision of educational materials and administrative support was improved. Sixteen schools were rehabilitated or constructed in IDP settlements, and seven primary schools in Amuria, Katakwi and Pader districts were provided with desks.²⁸⁹

Crop production

Findings revealed that the Government of Uganda together with the UNHCR supported refugees to get agricultural land, seeds, and training

²⁸⁷ UNHCR Global Report 2006, 253.

²⁸⁸ UNHCR Global Report 2007, 234.

²⁸⁹ UNHCR Global Report 2009, 92-3.

so as to grow crops, and consequently be self-sustaining, especially in areas of food. This trend is visible through the whole period from 2001 to date (2010). In 2002, 9,609 hectares of agricultural land in Arua district were distributed to 38,500 refugees. Residential and arable plots were demarcated and 1,209 new arrivals received plots. In Adjumani and Moyo districts, 5,938 refugee families received seeds, tools and agricultural advisory services, and 3,849 hectares of land were planted. In Kyangwali, UNHCR distributed seeds (maize, sorghum and beans) as well as agricultural tools to 1,400 refugee families.²⁹⁰

Similarly, in the following year (2003), 4,282 hectares (47 per cent of available arable land) in Arua, was given over to crop production. Agricultural tools and special varieties of seeds were distributed to farmers. In Adjumani and Moyo, 5,363 refugee families received maize, cassava and cowpea seeds. In order to irrigate crops during the dry season, seven foot pumps were procured and used. Assorted seeds and agricultural tools were provided to former Achol-Pii refugee groups in Kyangwali.²⁹¹ In 2006, some 300 farmers were trained in agro-forestry and were provided with about 15,000 seedlings.²⁹² In 2009, Refugees received 357 kgs of beans, 132 kgs of seeds and 227kgs of

²⁹⁰ UNHCR Global Report 2002, 194-5.

²⁹¹ UNHCR Global Report 2003, 215.

²⁹² UNHCR Global Report 2006, 253.

groundnut seeds. Fifty Farmer Field School (FFS) groups were formed to train members in tractor use and management in Adjumani, Moyo, Yumbe, Nyadri and Arua. Some 200 FFS group members were also trained in quality seed production.²⁹³

Health and nutrition

Findings revealed that the UNHCR and Government of Uganda provided health and nutrition assistance to refugees throughout. Findings revealed that in 2000, the aim was to integrate refugee health services with the national health care system in order to establish sustainable health standards for everybody living in areas hosting refugees. UNHCR worked closely with directors of district health services and ensured that health issues of importance to refugees were included in annual district health plans. Health and nutrition services for Impevi camp were successfully transferred to Arua District. A comprehensive essential health care package was delivered to some 215,000 refugees and 144,000 nationals living in and around refugee impacted areas.²⁹⁴

In 2003, health services were made accessible to refugees and local communities throughout the year. The health and nutritional status of

²⁹³ UNHCR Global Report 2009, 92.

²⁹⁴ UNHCR Global Report 2000, 170.

refugees remained within acceptable levels. Drugs and other medical supplies were provided in time and in sufficient quantities throughout the year. Immunization against measles was conducted for all children below five years and vaccination coverage of 86 per cent was achieved. The most common causes of morbidity and mortality among the refugee population were, in descending order of magnitude: malaria, respiratory tract infections, diarrhoea, worm infestations, sexually transmitted illnesses (STIs) and HIV/AIDS-related infections. Sensitization campaigns on STIs and HIV/AIDS were conducted in refugee settlements using Ted Turner funds received in the latter half of the year. A Regional Workshop on Refugees and HIV/AIDS was organized in December 2003. Voluntary counseling and testing services were established in Kyangwali, Adjumani and through a mobile service in Mbarara and Arua refugee settlements. In Arua, refugee health services in Imvepi settlement and three health centers in Adjumani/Moyo were handed over to the District Director of Health Services to kick-start the SRS implementation process.²⁹⁵

In 2006, all refugees in settlements benefited from primary health care services, and overall immunization coverage was 90 per cent. Refresher courses on primary health care were given to community

²⁹⁵ UNHCR Global Report 2003, 218.

health workers and traditional birth attendants. The crude mortality rate was reduced in all settlements and was significantly lower than the national average.²⁹⁶

In 2007, Public Health Services were provided in all refugee settlements, where immunization coverage remained at over 95 per cent. However, there were outbreaks of cholera, meningitis and ebola during the reporting period. In partnership with Uganda's Ministry of Health and implementing partners, UNHCR helped to establish an effective system for disease control, prevention and monitoring. Global Acute Malnutrition and Severe Acute Malnutrition indicators showed an improvement from an average 6.4 and 2.4 in 2006 to 5.73 and 1.33 in 2007, respectively.²⁹⁷ At the end of 2009, all refugees and nationals in hosting communities had access to primary health care. In Arua, the global acute malnutrition rate was reduced from 5 per cent in 2008 to 4.8 per cent in 2009, while the severe acute malnutrition rate fell from 2 per cent to 1.8 per cent over the same period.²⁹⁸

Settlements, shelter and other infrastructure

Findings reveal(ed) that refugees in Uganda got land for settlements, shelter and other infrastructure with the assistance of Government and

²⁹⁶ UNHCR Global Report 2006 , 253.

²⁹⁷ UNHCR Global Report 2007, 234.

²⁹⁸ UNHCR Global Report 2009, 93.

the UNHCR. In 2003, the district authorities in Arua and Yumbe, provided land for settlements to 14,741 refugees who were staying temporarily in Kiryandongo because they had been displaced from Achol-Pii.²⁹⁹

In 2004, while the Government provided plots to newly arrived refugees in the settlements in the north western parts of the country, UNHCR provided tools and plastic sheetings for the new arrivals to construct their shelters. A seventy- five km access road was maintained in the settlements in Moyo, and 18 km of access road leading to the Kyaka II settlement for the newly arrived Congolese refugees was maintained. A multiple culvert bridge was constructed across Olijji River in Adjumani.³⁰⁰

In 2008, shelter materials were provided for new Kenyan and DRC refugees and shelter capacities were enlarged in repatriation centers in order to accommodate groups of up to 600 returnees.³⁰¹ In addition to receiving non-food items, refugees were allocated plots of land for agriculture and shelter in 2009.³⁰²

²⁹⁹ UNHCR Global Report 2003, 213.

³⁰⁰ UNHCR Global Report 2004, 235.

³⁰¹ UNHCR Global Report 2008, 75.

³⁰² UNHCR Global Report 2009, 92.

On the side of roads and other infrastructure, twenty km of road were constructed and more than 210 km rehabilitated in Adjumani and Moyo districts in 2000. Out of the three bridges planned, only one was constructed due to shortage of funds. In Arua, one bridge was repaired.³⁰³ In 2002 in Arua, UNHCR maintained settlement roads and assisted the refugee-hosting areas with construction materials under Quick Impact Projects. In Adjumani/Moyo, 177 km of road were maintained or rehabilitated. A multiple culvert bridge was constructed across the river Nyawa in Moyo.³⁰⁴

In 2005, some 450 km of roads were maintained to facilitate access to the settlements. Access was particularly difficult in the rainy season. Over 750 plots were demarcated for the new arrivals.³⁰⁵ In 2007, the UNHCR Office maintained roads to refugee settlements and opened new roads where necessary, particularly to Nakivale and Kyaka II settlements. Following the repatriation of Sudanese refugees, the Government and UNHCR began mapping the refugee facilities in need of rehabilitation.³⁰⁶

³⁰³ UNHCR Global Report 2000, 171.

³⁰⁴ UNHCR Global Report 2002, 196.

³⁰⁵ UNHCR Global Report 2005, 205.

³⁰⁶ UNHCR Global Report 2007, 234-5.

Income Generation

In 2000 refugees benefited from participatory activities related to production and marketing (including improved production for commercial farming) and skills training for income generation. The 98,941 refugee and 50,000 national participants included women, adolescents, children and disabled people. In addition, both refugees and nationals benefited from Quick Impact Projects for the construction of classrooms, health facilities and boreholes. This generated a positive attitude on the part of nationals towards refugees, while skills training generated better employment opportunities and improved standards of living. In Adjumani and Moyo, 560 persons (91 per cent women) were trained in handicrafts, enabling them to provide for their families. Five business educators and 238 beneficiaries were trained in business skills. Over 80 savings and credit groups were formed, and 1,966 persons (93 per cent women) were supported with start-up funds.³⁰⁷

In 2002, efforts were geared to improved crop production, marketing, micro-finance and skills training. In Arua, 160 refugees (64 women), were trained on life skills such as home economics, use of fuel-saving stoves and pest control. Furthermore, 26 refugees received training on

³⁰⁷ UNHCR Global Report 2000, 171.

basic business skills, marketing and leadership. In Adjumani, 166 refugees (47 women) were trained on micro-finance enterprise and management. 34 refugees (19 women) were trained as instructors to ensure that impact is sustainable. 47 income generation groups (comprising 200 persons in all) received loans from a revolving loan scheme.³⁰⁸

In 2003, refugees learned more about improved crop production, with the result that households were often able to generate and sell larger surpluses (over and above their subsistence needs). In Arua, 160 refugees, of whom 64 were women, benefited from life skills training courses. In addition, 26 refugees were trained by the Uganda Change Agency on business skills, banking, marketing and leadership (funded by a revolving loan scheme). Some 47 income generation groups (200 persons) and 14 individuals received loans. In Adjumani/Moyo, five training workshops on rural micro-finance and management were conducted for the benefit of 166 persons (47 women). Training of Trainers on micro-enterprise management and project planning was conducted for the benefit of 34 persons (19 women).³⁰⁹ In 2009, communities were sensitized on empowerment of women and trained

³⁰⁸ UNHCR Global Report 2002, 196.

³⁰⁹ UNHCR Global Report 2003, 218.

on income generating activities as well as micro-finance program to improve livelihoods.³¹⁰

Cross-cutting roles

Besides the foregoing, the UNHCR and Government helped refugees to realize other cross-cutting rights like right to food, water, and movement. In 2007, some 170,000 refugees received different types of food rations during the year. The size of food rations were reduced in Ikafe, Moyo and Adjumani.³¹¹ Regarding water, an average of 15 litres of water per day was provided to all refugees. New boreholes were drilled in the West Nile and Nakivale areas. The ratio of the number of people per water source improved to 333 in Rhino camp, where previously it had been 554; to 687 in Imvepi (previously 963), and 555 in Madi Okollo (previously 1,389). Significant improvements were made in Nakivale, where the quantity of water available per person per day increased from 4.6 liters at the end of 2006 to 11.6 liters at end of 2007.³¹² In relation to domestic needs and household support, non-food items such as soap, kitchen utensils, agricultural tools, firewood and wooden poles for the construction of shelters were given to some

³¹⁰ UNHCR Global Report 2009, 93.

³¹¹ UNHCR Global Report 2007, 234.

³¹² UNHCR Global Report 2007, 235.

5,000 new arrivals from the DRC. Emergency shelter assistance was also provided to IDPs with specific needs.³¹³

By the end of 2009, refugees in the settlements enjoyed freedom of movement, and some were able to find work. All refugees and a small number of asylum-seekers in Nakivale and Oruchinga were registered. Unaccompanied minors and separated children in Kyaka, Kyangwali and Kiryandongo settlements benefited from Best Interests Determination (BID) exercises. Extremely vulnerable individuals in the settlements were provided with food.³¹⁴ By the end of 2009, refugees who had been incarcerated received legal support. Most refugees and asylum-seekers enjoyed civil and social rights, and some had access to the labour market. All new arrivals and relocated refugees were registered. In addition to receiving non-food items, refugees were allocated plots of land for agriculture and shelter.³¹⁵

Extradition and return of refugee

The law of Uganda on extradition and return of refugee clearly states that: “no person shall be refused entry into Uganda, expelled, extradited or returned from Uganda to any other country or subjected to any similar measures, as a result of such refusal, expulsion, return

³¹³ UNHCR Global Report 2007, 234.

³¹⁴ UNHCR Global Report, 2008, 74-5.

³¹⁵ UNHCR Global Report 2009, 92.

or other measure, that person is compelled to return to or remain in a country where—(a) he or she may be subjected to persecution on account of race, religion, sex, nationality, membership of a particular social group or political opinion; or (b) his or her life, person or liberty would be threatened on account of external aggression, occupation, foreign domination or events seriously disturbing public order in a part of or in the whole of that country.”³¹⁶

From the findings, especially the UNHCR Global Reports 2000-2009, Uganda is portrayed as a country respectful and keen in applying and implementing the Non-refoulment Principle of International Law; a country that continued to show hospitality to refugees and asylum-seekers. Between 2000 and 2009 no cases of refoulment were reported. In other words, Uganda did not forcibly return or forcibly repatriate any refugees to their original home countries when the conditions that forced them to migration normalized. Instead, it encouraged voluntary return/voluntary repatriation as the basis for refugees return. It did this in collaboration with the UNHCR and the home countries for the refugees (to which they were to return).

³¹⁶ The Refugees Act 2006, Sec. 42.

Several examples can verify this. In 2003, 143 refugees were assisted to repatriate and 273 refugees were resettled in third countries.³¹⁷

In 2004, some 2,500 Rwandan, 59 Sudanese and 24 Congolese refugees were helped to voluntarily repatriate with the help of UNHCR.³¹⁸ In 2006, some 28,800 refugees from the DRC were assisted and facilitated to voluntarily return (to DRC). In March 2006, the Governments of Uganda and Sudan and UNHCR signed a tripartite repatriation agreement that allowed more than 5,000 refugees to voluntarily repatriate to their communities in Southern Sudan.³¹⁹ A Protection Cluster was established in Kampala, Gulu, Lira, Kitgum and Pader, with a sub-cluster on camp coordination and management. The majority of cluster members, including government authorities, accepted the principle of freedom of movement for all Internally Displaced Persons (IDPs). Some 300,000 IDPs returned voluntarily to their areas of origin, with the help of return assessment teams, a “tools-for-work” programme and improved access roads.³²⁰

By December 2007, more than 55,000 refugees had voluntarily repatriated to Sudan with UNHCR’s assistance since the beginning of

³¹⁷ UNHCR Global Report 2003, 213.

³¹⁸ UNHCR Global Report 2004, 230.

³¹⁹ UNHCR Global Report 2006, 251.

³²⁰ UNHCR Global Report 2006, 252-3.

the voluntary repatriation programme in May 2006.³²¹ There were no cases of illegal expulsion or deportation of refugees that were reported in 2008³²² and 2009³²³. Instead, some 42,000 and 94,000 Sudanese refugees were voluntarily repatriated with the assistance of UNHCR by the end of 2008³²⁴ and 2009³²⁵ respectively.

The only exception was on July 14, 2010 when Uganda refoiled/forcibly repatriated 1700 Rwandese from Nakivale and Kyaka Refugee Settlements in south-west Uganda. On getting the news of the forced returnees, the UNHCR got concerned. The UNHCR's spokesperson, Melissa Fleming, reported that the returnees were forcibly driven across the border to Rwanda, where they arrived the following morning. Fleming said that although UNHCR was broadly aware of an agreement between Uganda and Rwanda to return failed asylum-seekers, they were not informed of the timing and the nature of this operation. The UNHCR vehemently condemned Ugandan authorities for the refoiling of the 1700 Rwandese.³²⁶

³²¹ UNHCR Global Report 2007, 233.

³²² UNHCR Global Report 2008, 74.

³²³ UNHCR Global Report 2009, 92.

³²⁴ UNHCR Global Report 2008, 74.

³²⁵ UNHCR Global Report 2009, 91.

³²⁶ UNHCR condemns forced return of 1,700 Rwandans from Uganda
<<http://www.unhcr.org/4c406edb6.html>> accessed 16 July 2010.

In defence, Uganda argued that it did not refoul refugees per se; rather, it refouled failed asylum-seekers who were viewed as a security risk. "The Rwandans were forced out of Uganda...because they had no refugee status and had become a security risk", said Tarsis Kabwegyere, Uganda's Minister of Relief and Disaster Preparedness. Security concerns, at that time, had risen in Uganda since the twin bombings on July 11 which killed 76 people during the World Cup final.³²⁷

³²⁷ See Uganda defends repatriation of 1,700 Rwandans
<<http://www.baynews9.com/article/news/ap/july/124732/Uganda-defends-repatriation-of-1700-Rwandans>> accessed 20 July 2010.

CHAPTER FIVE

FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

This chapter presents the findings, conclusions arising out of the study, concludes with the recommendations. The chapter is largely a researcher's effort drawn from what were discovered in the study.

Findings

From the data presented in chapter four, and basing on the research objectives as well as research questions, the following summary has been made,

Legal procedures are adopted in vetting refugees who enter Uganda

The first objective of the study was: "to establish the legal procedures adopted in vetting refugees entering Uganda". Findings revealed that to be vetted and/or determined for refugee status in Uganda, several legal procedures are adopted: one has to qualify to be a refugee; has to apply to the Refugee Eligibility Committee (REC) for refugee status; has to wait for at least 30 days when his/her status is being processed; the application made has to be submitted in person to the Commissioner through an officer authorized by the commissioner or through the UNHCR representative; has to properly identify himself or herself and provide his or her finger prints and photographs to the refugee reception officer; has to furnish proof to the satisfaction of the Eligibility Committee that he or she is eligible to be granted refugee

status under the Refugee Act and Regulations; has to be issued with a temporary pass valid for ninety days, which acts as evidence that the person has applied for refugee status in Uganda; and should the applicant for refugee status be in possession of a firearm at the time of applying for refugee status, he/she has to surrender it to Commissioner or a person authorized by the Commissioner, who then finally hands over all collected firearms to the police.

In addition, civilian applicants have to be separated and accommodated separately from the disarmed combatants in order to maintain the purely civilian character of refugee settlements; applicants who are combatants or any persons engaged in rebellion or other military offensive against their country of origin or any other country, have, before being admitted into Uganda for the purposes of seeking refugee status, renounce the rebellion or other military activity; where a person is granted refugee status under the Refugees Act and Regulations, the Commissioner has to register the name and particulars of the person in a register of refugees maintained by the Commissioner, including the members of his or her family where applicable; and the Commissioner has to issue to every person granted a refugee status and every member of his or her family an identification document which contains the identity number of the

refugee, the name of the refugee, gender, date of birth and the place where he or she was born, the country where the refugee is a citizen, a recent photograph and the fingerprints of the refugee.

Rights that refugees enjoy while in Uganda

The second objective of the study was: "to establish the rights of refugees in Uganda." Findings revealed that while in Uganda, refugees enjoy several rights which include: being issued with an identity card for purposes of identification and protection; being permitted to remain in Uganda; being entitled to fair and just treatment without discrimination; receiving at least the same treatment as is generally accorded to aliens under the Constitution and any other law in force in Uganda; having the same rights as the nationals of Uganda in practicing their religion and the religious education of their children; have a right of association as regards non-political and nonprofit making associations and trade unions; have free access to courts of law, including legal assistance under applicable laws of Uganda; are given the same protection as is accorded to the nationals of Uganda in respect of the protection of intellectual property rights, including industrial, inventions, patents, designs, trade names, copyrights and other artistic and scientific works; have freedom of movement; have right to travel document; and right to representation and fair hearing,

access to land use and employment; right to attaining Ugandan citizenship; and not being refouled.

Role that UNHCR and Government (have) played in facilitating the realization of refugees' rights in Uganda from 2000-2009

The third and last objective of the study was: "to establish the roles that UNHCR and Government of Uganda have played in facilitating the realization of refugees' rights in Uganda." Findings revealed that UNHCR and Government of Uganda (have) worked very closely as partners, and therefore, complimented and supplemented each other in helping refugees realize their rights by providing support services and logistics in areas of legal assistance, education, crop production, health and nutrition, settlements, shelter and other infrastructure, and peaceful return (repatriation) of refugees.

Conclusions

From the study findings, the researcher makes the following conclusions.

- a) To be vetted and/or determined for refugee status in Uganda, several legal procedures are adopted: one has to qualify to be a refugee; has to apply to the Refugee Eligibility Committee (REC) for refugee status; has to wait for at least 30 days when his/her status is being

processed; the application made has to be submitted in person to the Commissioner through an officer authorized by the commissioner or through the UNHCR representative; has to properly identify himself or herself and provide his or her finger prints and photographs to the refugee reception officer; has to furnish proof to the satisfaction of the Eligibility Committee that he or she is eligible to be granted refugee status under the Refugee Act and Regulations; has to be issued with a temporary pass valid for ninety days, which acts as evidence that the person has applied for refugee status in Uganda; and should the applicant for refugee status be in possession of a firearm at the time of applying for refugee status, he/she has to surrender it to Commissioner or a person authorized by the Commissioner, who then finally to hand over all firearms collected to the police.

In addition, civilian applicants have to be separated and accommodated separately from the disarmed combatants in order to maintain the purely civilian character of refugee settlements; applicants who are combatants or any persons engaged in rebellion or other military

offensive against their country of origin or any other country, have, before being admitted into Uganda for the purposes of seeking refugee status, renounce the rebellion or other military activity; where a person is granted refugee status under the Refugees Act and Regulations, the Commissioner has to register the name and particulars of the person in a register of refugees maintained by the Commissioner, including the members of his or her family where applicable; and the Commissioner has to issue to every person granted a refugee status and every member of his or her family an identification document which contains the identity number of the refugee, the name of the refugee, gender, date of birth and the place where he or she was born, the country where the refugee is a citizen, a recent photograph of the refugee, and the fingerprints of the refugee. Basing on the foregoing, therefore, the first hypothesis which states that "Uganda does not have well stipulated legal procedures adopted in vetting applicants seeking for refugee status", is also rejected.

b) While in Uganda, refugees enjoy several rights which include: being issued with an identity card for purposes of identification and protection; being permitted to remain in Uganda; being entitled to fair and just treatment without discrimination; receiving at least the same treatment as is generally accorded to aliens under the Constitution and any other law in force in Uganda; having the same rights as the nationals of Uganda in practicing their religion and the religious education of their children; have a right of association as regards non-political and nonprofit making associations and trade unions; have free access to courts of law, including legal assistance under applicable laws of Uganda; are given the same protection as is accorded to the nationals of Uganda in respect of the protection of intellectual property rights, including industrial, inventions, patents, designs, trade names, copyrights and other artistic and scientific works; have freedom of movement; have right to travel document; and right to representation and fair hearing, access to land use and employment; right to attaining Ugandan citizenship; and not being refouled. Basing on the foregoing, therefore, the second hypothesis which states that "the laws of Uganda don't guarantee any rights for refugees", is also rejected.

c) UNHCR and Government of Uganda work(ed) very closely as partners and therefore compliment(ed) and supplement(ed) each other in helping refugees realize their rights by providing support services and logistics in areas of legal assistance, education, crop production, health and nutrition, settlements, shelter and other infrastructure, and peaceful return (repatriation) of refugees. Therefore, the third hypothesis which states that "there was no close partnership between UNHCR and Government in assisting refugees in Uganda", is also rejected.

Recommendations

Basing on the facts revealed through the study, and in order for the Government and UNHCR to adequately handle issues relating to refugees in Uganda, the researcher recommends as follows.

The need for increased inter-face and good communication between UNHCR and Government in relation to the Non-refoulment Principle and all other issues relating to Refugees in Uganda

As already indicated in chapter four, Uganda is portrayed as a country respectful and keen in applying and implementing the Non-refoulment Principle. However, on July 14, 2010, Uganda refouled/forcibly repatriated 1700 Rwandese from Nakivale and Kyaka Refugee Settlements in South-west Uganda. This act was not only alarming but was vehemently condemned by UNHCR. Although Uganda, in defence,

argued that it did not refool refugees but failed asylum-seekers who were viewed as a security risk, this unfortunate incident almost fractured the existing very cordial relations between UNHCR and Government of Uganda.

There is need, therefore, for the Government of Uganda and UNHCR to constantly, consistently and continuously interface and update each other, on most, if not all, issues relating to refugees in Uganda. Coordinators and/or Officers appointed by both parties for that specific purpose would be essential. Overall, good and effective communication between the Government of Uganda and UNHCR is the backbone for continued cooperation and coordination of all issues pertaining to refugees in Uganda.

The urgent need for circulation of the Refugees Act 2006 and the Refugees Regulation 2010 to the general public

The study discovered that although the Refugees Act 2006 and the Refugees Regulation 2010 (published 12 February 2010) are the main legal instruments relating to refugees, the two were not in adequate circulation. Virtually, all the most known bookshops like Aristoc, Uganda and Mukono bookshops, among others, didn't have any of the two legal instruments. Even where the researcher acquired them (Uganda Publishing Company, a Government of Uganda publishing

arm) is a hidden place which is very difficult to locate. There is need, therefore, for the Government of Uganda, together with UNHCR and other donors, to devise adequate financial and other logistical support to increase the circulation of the Refugees Act 2006 and the Refugees Regulation 2010 to the general public and refugees not only in Kampala but in all other parts of the country.

The urgent need for sensitization of refugees and masses about refugees' rights and obligation

Similarly, there is need for the Government of Uganda and UNHCR to fund and coordinate sensitization campaigns in all parts in Uganda to make refugees know, in detail, their rights and obligations as well as making Ugandan masses know their obligations in assisting and observing the rights of refugees. This will help ensure a peaceful co-existence between refugees and Ugandan citizens in places of refugee camps and resettlement.

Recommended areas for further study

The scope of the study was limited only to establishing the legal procedures adopted in vetting refugees in Uganda, the rights that refugees enjoy while in Uganda, and the role that the Government of Uganda and UNHCR play(ed) in helping refugees to realize their rights in Uganda. This, therefore, means that not all issues pertaining to

refugees were handled under the study. Another study, therefore, which will analyze the influx of refugees into Uganda and the trends and levels of refugees' repatriation from Uganda to their home country, may be a very vital study to pursue.

Second, this study did not venture into the socio-cultural and political conditions that refugees experience while in refugee camps and settlements in Uganda, neither did it venture into the interactions refugees have with the people in the communities they settle. Another study, therefore, venturing into the foregoing, may be necessary to unearth the associated facts on ground.

Lastly, Uganda is echoed and re-echoed, both in Africa and globally, as and for having the best refugees-friendly laws in the entire Great Lakes Region. A comparative study, therefore, which would analyze the refugees' laws of Uganda in comparison with those of other countries in the Great Lakes Region may be very vital in an attempt to streamlining, harmonizing and promoting best practices, policies, and laws related to the handling of refugees' affairs, not only in the Great Lakes Region but the whole of Africa.

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APPENDICES

APPENDIX 1 RESEARCH INSTRUMENT: A RESEARCHER DEVISED DOCUMENTARY REVIEW GUIDE (A Guide on Issues on which Data was collected)

- a) The legal procedures adopted in vetting refugees entering Uganda.
- b) Rights that refugees enjoy while in Uganda.
- c) The role that UNHCR and Government (have) played in facilitating the realization of refugees' rights in Uganda.

APPENDIX II:
FORM A -APPLICATION FOR REFUGEE STATUS³²⁸

Application for Refugee Status No.of 20.....
To the Refugee Eligibility Committee

I (*insert/full name of the applicant*)
do hereby apply for Refugee status in Uganda

A. Particulars of applicant

- a) Date of birth.....
- b) Country of birth.....
- c) Country of origin.....
- d) Sex.....
- e) Profession / Occupation
- f) Married/Single
- g) Place of birth.....
- h) Height.....
- i) Colour of hair
- j) Colour of eyes.....
- k) Present nationality or nationality Status
- l) Names of spouse(s) and every dependent child (with copies thereof if available, of marriage and birth certificates).

.....

B. Entry into Uganda

- a) Point of entry into Uganda.....
- b) Passport No.
- c) Date of entry into Uganda

³²⁸ Source: The Refugees Regulation, 2010, pp.85-6.

C. Reason for applying for refugee status

- a)
- b)
- c)
- d)
- e)

Dated thisday of20.....

.....
Signature of applicant

APPENDIX III:
FORM B - RENUNCIATION OF MILITARY ACTIVITIES³²⁹

1. (Full names) of (list the relevant particulars such as physical address etc)
 2. Sex.....
 3. Profession/Occupation.....
 4. Married / Single/ Divorced/.....
 5. Place of birth
 6. Date of birth.....
 7. Height.....
 8. Colour of hair.
 9. Colour of eyes.....
 10. Nationality of origin
 11. Present nationality or nationality status.....
- Do hereby renounce any military activity that I have been engaged in against the Government of.....
- Dated this day of20.....
- Signed thisday of20.....

³²⁹ Source: The Refugees Regulation, 2010, p.87.

**APPENDIX IV:
FORM C- NOTICE OF DECISION OF ELIGIBILITY
COMMITTEE³³⁰**

Refugee Status Application No.

To.....

(Insert name of applicant for refugee status)

This is to inform you that onday of.....20.....
the Refugee Eligibility Committee considered your application for
refugee status and decided—

- a) To grant you refugee status;
- b) To reject your application; or
- c) To dismiss your application.

Please note that if you are not satisfied by the decision of the Eligibility
Committee, you may appeal to the Appeals Board within thirty days
after receipt of this notice.

Dated.....day of.....20.....

.....
Commissioner

³³⁰ Source: The Refugees Regulation, 2010, p.88.

APPENDIX V:
FORM D-STATEMENT OF REASONS FOR REJECTION OF
APPLICATION FOR REFUGEE STATUS³³¹

Refugee Status Application No.

To.....
(Insert name of applicant for refugee status)

The application for refugee status is rejected by the Refugee Eligibility Committee for the following reasons—

1.
2.
3.
4.

Dated.....day of.....20.....

.....
Commissioner

³³¹ Source: The Refugees Regulation, 2010, p.89.

**APPENDIX VI:
FORM E-APPEAL AGAINST DECISION OF ELIGIBILITY
COMMITTEE³³²**

Appeal No.....of 20.....

To the Appeals Board

I (*insert name of person appealing*)
hereby appeal against the decision of the Refugee Eligibility Committee
in respect of my application for refugee status No20.....

This appeal is based on the following grounds—

1.
2.
3.

Pray that-

The decision of the Eligibility Committee is set aside and my application
is referred back to the Eligibility Committee for further consideration
and decision; or

The Eligibility Committee is ordered to re- hear my application for
refugee status.

.....
(*Signature of person appealing*)

³³² Source: The Refugees Regulation, 2010, p.90.

**APPENDIX VII:
FORM F-NOTICE OF HEARING DATE³³³**

Appeal No.of 20.....

To.....
(Insert name of person appealing)

Take notice that the Appeals Board will hear your appeal against the decision of the Refugee Eligibility Committee in respect of your application for refugee status on the day of..... 20..... take further notice that whereas you may be represented at the hearing by an advocate or by a person appointed by you, you are required to attend the hearing in person.

.....
Secretary, Appeals Board

³³³ Source: The Refugees Regulation, 2010, p.91.

**APPENDIX VIII:
FORM G-REGISTER OF REFUGEES³³⁴**

1. Full names.....
2. Address.....
3. Date of birth,.....
4. Nationality.....
5. Passport No.
6. Date of entry into Uganda
7. Place of entry into Uganda.....
8. Occupation.....
9. Employer.....
10. Expected duration of stay.....
11. Marital status.....
12. Number and names of children.....
13. Names of children under 18 years.....
14. Identification No
15. Date of issue.....
16. Date of expiry.....

I certify that the above entries have been made without erasure and are, to the best of my knowledge, correct.

Name.....Signaturedate

³³⁴ Source: The Refugees Regulation, 2010, p.92.

APPENDIX IX:
FORM H-FORM OF IDENTIFICATION CARD
(IDENTITY CARD)³³⁵

Full name _____ Passport No. _____

Sex _____ Registration No. _____

Nationality _____ Place of residence _____

Signature of Issuing Officer

Date of issue _____
Validity for five years from date of issue

PHOTOGRAPH

Signature of Holder



KIU HH54
N2799
2010

³³⁵ Source: The Refugees Regulation, 2010, p.92.