



# Refugees / Migrants

Refugee Mobility, Recognition and Rights

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Refugee Recognition Regime  
Country Profile: Uganda

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*Working Paper No. 10*



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### **About RefMig Project**

The RefMig project aims to examine the global refugee regime, with a particular focus on the institutionalisation of the refugee/migrant binary globally. The project is divided into two strands: Recognising Refugees and Organisations of Protection. This report falls under the Recognising Refugees strand, which examines the institutional practices that seek to distinguish refugees from migrants. We take a purposefully broad conception of refugee recognition, encompassing not only individual refugee status determination (RSD) but also the institutional processes that determine access to RSD, as well as various forms of group determination. We examine the role of state institutions in this context (bureaucracies, legislatures, and the judiciary), as well as UNHCR's mandate RSD practices, and its handovers to state authorities.

The project lead is Professor Cathryn Costello. During the RefMig project, she held the positions of Andrew W. Mellon Professor of International Refugee and Migration Law, Refugee Studies Centre, University of Oxford and Professor of Fundamental Rights and Co-Director of the Centre for Fundamental Rights at the Hertie School, Berlin. RefMig obtained ethics clearance from the Central University Research Ethics Committee (CUREC) of the University of Oxford (Ref No: R61177/RE001) and the European Research Council.

RefMig Working Papers are available to download at: <https://www.refmig.org/working-papers>

## Executive Summary

Refugee influxes into Uganda are triggered by armed conflict, insurgencies, political persecution, and severe economic hardships. This study of refugee recognition analyses the norms, institutions, modes and quality of recognition processes, as well as quality of protection provided.

**Norms:** Uganda is signatory to the 1951 Refugee Convention and its 1967 Protocol, and to the 1969 OAU Convention Governing the Specific Aspects of Refugee problems in Africa. Its domestic refugee recognition regime is based on the 2006 Refugees Act and 2010 Refugees Regulations, replaced the 1960 Control of Aliens and Refugees Act. The grant of refugee status is perceived as a peaceful and humanitarian act extended as a human right. The 2006 Act provides for protection on the basis of gender and sex discrimination, but not for those discriminated against on the basis of sexual orientation or non-normative gender identities.

**Institutions:** Uganda's 1995 Constitution (Sixth Schedule) makes central government responsible, among others, for citizenship, immigration, emigration, refugees, deportation, extradition, passports, national identity cards, and other identification and travel documents. Refugee Management lies with the Department of Refugees under the Ministry of Relief, Disaster Preparedness and Refugees, located within the Office of the Prime Minister. Refugee Status Determination (RSD) is undertaken by the Government of Uganda through the Refugee Eligibility Committee, with UNHCR in advisory capacity.

**Modes of Recognition:** Uganda's two-pronged approach to refugee recognition includes individual status determination and group (*prima facie*) status determination. Under Section 19(1) of the Act any person entering and wishing to remain in Uganda as a refugee "shall make a written application to the Refugee Eligibility Committee (REC) for the grant of refugee status within thirty days after the date of his or her entry into Uganda." The REC shall, within 90 days of receipt of an asylum seeker's written application, "consider and determine the refugee status of the application" before rejecting or granting refugee status to the applicant (Section 20(2)). Section 25 of the 2006 Refugees Act, however, states that, where a class of persons qualifies to be refugees under Section 4 of the Act, the Minister in charge of refugee affairs may declare that class of persons to be refugees, with such ministerial declaration publicised in the Gazette and other suitable channels.

**Quality of Recognition Processes:** For those arriving *en masse* refugee determination is *prima facie* without face-to-face individual interviewing. Those arriving individually in Kampala or other urban centres require Individual RSD (IRSD) to be applied for in Kampala. Crossovers by *prima facie* refugees to urban centres, and by IRSD refugees to rural settlements, are relatively rare. Statistics from the Refugee Eligibility Committee for 2018-2020 indicate a high recognition rate overall, but not for all nationalities. The Refugee Appeals Board can request the Refugee Eligibility Committee for reconsideration of a case but has no independent decision-making powers.

**Quality of Protection:** Despite being described by government officials as 'special guests of the Ugandan state', refugees enjoy a relatively restricted range of rights and benefits, especially those granted refugee status by way of IRSD. While awaiting status determination by the REC urban applicants are vulnerable. *Prima facie* refugees in rural refugee settlements are

confronted with generally porous boundaries to settlements, with reports of foreign security operatives entering and harassing individuals. There are also documented refugee inter-ethnic clashes and continuations of inter-group insecurity. While refugees in Uganda may acquire some form of *de facto* integration, the Citizenship and Immigration Act as well as the Constitution of Uganda *de jure* explicitly deny Ugandan citizenship by birth to children born to refugees in Uganda.

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## **List of acronyms**

CARA	Control of Aliens & Refugees Act
DoR	Department of Refugees
IRSD	Individual Refugee Status Determination
NCIB	National Citizenship and Immigration Board
OAU	Organisation of African Unity
OPM	Office of the Prime Minister
PoC	Person of Concern
REC	Refugee Eligibility Committee
RLP	Refugee Law Project
RRR	Refugee Recognition Regime
RSD	Refugee Status Determination
UNHCR	United Nations High Commissioner for Refugees

## I. Introduction

This paper considers the various frameworks (legislation, policies and institutions) in place in Uganda for refugee recognition, as well as their practical application and functioning. It thus considers both what is in place *de jure*, as well as how this relates to what asylum seekers experience *de facto*.

The 1951 UN Convention Relating to the Status of Refugees, established to protect victims of persecution in Europe in the wake of the Second World War, focused initially on aiding those who had already been persecuted by the Nazis, and subsequently on those who were being persecuted within the newly formed Soviet bloc. Africa was barely considered.<sup>1</sup> Although the UN Protocol of 1967 removed the Euro-centric character of the 1951 Convention, it nonetheless “impinged on Africa only by coincidence... due to its generality rather than any deliberate attention to Africa and its problems of refugees and internally displaced people.”<sup>2</sup> The 1969 Organisation of African Unity Convention, by contrast, was and remains explicitly about refugee situations on the African continent.

Signatories to both the 1951 UN Convention<sup>3</sup> and the 1969 OAU Convention<sup>4</sup> pledge not to return any asylum seekers to a country where their “life or freedom would be threatened” (Article 33). This core principle of *non-refoulement*, which limits states’ ability to move people around as they choose, also renders them keen to ensure that any grant of protection is fully justified. This is done through various forms of Refugee Status Determination (RSD) procedures, both for individual status determination and for *prima facie* status determination.

RSD is thus central to the experience of those forced to flee their home countries owing to well-grounded fear of persecution or, as in the case of the OAU refugee definition, to events seriously disturbing public order in either part or the whole of their country of origin or nationality. Yet the 1951 Convention and its 1967 Protocol are silent on the procedures to be adopted for RSD,<sup>5</sup> with each contracting state left to establish procedures and criteria it considers the most appropriate in conformity with its particular legal system. The 1969 OAU Convention is similarly silent except insofar as Article 1.6 clarifies that “For the purposes of this Convention, the Contracting State of Asylum shall determine whether an applicant is a refugee”. The avoidance of a universal procedure and set of criteria is seen by some as a

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<sup>1</sup> Gingyera-Pinyewa, A.G.G. “Refugees and Internally Displaced People in Africa on the Eve of the 21<sup>st</sup> Century” *East Africa Journal of Peace & Human Rights*, Vol. 5(1), 1998, pp. 45-52.

<sup>2</sup> *Ibid.*, p. 45.

<sup>3</sup> UNHCR 1951 Convention and 1967 Protocol Relating to the Status of Refugees accessed at [www.unhcr.org/3b66c2aa10](http://www.unhcr.org/3b66c2aa10)

<sup>4</sup> OAU 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa, accessed at [au.int/sites/default/files/treaties/36400-treaty-0005\\_-\\_oau\\_convention\\_governing\\_the\\_specific\\_aspects\\_of\\_refugee\\_problems\\_in\\_africa\\_e.pdf](http://au.int/sites/default/files/treaties/36400-treaty-0005_-_oau_convention_governing_the_specific_aspects_of_refugee_problems_in_africa_e.pdf)

<sup>5</sup> See UNHCR (1992). *Handbook on Procedures and Criteria for Determining Refugee Status*. Geneva: UNHCR Publications, Para 189. Considering that RSD is not specifically regulated by the 1951 Convention and its 1967 Protocol, the UNHCR Executive Committee (*ExCom*) nonetheless recommended to state parties that their RSD procedure should satisfy certain basic requirements that underscore the enshrined legal principle of due-process.

deliberate step taken to uphold the principle of state sovereignty.<sup>6</sup> Procedures and criteria to evaluate claims and grant refugee status thus vary from one country to another, and frequently remain opaque and closed to public or scholarly scrutiny.<sup>7</sup>

Against this backdrop, how does Uganda recognise refugees? Located within the conflict-prone Great Lakes region and adjacent to the equally conflict-prone Horn of Africa, Uganda receives influxes triggered by armed conflict, insurgencies, political persecution, and severe economic hardships. The country is host to the largest number of refugees on the African continent<sup>8</sup> and the third largest refugee population in the world<sup>9</sup> — indeed, nearly three-quarters of UNHCR’s persons-of-concern in Africa are estimated to be within its Great Lakes region. While refugees in Uganda have historically originated from more than thirty countries,<sup>10</sup> South Sudan and Democratic Republic of the Congo are presently the most important sources of forced displacement, comprising 60.9% and 29.2% respectively.<sup>11</sup> Women reportedly comprise 51.7% of all refugees, and 58.8% of all refugees are below eighteen.<sup>12</sup>

What then are the legal, policy, practical and institutional frameworks in place in Uganda for refugee recognition? What is the level of interaction or coordination among the different institutional actors in the refugee recognition processes? When and why are some refugees recognised on a *prima facie* basis, while others are required to pursue an individual Refugee Status Determination process? What can be said about the system’s accessibility, accuracy, efficacy and fairness? And does it result in adequate protection of key rights? In short, behind Uganda’s image as an exceptionally welcoming environment for refugees,<sup>13</sup> what does its contemporary refugee recognition regime (RRR) actually look like?

These are some of the critical questions that this profiling report seeks to tackle. Building on the historical emergence of the current regime, it sketches the contours of today’s systems from

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<sup>6</sup> See Abuya, E.O. & Wachira, G.M. “Assessing Asylum Claims in Africa: Missing or Meeting Standards” *Netherlands International Law Review*, Vol. 53 (2), August 2006, pp. 171-204.

<sup>7</sup> A request from the authors to be permitted to observe a sitting of the Refugee Eligibility Committee in Uganda, for example, was turned down.

<sup>8</sup> 1,595,405 recognised refugees as of 28 February 2022 (<https://data2.unhcr.org/en/country/uga> accessed 20 April 2022). The total number of refugees dipped slightly from 1.5 million in July 2018 to 1.15 million in October 2018; it continued to increase steadily before remaining at about 1.4 million since the first wave of COVID-19 lockdown that began in March 2020. The second wave, since May 2021, has however witnessed new influxes of Congolese (DRC) asylum seekers in Uganda’s Ntoroko and Bundibugyo districts.

<sup>9</sup> UNHCR statistics suggest that, worldwide, the 10 countries hosting the largest numbers of refugees are: Turkey (3,577,500); Colombia (1,765,500); Pakistan (1,425,500); Uganda (1,396,800); Germany (1,111,300); Sudan (1,058,800); Iran (979,400); Lebanon (889,700); Bangladesh (860,400); and Ethiopia (770,800). Going by the recent updated statistics from OPM and UNHCR Uganda, Uganda as of 31 May 2021 has taken over Pakistan’s place, thus becoming the world’s third largest refugee-hosting country. See Armstrong, M. “These countries host the most refugees” Retrieved online at <https://www.weforum.org/agenda/2020/12/countries-refugees-asylum-pandemic-covid/> [Accessed 22.06.2021]

<sup>10</sup> Since the 1980s, Uganda has also received refugees from Somalia, Burundi, Ethiopia, Eritrea, Kenya, Nigeria, Mozambique, Zimbabwe, South Africa, Sierra Leone and even as far away as Pakistan and Nepal.

<sup>11</sup> <https://data2.unhcr.org/en/country/uga> accessed 02 May 2022

<sup>12</sup> Statistics jointly generated by the OPM and UNHCR Uganda. See: <https://ugandarefugees.org/en/country/uga>

<sup>13</sup> See for example, The Guardian *Ugandans give warm welcome to South Sudanese fleeing violence* <https://www.theguardian.com/global-development/gallery/2017/feb/08/uganda-warm-welcome-to-south-sudanese-fleeing-violence-bidi-bidi-camp-in-pictures> accessed 02 May 2022



historical and socio-legal vantage points. In tracing processes of individual and group RSD in Uganda, particularly under its refugee recognition regime enacted in 2006, this study report seeks to highlight, on the one hand, the *de jure* spirit and letter of the law and institutions governing the process of RSD and, on the other, the *de facto* bottlenecks that still characterise implementation of Uganda's seemingly progressive RRR.

## II. Historical development of Uganda's refugee-hosting regime

Uganda's interactions with refugees date back to the 1940s. Under British colonial rule, the country hosted Europeans displaced by World War II,<sup>14</sup> including some 7,000 Polish refugees between 1942 and 1947. The latter were placed in two rural settlements, namely Kojja in Mukono District and Nyabyeya in Masindi District.<sup>15</sup> Italian prisoners of war were accommodated in Jinja, and Italian civil internees were housed in Entebbe.<sup>16</sup> Civilian internees from Germany, Australia, Romania, Bulgaria, Yugoslavia and Hungary, as well as stateless Jews, were sent to Arapai Camp.<sup>17 18</sup> With the end of World War II, British colonial authorities in Uganda oversaw the resettlement of some of these refugees to Britain; others eventually returned to their respective countries of origin, and a handful were locally integrated in Uganda and across eastern Africa. Stateless persons were resettled in various European and North American countries.<sup>19</sup>

In the run up to Independence, Uganda experienced several influxes of refugees from neighbouring countries. Soon after Britain and Egypt lifted their condominium rule over the Sudan in 1952, civil war broke out between a centralised state and Southerners who felt excluded from the new political structures. By 1955 approximately 178,000 Sudanese had fled to Uganda.<sup>20</sup> In response, the Uganda Protectorate Government enacted the *Control of Refugees from the Sudan Ordinance* in 1955.<sup>21</sup> This served as the country's first-ever legislative instrument for refugee status determination and subsequent refugee protection.

There was a further influx of refugees into Uganda from what is now Rwanda. When Belgian colonial administrators relinquished their mandate for Ruanda-Urundi, Hutu constituencies in would-be independent Rwanda rose up against their Tutsi counterparts, resulting in a further

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<sup>14</sup> For an extended discussion of this topic, see Gingyera-Pinyawa, A.G.G. (ed.) 1994. *Uganda and the Problem of Refugees*. Kampala: Makerere University Printery. These were mainly Polish refugees that were settled in at Nyabyeya in Masindi district and Kojja in Mukono district.

<sup>15</sup> Lwanga-Lunyiigo, S. "Uganda's Long Connection with the Problem of Refugees: From the Polish Refugees of World War II to the Present" In A.G.G. Gingyera-Pinyawa (ed.) 1994. *Uganda and the Problem of Refugees*. Kampala: Makerere University Printery, pp. 8-24.

<sup>16</sup> Located on the shores of Lake Victoria approximately 36km from Uganda's capital city, Kampala, Entebbe is home to the country's only international airport as well as a number of administrative functions of government

<sup>17</sup> Gingyera-Pinyawa, A.G.G. (1994). *Op. cit.*

<sup>18</sup> Araipai is some 300km to the east of Kampala, close to the town of Soroti

<sup>19</sup> Lwanga-Lunyiigo, S. *Op. cit.*

<sup>20</sup> Kiapi, A. (1994). *Op. cit.*

<sup>21</sup> Pirouet, L. "Refugees in and from Uganda in the Post-Colonial Period" In M. Twaddle and H.B. Hansen (eds.) 1988. *Uganda Now: Between Decay and Development*. Nairobi: Heinman Publishers.

80,000 refugees arriving in Uganda by 1960.<sup>22</sup> In addition, and following the brutal murder in 1961 of Patrice Lumumba, the first democratically elected Prime Minister in the former Belgian Congo, some 33,000 Congolese fled to Uganda.<sup>23</sup>

In view of growing political instability in Rwanda, Burundi and the Congo and the corresponding need for a single legal regime to govern the management of all refugee populations in Uganda, the Uganda Protectorate Government in July 1960 repealed the Control of Refugees from Sudan Ordinance and replaced it with the Control of Alien Refugees Ordinance (CARO),<sup>24</sup> subsequently known as the Control of Aliens and Refugees Act (CARA). The focus was on control of (irregular) movement, including requiring refugees who wished to move within the host country to seek permission to do so.

CARA had no specific procedures and criteria for RSD.<sup>25</sup> Its provisions, for the most part, directly contravened provisions laid out in the 1951 UN Convention, the 1969 OAU Convention, and even the 1995 Uganda Constitution when it was promulgated.<sup>26</sup> Section 2 of the CARA empowered the minister in charge, by Statutory Instrument, to apply the Act to any class of refugees. Yet Paragraph 3 of Statutory Instrument 64-3 had a highly restrictive definition of refugee as follows:

[Any] alien being an African of the Batutsi tribe ordinarily resident in Rwanda... who enters or has entered Uganda on or after 1<sup>st</sup> November 1959 or any alien from the territories formerly comprising the Belgian Congo... who enters Uganda on or after 10<sup>th</sup> July 1960 or any alien from Sudan who has entered Uganda on or after 20<sup>th</sup> December 1960.

The Statutory Instrument thus “assumed that refugees only come from particular countries or ethnic groups at a given point in time...”<sup>27</sup>, thus excluding any other category of aliens entering Uganda as asylum seekers from being recognised as refugees.

Notwithstanding such restrictions, a range of humanitarian assistance (nutrition, education, healthcare, identification and trade registrations, etc.) for enhanced refugee protection was delivered by both the post-independence government and a host of national, regional and international organisations. In 1964 UNHCR established its first office in Uganda and went on to assume a major refugee management role in Uganda, with both RSD and direct humanitarian assistance for refugees in Uganda squarely within its mandate.

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<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> Mujuzi, J.D. “From Archaic to Modern Law: Uganda’s Refugees Act 2006 and her International Treaty Obligations” *East African Journal of Peace and Human Rights*, Vol. 14(2), 2008, pp. 399-422.

<sup>25</sup> See S.B. Tindifa “Refugees and Human Rights in Uganda: A Critical Assessment of the Law, Policy and Practice” *East African Journal of Peace and Human Rights*, Vol. 5(1), 1998, pp. 53-63 as well as S.T. Beraki “The Human Rights Dimensions of Refugee Status Determination Procedures in Uganda: A Critical Analysis of the Right of Asylum Seekers to a Fair Hearing” Unpublished LLM Thesis, Makerere University, May 2009.

<sup>26</sup> Beraki (2009). *Op. cit.*

<sup>27</sup> Tindifa, S.B. (1998). *Op. cit.*, p. 57.

The CARA remained in effect for the next 54 years, unchanged even after Uganda's accession to the 1951 Convention Relating to the Status of Refugees and Stateless People on 27 September 1976.<sup>28</sup> It did provide for some refugee rights, such as the right to obtain permits to remain in Uganda; the right to compensation in cases where their animals were sold by the Minister; and the right to work (provided such work was not dangerous to their life and health). But it did not include several rights and freedoms that are now considered fundamental. The right to freedom of movement was profoundly circumscribed, as refugees were required to stay in settlements and could only move out after acquiring a movement permit from the relevant authorities. They could also be detained without trial merely on suspicion that they had committed an offence. In this regard, Refugee Camp (later Settlement) Commandants—central to refugee management in Uganda since the advent of the Polish and other European refugees in late colonial period—needed no warrant to arrest any refugee whom they suspected of committing an offence. The CARA not only provided for the isolation of refugees, but also deprived them of their property without due compensation.

As critics have underscored,<sup>29</sup> the CARA was hurriedly enacted in response to increasing influxes of refugees into Uganda. Indeed, Kiapi described it as “a panicky measure designed to deal with overwhelming exodus into Uganda of a large number of refugees from the Sudan, Rwanda and Congo (Zaire).”<sup>30</sup> It was, as Lomo states, “in complete abrogation of the 1951 UN Refugee Convention and the rules of natural justice.”<sup>31</sup>

Encompassing refugees within the broader umbrella of ‘Aliens’ as it did, the CARA considered refugees as “undesired intruders rather than people in need of protection from persecution.”<sup>32</sup> Having conferred upon the Minister in charge of refugees all the powers to declare who a refugee is, CARA technically left “large categories of refugees uncovered.”<sup>33</sup> Fortunately, the Act was not always followed to the letter by designated government officials; as such, CARA was “mainly applied to spontaneous refugees who enter[ed] the country in large numbers. Otherwise, [individually recognised] refugees enjoy[ed] the rights enumerated in the international instruments.”<sup>34</sup>

Uganda's signing of the 1969 OAU Convention on 10 September 1969 expanded the definition of, and subsequent humanitarian care for, refugees,<sup>35</sup> applying as it does to every person who,

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<sup>28</sup> *Ibid.*

<sup>29</sup> Kiapi, A. “The Legal Status of Refugees in Uganda: A Critical Study of Legislative Instruments” In A.G.G. Gingyera-Pinyewa (ed.) 1994. *Uganda and the Problem of Refugees*. Kampala: Makerere University Printery, pp. 25-44.

<sup>30</sup> Kiapi, A. (1994). *Op. cit.*, p. 33.

<sup>31</sup> Lomo, Z.A. “The Struggle for Protection of the Rights of Refugees and IDPs in Africa: Making the Existing International Legal Regime Work” *Berkeley Journal of International Law*, Vol. 18, 2000, p. 275.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> *Ibid.*

<sup>35</sup> Uganda only ratified this OAU Convention almost twenty years later, when the (then) new National Resistance Movement government of Yoweri Museveni deposited its accession on 07 August 1987. See <https://au.int/sites/default/files/treaties/36400-sl->

“owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or 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”.<sup>36</sup>

Achievement of independence by countries in both the Great Lakes and Horn of Africa at various points from the 1960s onwards did nothing to curb such influxes, with the region now notorious for the ‘production of refugees’—a situation that Ginyera-Pincwa described in the late 1990s as “symptomatic of something gone wrong in society”,<sup>37</sup> a description that remains apt in the 21<sup>st</sup> century.

Views on the implementation of CARA vary considerably. For Tindifa, writing on the eve of the new millennium, Uganda could “on the surface, be considered an extremely hospitable and liberal state towards refugees.”<sup>38</sup> And yet, he argued, three of the four constitutive elements of the colonial refugee policy—segregation, perception of the refugee problem as a temporary one, self-reliance, and self-governance—continued to influence Uganda’s post-independence refugee policy and indeed to be stated goals of the refugee protection regime, despite serious questions about the validity or genuineness of these goals.<sup>39</sup> He contrasted the fact that whereas Polish refugees in the two camps established in colonial Uganda ran themselves autonomously, refugee settlements in post-independence Uganda came under the centralised, authoritarian power of the Directorate (now Department) of Refugees (notwithstanding the existence of Refugee Welfare Committees elected from within the refugee communities).<sup>40</sup>

Kiapi, by contrast, argues that the main fault with Uganda’s policy framework was that it did not provide for international cost-sharing.<sup>41</sup> Furthermore, he emphasises that many of the provisions were not implemented in practice. When it came to the ways in which refugees were actually treated, Kiapi argues that, despite the important divergences between the 1951 Convention and the CARA, the latter’s stringent and even harsh provisions had, “in practice, been applied with a lot of moderation or even negligence by the Government of Uganda.”<sup>42</sup> Indeed, following the promulgation of the 1995 Uganda Constitution, the Government of Uganda resolved not to apply the provisions of the CARA strictly, and practices that were more consistent with the international refugee legal instruments that Uganda had become a party to,

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[OAU%20Convention%20Governing%20the%20Specific%20Aspects%20of%20Refugee%20Problems%20in%20Africa.pdf](#)

<sup>36</sup> OAU (1969), *Convention Governing Specific Aspects of Refugee Problem in Africa*

[https://au.int/sites/default/files/treaties/36400-treaty-0005\\_-\\_oau\\_convention\\_governing\\_the\\_specific\\_aspects\\_of\\_refugee\\_problems\\_in\\_africa\\_e.pdf](https://au.int/sites/default/files/treaties/36400-treaty-0005_-_oau_convention_governing_the_specific_aspects_of_refugee_problems_in_africa_e.pdf) (accessed 21 March 2021)

<sup>37</sup> Ginyera-Pincwa, A.G.G. (1998). *Op. cit.*, p. 46

<sup>38</sup> Tindifa, S.B. (1998), *Op. cit.*, p. 56.

<sup>39</sup> See, for example, Hovil, L. (2007), “Self-settled Refugees in Uganda: An Alternative Approach to Displacement?” *Journal of Refugee Studies*, Volume 20, Issue 4, December 2007

<sup>40</sup> Tindifa, S.B. (1998)

<sup>41</sup> Kiapi, A. (1994). *Op. cit.*, p. 31.

<sup>42</sup> Kiapi, p. 42.

were soon adopted.<sup>43</sup> These included establishment of a Refugee Eligibility Committee (REC) to deal with individual refugee status determination. While the ‘essence of control’ under CARA provisions lingered, the REC nonetheless introduced some protection-oriented procedures.<sup>44</sup> The dissonance between these new practices and the existing legislative framework provided impetus for enacting a new law to repeal the old one.

In 2006, nearly half a century after the 1960 CARA came into force, Uganda enacted a new Refugees Act. First tabled in Parliament in 2003 by the First Deputy Prime Minister and Minister of Disaster Preparedness and Refugees, the Refugees Bill in Parliament was gazetted on 21 November 2003 and, after consultations with relevant stakeholders, debated in Parliament and passed into law in 2006. This came into force in 2008 and was operationalised by the Refugee Regulations of 2010. Though not without critics,<sup>45</sup> it departs from the old legal regime in important ways and has been acclaimed<sup>46</sup> as a remarkably progressive example of national legislation on refugee matters. Importantly, unlike the earlier CARA which did not actually define ‘refugee’, the Act’s refugee definition broadly aligns with both the 1951 UN Convention and the 1969 OAU Convention.<sup>47</sup> Indeed, it goes a step further by providing a novel ground for granting refugee status, namely “a well-grounded fear of persecution for failing to conform to gender discriminating practices...”.<sup>48</sup>

While the motivations of government in arriving at this ostensibly progressive legislation merit further study and documentation, reference is often made by government personalities themselves (particularly those who were part of the National Resistance Movement’s armed struggle), to their personal experiences as refugees both in other parts of Africa (notably Tanzania) and in Europe (notably Sweden), and how these experiences shaped the Government’s approach to refugee management.<sup>49</sup>

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<sup>43</sup> Beraki (2009). *Op. cit.*

<sup>44</sup> *Ibid.*

<sup>45</sup> See, for instance, the critique of the 2006 Refugees Act mounted by the Makerere School of Law’s Refugee Law Project (RLP) in 2011. Excerpts of this critique are available online at <http://lib.ohchr.org/HRBodies/UPR/Documents/session12/UG/RLP-RefugeeLawProject-eng.pdf> [Accessed 24.01.2021]

<sup>46</sup> See for instance Crawford, N.; O’Callaghan, S.; Holloway, K. & Lowe, C. “The Comprehensive Refugee Response Framework: Progress in Uganda” HPG Working Paper, September 2019. Available online at <https://www.odi.org/sites/odi.org.uk/files/resource-documents/12937.pdf> [Accessed 24.01.2021]

<sup>47</sup> Under CARA, the designated minister in charge of refugees was given full powers to declare who a refugee is. The grant or not of refugee status to any asylum seekers in Uganda under CARA was, however, decided by a committee composed of representatives from the UNHCR as well as from ministries of Internal Affairs, Local Government, Defence, and Labour and Social Welfare. See Kiapi, A. (1994). *Op. cit.*

<sup>48</sup> See Section 4(d) of the Refugees Act, 2006 (available online at [http://www.hlrn.org/img/documents/Uganda\\_Refugees\\_Act\\_No.\\_21\\_2006.pdf](http://www.hlrn.org/img/documents/Uganda_Refugees_Act_No._21_2006.pdf) (hereinafter 2006 Act)

<sup>49</sup> In his official ministerial statement at the closing of the IGAD High Level Ministerial Meeting on jobs, livelihoods and self-reliance for refugees, returnees and host communities, delivered on 28 March 2019, Uganda’s Cabinet Minister for Relief, Disaster Preparedness and Refugees, Hon. Hilary Ongek, underscored that Uganda’s willingness to deal humanely with refugees rather than closing borders is mainly due to the fact that its leaders “ha[ve] chosen to look at refugees as fellow human beings who are potentially rich in skills and knowledge and therefore work towards harnessing their potential for not only development of the host country while in asylum but also the development of their countries of origin when they eventually return.”

### III. Research Methodology

In seeking to understand Uganda's official refugee status determination frameworks, and the extent to which refugees' experiences actually corresponded to stated procedures, this study based itself on primary data collected from: (i) in-depth interviews (x4) and (ii) focus group discussions (x4) with various constituencies of study participants, some conducted online, and others in physical meetings, in strict observance of the COVID-19 SOPs. These in-depth interviews involved key informants working in areas of RSD and refugee protection, from both the OPM (Ugandan nationals, male and female) and UNHCR (one non-Ugandan national, male).

The focus group discussions (FGDs) involved two broad categories. Firstly, adult asylum seekers and refugees themselves were the main clients of RLP and belonged to different nationalities (Burundian, DR Congolese, Eritrean, Rwandan, South Sudanese, and Somali), age brackets, educational and occupational backgrounds, gender identities and lengths of stay in the country. Secondly, RLP legal officers (Ugandan nationals, male and female) who, over more than two decades, have worked with these PoCs and engaged with the Ugandan state over RSD and refugee protection, on the other.

In addition to the long-standing and detailed Memorandum of Understanding (MoU) between RLP and the OPM's Department of Refugees over rules of engagement, including research involving Persons of Concern (PoCs) (namely asylum seekers and refugees), the research team sought and acquired research ethics approval from the Office of Commissioner for Refugees to permit this primary data collection from both PoCs and OPM staff.

Secondary data stemmed from: (i) a critical review of scholarly literature, policy documents and legal commentaries from case files pertaining to RSD in view of changes in the legal and policy frameworks over the past two decades,<sup>50</sup> as well as (ii) datasets generously shared by the OPM's Department of Refugees and the UNHCR Kampala Office.

A request to observe the operations of the Refugee Eligibility Committee — a key organ for Uganda's RSD process — was turned down by the Office of the Commissioner for Refugees on the grounds that REC is observed only by UNHCR – and then only in an advisory capacity. Despite this exclusion from source material on RSD institutional proceedings, the research team benefited from interviews with important RSD decision makers from the OPM's Department of Refugees as well as from UNHCR Kampala.

All primary data collection adhered to strict data protection rules as stipulated in the Uganda Data Protection legal framework. All collected records (narrative) and datasets (numerical) were securely stored in centralised and password-protected RLP data servers for subsequent

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<sup>50</sup> See Rainey, R. "Comparative Study of Ugandan Refugee Act with Neighboring Countries' Equivalent Statutes". Unpublished legal memorandum submitted to RLP on 15 March 2021.

safe archiving. In addition, all interviews, focus groups and other research with human subjects was conducted in accordance with relevant ethical standards on informed consent, in particular the relevant standards of the Uganda National Council of Science & Technology.

While RSD has become a major area of international refugee law, individual claims of asylum seekers are often processed and adjudicated at the domestic level by host states with their own conceptions and practices of procedural justice. RSD turns out to be a particularly thorny area of bureaucratic decision-making, with RSD adjudicators tasked with the distribution of an extremely valuable and coveted benefit, the stakes of which are often high. One of the main challenges encountered was in gathering data on the legal basis and processes underlying group (*prima facie*) refugee recognition. Notwithstanding deficits in official sources and transparency, it does seem that *prima facie* status is effective in terms of providing security of status for refugees so recognised.

#### **IV. Part 1: De Jure**

##### **i. Frameworks**

Uganda's 1995 Constitution (Sixth Schedule) makes central government responsible, among others, for citizenship, immigration, emigration, refugees, deportation, extradition, passports and national identity cards,<sup>51</sup> while allowing it to delegate these powers by statute to district councils and local governments.<sup>52</sup> Management of refugees is allocated to the Ministry in charge of Relief, Disaster Preparedness and Refugees, which itself is located within the Office of the Prime Minister. The Constitution also establishes a National Citizenship and Immigration Board (NCIB), which is governed by the Uganda Citizenship and Immigration Control Act.<sup>53</sup> Although Part VII of this Act creates the obligation for NCIB to administer alien registration and identification, those aliens recognized as *refugees* by the Ministry for Disaster Preparedness, Management and Refugees (and by UNHCR in the rare cases where it grants Mandate Status) are statutorily exempt from these registration requirements.<sup>54</sup>

As described above, Uganda's current RRR, which replaced the previous focus on control with a greater emphasis on protection and *non-refoulement* of asylum seekers and refugees, was inaugurated by the enactment of the 2006 Refugees Act. This Act makes it clear that the grant of refugee status to any person does not imply any judgement of, and may not be construed as an unfriendly act towards, the country of origin of the person in question, but must be regarded as a peaceful and humanitarian act extended to that person as part of their human rights.<sup>55</sup>

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<sup>51</sup> The Sixth Schedule (4) of the Uganda Constitution, 1995 cfr. Article 189 (Available online at [https://www.constituteproject.org/constitution/Uganda\\_2005.pdf?lang=en](https://www.constituteproject.org/constitution/Uganda_2005.pdf?lang=en)).

<sup>52</sup> *Id.*

<sup>53</sup> The Uganda Citizenship and Immigration Control Act (Chapter 66) [Up to date as at 31 December 2000] (available online at <https://ulii.org/akn/ug/act/1999/3/eng@2000-12-31>)

<sup>54</sup> Article 71 of the Uganda Constitution, 1995.

<sup>55</sup> Mujuzi, J.D. (2008). *Op. cit.*

Notwithstanding shortcomings in the refugee definition found in the 1951 Convention<sup>56</sup> — some aspects of which are addressed in the 1969 OAU Convention<sup>57</sup> and subsequently in the 1981 African Charter on Human and Peoples’ Rights — Uganda’s 2006 Refugees Act still refers back to the 1951 Convention as the main instrument of choice in the determination of refugee status in Uganda, albeit with an important expansion of the refugee definition. Section 28 of the Act underscores that:

[E]very refugee is entitled to the rights and shall be subject to obligations provided for or specified in (a) the Geneva Convention, (b) the OAU Convention, and (c) any other convention or instrument relating to the rights and obligations of refugees to which Uganda is a party.

## ii. Definitions

Section 4 of the 2006 Refugees Act, as is the case with the Refugee Acts of Tanzania, Lesotho and South Africa, repeats verbatim the conditions under which a person qualifies for refugee status under the 1951 Refugee Convention, read together with the Protocol and the OAU Convention on Refugees. It stipulates that to qualify for refugee status a person must meet one or more of six substantive criteria:

- (1) having a well-founded fear of persecution for those reasons stated in the 1951 Convention (including sex)
- (2) not having a nationality and being outside the country of his or her former habitual residence owing to a well-founded fear for those same reasons stated in the 1951 Convention (including sex)
- (3) (drawing on the 1969 OAU Convention refugee definition) the person is compelled to leave his or her place of habitual residence “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”
- (4) a well-founded fear of persecution “for failing to conform to gender discriminating practices”
- (5) the person is considered a refugee under any treaty obligation to which Uganda is a party, or any law in force at the commencement this Act; or
- (6) the person belongs to a class of persons whom the government has declared eligible for refugee status through national administrative procedures.<sup>58</sup>

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<sup>56</sup> The 1951 UN Convention defines refugees in specifically singular/individual terms: “a person ...is outside the country of his nationality...” Furthermore, the qualifiers stated in this definition focus on persecution grounds: “owing to well-founded fear of being persecuted...” As such, framers of the 1951 Convention envisaged international protection for refugees, not just on very individual basis, but also based only on those five specific grounds of persecution.

<sup>57</sup> The 1969 OAU Convention significantly expands the 1951 Convention definition by envisaging international refugee protection in collective terms (group refugees) having added another important ground, namely “...events seriously disturbing public order...”

<sup>58</sup> 2006 Act §4.



The 2006 Act defines persecution as including “any threat to the life or freedom, or serious violation of the human rights of a person on account of that person’s race, religion, nationality, sex, political opinion or membership of a particular social group [...] 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...”.<sup>59</sup>

The fourth ground listed above (a well-founded fear of persecution “for failing to conform to gender discriminating practices”)<sup>60</sup> is a departure from the 1951 Convention grounds. ‘Gender discriminating practices’ are defined to include;

Strict and forced adherence to a dress code, obligatory pre-arranged marriages, physically harmful facial or genital mutilation, rape, domestic violence and other gender related negative activities.<sup>61</sup>

Section 5 of the Act stipulates that bars to qualifying as a refugee in Uganda include: (1) the person “has committed a crime against peace, a war crime or a crime against humanity” defined in international treaties; (2) the commission of a “serious non-political crime” before admission as a refugee; (3) the refugee “has been guilty of acts contrary to the purpose” of the UN; or (4) the person has more than one nationality and has not sought refuge in their second country of nationality.<sup>62</sup> This is a combination of Article 1F of the 1951 Geneva Convention relating to the Status of Refugees and Article 5 of the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa—both of which relate to persons who may not qualify for refugee status.

Section 6(1) of the Act stipulates the circumstances in which a person ceases to be a refugee in Uganda. As with some other provisions of the Act, Section 6(1) also incorporates text from the relevant Articles of the 1951 UN Convention and the 1969 OAU Convention.<sup>63</sup>

### **iii. Modes of Refugee Recognition in Uganda**

Against this definitional backdrop, from which Uganda’s refugee definition emerges as a constructive synthesis of a range of international definitions developed since World War II, the following examines the two routes to refugee status available to asylum seekers in Uganda, namely individual status determination on the one hand and *prima facie* grant of status on the other. OPM figures for 2020 suggest that 22% of grants of status were through individual RSD and 78% through the grant of *prima facie* status. A third mode of recognition, the grant of ‘mandate status’ by UNHCR, given its statistically negligible usage by UNHCR in Uganda, was not explored in depth in this research process.

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<sup>59</sup> 2006 Act §2.

<sup>60</sup> 2006 Act §4(d).

<sup>61</sup> 2006 Act, Interpretation

<sup>62</sup> 2006 Act §5. It should however be noted that the inclusion clause in the 2006 Refugees Act of a well-founded fear of persecution on grounds of one’s sex and failure to conform to gender discriminatory practices expands the Ugandan definition of ‘refugee’ considerably, but not necessarily in the ways one might expect, as is discussed further below.

<sup>63</sup> See Article 1C of the 1951 UN Convention and Article 1(4) of the 1969 OAU Convention.

### **a) Individual status determination process**

Section 19(1) of the Act explicitly underscores that any person who enters Uganda and wishes to remain in Uganda as a refugee “shall make a written application to the Eligibility Committee for the grant of refugee status within thirty days after the date of his or her entry into Uganda.” Section 20(2) of the Act states that REC shall, within 90 days after the date of receipt of the asylum seeker’s written application by the Commissioner, “*consider and determine the refugee status of the application*”<sup>64</sup> and, following its investigations and assessment, may consider either: a) rejection of application or b) grant of refugee status to the applicant. The OPM’s DoR Secretariat is charged with convening the REC regularly for this individual status determination process.

Section 29 (1a) of the 2006 Act and Sections 40, 41 & 42 of the 2010 Refugees Regulations provide for individual registration and issuance of identification documents to all persons who have been granted refugee status and every member of their family in their own names, irrespective of gender. The law further allows for recognition of the family of a recognised refugee as well as reunion of family of a recognised refugee. Only a designated head of family/household (an adult aged 18 or above) may register the rest of the family/household members under their care on their own behalf. Section 26(2) of the Act states that upon the death of a recognised refugee, any member of the family of the recognised refugee in Uganda shall continue to enjoy full refugee protection and as such shall remain in Uganda until otherwise disqualified. Section 27(5) of the Act further clarifies that the Commissioner shall investigate and ascertain the family situation of an unaccompanied child who enters Uganda and wishes to remain in Uganda as a refugee and may make recommendations regarding the adoption of the child under the Children Act, Cap. 59, or any other applicable law.

### **b) *Prima facie* status determination process**

Section 25 of the 2006 Refugees Act states that the Minister in charge of refugee affairs may, if it is evident that a class of persons qualifies to be refugees under Section 4 of this Act, declare that class of persons to be refugees. Such ministerial declaration for *prima facie* RSD shall be published in the Gazette “and in any other manner that will best ensure that the declaration is brought to the attention of the authorised officers and persons to whom it relates.”<sup>65</sup> Section 25 (4) underscores that a declaration so made is valid for a period of two years from the date of the declaration or until the cause of the influx into Uganda from the declared country of origin or habitual residence ceases to exist, whichever is sooner.<sup>66</sup> The law further clarifies that the Minister in charge of refugee affairs may, where there is a mass influx of asylum seekers into Uganda, “in consultation with the Minister responsible for internal affairs, issue a [temporary]

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<sup>64</sup> Section 20(2) of the 2006 Act; italics added for emphasis.

<sup>65</sup> Sub-section 2 of Section 25 of the 2006 Refugees Act.

<sup>66</sup> It should be noted that in Part I.2 (Interpretation) the Act does not define ‘influx’, nor does it in Part II (Determination of Refugee Status) establish the criteria against which the Minister responsible might deem the cause of such an influx to have ceased to exist and therefore be in a position to invoke cessation of status

order permitting the asylum seekers to reside in Uganda *without requiring their individual status to be determined under section 4 of this Act.*<sup>67</sup> Lastly, the law underscores that the exclusion of a specific person from a declaration made for such group refugee status determination “shall not preclude that person from applying to the Eligibility Committee for the grant of [individual] refugee status under this Act.”<sup>68</sup> Likewise, the termination of temporary (*prima facie*) protection granted by the Minister under Section 25 (3) “shall not preclude any individual of the group of asylum seekers from applying to the Eligibility Committee for the grant of refugee status under this Act.”<sup>69</sup>

#### **iv. Appeals Procedures**

Following a negative REC decision (rejection), the applicant may also seek review by the Refugee Appeals Board (RAB). The latter has the power to review and request REC to reconsider an application, but not to overturn a negative REC decision. It thus does not change the locus of decision-making. Section 17(2) of the Act stipulates that a RAB decision may: (i) confirm the decision of the REC; (ii) *set aside* the decision of the REC and *refer the matter back* to the REC for further consideration and decision; (iii) order *a rehearing* of the application; or (iv) dismiss the appeal.<sup>70</sup> The system also allows for the asylum officer to take into consideration factors that arise from a refugee arriving “with the barest necessities and very frequently even without personal documents.”<sup>71</sup>

#### **v. Institutions involved in Refugee Status Determination**

Institutions are “regularised practices structured by rules and norms of society which have persistent and widespread use.”<sup>72</sup> They also help to govern social relations and power structures.<sup>73</sup> For the purposes of RSD the key institutions involved are Department of Refugees and its associated Refugee Eligibility Committee and Refugee Appeals Board.

##### **a) Department of Refugees**

The 2006 Act explicitly provides for the establishment of an ‘Office of Refugees’ within OPM’s Ministry of Relief, Disaster Preparedness and Refugees. This Office, currently referred to administratively as the ‘Department of Refugees’, is responsible for “all administrative matters concerning refugees in Uganda”. In that capacity it “co-ordinate[s] inter-ministerial and non-Governmental activities and programmes relating to refugees.”<sup>74</sup> At the helm of the

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<sup>67</sup> Sub-section 3 of Section 25 of the 2006 Refugees Act; italics added for emphasis.

<sup>68</sup> Sub-section 6 of Section 25.

<sup>69</sup> Sub-section 7 of Section 25.

<sup>70</sup> Section 17(2) of the 2006 Act; italics added for emphasis.

<sup>71</sup> Ryan, A. (2018). *Op. cit.*, p. 13.

<sup>72</sup> Scoones, I. “Sustainable Rural Livelihoods: A Framework for Analysis” *IDS Working Paper No. 72*, 1998, p. 12.

<sup>73</sup> Davies, S., & Hossain, N. “Livelihood adaptation, public action and civil society: a review of the literature” *IDS Working Paper No. 57*, 1997.

<sup>74</sup> Section 8(1) of the 2006 Act.

DoR is the Commissioner, whose office shall be “a public office and shall be *appointed by the President*, acting in accordance with the advice of the Public Service Commission.”<sup>75</sup> In addition to being responsible for the day-to-day operations of the DoR and for the administration, organisation and control of the staff of the Department, the Commissioner carries out important duties concerning refugee recognition and protection. Of the seven duties spelt out in the law, two stand out regarding RSD: (i) he or she receives and processes applications for [individual] refugee status or other related applications for submission to the Refugee Eligibility Committee for consideration and decision, and (ii) he or she informs and advises the Refugee Eligibility Committee on matters relating to refugees and refugee status.<sup>76</sup>

Under the headship of the Commissioner for Refugees, DoR is further charged with refugee matters and liaises closely with the Public Service Commission to recruit Settlement Commandants who manage refugee affairs in the rural refugee settlements. The institutionalisation of the central government’s control of refugee management (despite the advanced state of decentralisation that Uganda was already claiming at the time of the Act’s passing in 2006), is suggestive of the significance that the central government attaches to refugee presence in the country. That the Commissioner, together with the cohort of all senior officers at DoR, is appointed by the President of the Republic, demonstrates the sensitivity of the tasks to be performed by DoR—a key institutional organ of the *res publica*. It also indicates why, Uganda’s piloting of the Comprehensive Refugee Response Framework (CRRF) notwithstanding, district local governments are not involved in refugee status determination, despite the CRRF supposedly promoting the principle of local government involvement in the management of refugee populations within their jurisdictions.<sup>77</sup> Instead of such local government involvement in status determination, the DoR centrally employs interviewing officers to work on individual status determination.

## **b) Refugee Eligibility Committee**

The DoR, in accordance with the law, constitutes the secretariat of the Refugee Eligibility Committee (REC).<sup>78</sup> The latter comprises nine government representatives from ministries and central government agencies including; (i) the Permanent Secretary of the Ministry responsible for refugees, who shall be the Chairperson of the Committee, or his or her representative; (ii) the Permanent Secretary of the Ministry responsible for Internal Affairs, or his or her representative; (iii) the Solicitor General, or his or her representative; (iv) the Permanent Secretary of the Ministry responsible for Foreign Affairs, or his or her representative; (v) the Permanent Secretary of the Ministry responsible for Local Governments, or his or her representative; (vi) the Director General of the Internal Security Organisation, or his or her representative; (vii) the Director General of the External Security Organisation or his or her

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<sup>75</sup> Section 9(1) of the 2006 Act; italics added for emphasis.

<sup>76</sup> Section 9(3) of the 2006 Act.

<sup>77</sup> Insights from interventions from Local Government Council Five (LC5) of refugee-hosting districts in north-western and northern Uganda at RLP-organised 4<sup>th</sup> Regional Forced Migration, held at Protea Hotel Kampala, 09-11 October 2020.

<sup>78</sup> Section 8(2)(a) of the 2006 Act.

representative; (viii) the Director, Special Branch, Uganda Police Force, or his or her representative; and (ix) the Commissioner for Immigration, or his or her representative.<sup>79</sup> Section 11 (2) of the Act underscores that the Commissioner for Refugees, or his or her representative, shall be an *ex officio* member of the Eligibility Committee without power to vote on any matter before the Committee. In a similar vein, a representative from the UNHCR may attend REC meetings in an advisory capacity.

When first tabled on the floor of Parliament in 1998, the then Refugees Bill conveyed the government's resolve to take up wholly the mandate of RSD, while sharing the burden of refugee protection with the UNHCR together with a host of non-governmental humanitarian organisations. In this it differed from the previous refugee recognition regime (under CARA), in which, while the Minister responsible for refugees held a great deal of discretionary powers in the management of refugee affairs (in the areas of recognition, protection and durable solutions), the decision on whether or not to grant refugee status was "*decided by a committee composed of representatives from UNHCR and the ministries of internal affairs, local government, defence, labour and social welfare.*"<sup>80</sup> In the new regime, the law in the very first instance states that the Government of Uganda holds "the sovereign right to grant or deny asylum or refugee status to any person."<sup>81</sup> Furthermore, the Act stipulates that "[t]he UNHCR may attend meetings of the [Refugee] Eligibility Committee *in an advisory capacity.*"<sup>82</sup> Having expunged UNHCR from substantive decision-making, the remaining REC membership was now drawn exclusively from institutions of central government.

The Act establishes the REC with the following functions: (a) to consider and deal with the applications for refugee status; (b) where necessary, to review or revise cases previously dealt with; (c) to advise the Minister responsible for refugees on matters relating to refugees; and (d) to recommend to the Minister for his or her action (i) cases of expulsion or extradition, (ii) cases of cessation of refugee status; and (iii) cases where a person requires assistance to find an alternative country of asylum.<sup>83</sup> The REC is required to meet as often as necessary to discharge its functions but shall in any case meet at least once in every month. One of the key stipulations of the Act is that all applications for refugee status must be directed to the REC which is required to make its decision within 90 days, and then communicate it to the applicant within 14 days.

Some room for manoeuvre is provided by Section 22(2) of the Act which stipulates that the Commissioner for Refugees, not the REC, has jurisdiction to deal with the applications of the most vulnerable refugees. These include (a) persons with disabilities; (b) trauma victims,

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<sup>79</sup> Section 11 of the 2006 Act.

<sup>80</sup> Kiapi, A. "The Legal Status of Refugees in Uganda" *East African Journal of Peace & Human Rights*, Vol. 3(1), 1998, p. 128. Italics added for emphasis.

<sup>81</sup> Section 3(2) of the 2006 Act.

<sup>82</sup> Section 11(3) of the 2006 Act; italics added for emphasis.

<sup>83</sup> Section 12 of the 2006 Act.

detained persons and victims of torture; (c) minors and vulnerable persons<sup>84</sup>; and (d) other persons requiring urgent attention in accordance with special procedures by regulations under this Act. Furthermore, Regulation 6 of the 2010 Refugees Regulations underscores that where a person applies for refugee status as an unaccompanied minor, “a standing committee of the REC”<sup>85</sup> may be tasked with investigating and establishing the true age of the applicant. Such an unaccompanied minor so identified “shall be separated from the adult applicants and shall... 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.”<sup>86</sup> This is no doubt a positive development, as the law does recognise the fact that, though all refugees should be treated as equals, some with special needs might fail, if treated like refugees without special needs, to make use of and benefit from the system (RSD directly through REC).

Whereas the REC comprises stakeholders that are relevant to refugee issues from a security perspective, the gender composition of the Committee is not explicitly stated. Committee members are not required to have knowledge of gender issues, and the Ministry of Gender Labour and Social Development (MGLSD) is not represented on the REC. Although the law provides for co-option of external persons to assist it in dealing with any matter where it lacks experience or qualifications,<sup>87</sup> such co-opted persons are “not entitled to vote on any matter coming for decision before the Eligibility Committee.”<sup>88</sup>

### **c) Refugee Appeals Board**

As noted above, in case of a rejection decision by the REC, the asylum seeker applicant may seek relief through the Refugee Appeals Board (RAB), which hears appeals from the Committee’s determinations. Section 21(3) of the Act provides the opportunity for an asylum seeker to appeal the decision of the REC to the RAB in person or through legal representation, though at the appellant’s own expense. Section 24 (2&3) respectively stipulate that “[t]he applicant is entitled, to a hearing during the consideration of his or her application and where necessary the State shall provide the services of a competent interpreter to the applicant” and that “[i]n the exercise of his or her rights under subsection (2) of this section, the applicant may be represented or assisted by a person of his or her own choice, including an advocate at his or her own expense.”

The RAB, according to Section 16 (1) of the Act, shall consist of “a Chairperson and four other members appointed by the Minister on such terms and conditions as the Minister may determine.” The Board does not have the power to grant refugee status. UNHCR representatives may attend proceedings of both the REC and the RAB in observer-advisory

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<sup>84</sup> In the language of the 2010 Refugees Regulations, vulnerable persons include a member of family of a refugee (especially a minor, i.e. below the age of 18), an unaccompanied minor, an HIV-positive person, and a stateless person, among others.

<sup>85</sup> Regulation 6(2) of the 2010 Refugees Regulations.

<sup>86</sup> Regulation 6 (3) of the 2010 Refugees Regulations.

<sup>87</sup> Paraphrase from Section 14(1) of the 2006 Act.

<sup>88</sup> Section 14(2) of the 2006 Act.

capacity.<sup>89</sup> Although the RAB can “set aside”<sup>90</sup> the decision of the REC, it has no authority to reverse REC decisions to withhold asylum. Section 17(4) emphatically states that: “For the avoidance of doubt, the Appeals Board shall not make a decision granting the status of refugee to an applicant.”

Section 21 of the Act stipulates the appeal procedure. An asylum seeker applicant aggrieved by the decision of the REC may, according to the law, appeal to the RAB within thirty days of receipt of the notice of the decision of the REC. The law further clarifies that a late submission of appeal (i.e. after the expiry of thirty days) may still be entertained by the RAB “if the appellant has justifiable cause for having filed a late appeal.”<sup>91</sup> At the hearing of their appeal, the appellant may appear before the RAB in person or may be represented by an advocate at their own expense. The decision of the RAB, upon such hearing, “shall be final.”<sup>92</sup>

## V. Part 2: De Facto - Challenges in the Refugee Recognition Regime<sup>93</sup>

Uganda’s RRR takes its cues from the juridical provisions encapsulated in both the 1951 UN Convention and the 1969 OAU Convention, while espousing a somewhat expanded definition of the concept of refugee in its Refugees Act (2006). This section critically assesses the extent to which the actual processes of refugee recognition by the Ugandan state comply with the model set out in the Refugees Act.

Perhaps the most striking feature of the *de facto* administration of refugee status is the way Uganda manages to juggle two distinct modes of refugee recognition.<sup>94</sup> These modes are deployed based in part on whether the person concerned has arrived as part of a mass influx and is being registered in one of the rural refugee settlements, or, alternatively, has arrived individually in Kampala or other urban centres. For those who arrive *en masse* refugee determination is done on *prima facie* basis and involves only a short registration process and issuance of an attestation document, rather than the detailed face-to-face individual interviewing demanded by individual status determination. For those who arrive individually, individual RSD can be required.<sup>95</sup>

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<sup>89</sup> Section 11(3) of the 2006 Act.

<sup>90</sup> Section 17(2)(b) of the 2006 Act.

<sup>91</sup> Section 21(2) of the 2006 Act.

<sup>92</sup> Section 21(4) of the 2006 Act.

<sup>93</sup> The authors are indebted to our RLP legal colleagues, namely Devota Nuwe, Patience Katenda and Gabriel Ochieng as well as to the other interviewees and discussants (herein anonymised) for many of the insights presented in this section of the paper.

<sup>94</sup> An important contribution to the RSD discourse in Uganda’s RRR (following the enactment of the 2006 Act) is Sharpe, M. & Namusobya, S. “Refugee Status Determination and the Rights of Recognized Refugees under Uganda’s Refugees Act 2006” *International Journal of Refugee Law*, Vol. 24 (3), October 2012, pp. 561-78. For a critical RSD discourse in Uganda before the enactment of the 2006 Act, see RLP Working Paper No. 9 (2002), “Refugees in the City: Status Determination, Resettlement and Changing Nature of Forced Migration in Uganda”.

<sup>95</sup> Alison Ryan et al note that Nakivale and Kyangwali settlements are the only locations with significant numbers of individual refugee status determinations.

Settlement-based refugees whose refugee status was determined by *prima facie* procedures include South Sudanese (61.6% of the country's total refugee population), Congolese (DRC) (28.9% of the country's total refugee population), and (prior to 2017) Burundian asylum seekers.<sup>96</sup> These populations fled *en masse* to Uganda from violence-affected southern provinces of South Sudan, eastern provinces of Democratic Republic of the Congo and war-torn Burundi. In 2017 the Ugandan government ceased the grant of *prima facie* status for citizens fleeing political violence in Burundi (this followed the two-year period set in the Refugees Act for grant of *prima facie* status). At the time of writing only individual status determination remains available to Burundian nationals seeking refuge in Uganda, whether in rural-based refugee settlements or otherwise. In 2020 during Uganda's COVID-19 lockdown Congolese asylum seekers from Ituri Province in eastern DRC benefited briefly from *prima facie* status granted under a special presidential directive,<sup>97</sup> but as of mid-2021 group refugee recognition only applied to South Sudanese asylum seekers arriving at Uganda's northern border with South Sudan.<sup>98</sup> OPM's RSD interviewing officers conduct short interviews, during which they confirm the asylum seeker's nationality (South Sudanese or Congolese (DRC) in the current case) and issue a "refugee attestation document."<sup>99</sup> This credential entitles each refugee in a recognised refugee settlement to a range of humanitarian services (food, water and sanitation, healthcare, education, etc.) delivered within the refugee settlement, as well as to allocated plots of land for shelter and farming coupled with agricultural implements supplied in a bid to lessen exclusive dependence on food rations.<sup>100</sup>

While in the 2006 Refugees Act there is nothing to restrict the grant of *prima facie* status to rural arrivals, in practice asylum seekers in the urban centres can only access individual RSD – and then only in Kampala.<sup>101</sup> The 2006 Act states that an applicant or recognised refugee who wishes to stay in a place "other than the designated places or areas [refugee settlement] may apply to the Commissioner for permission to reside in any other part of Uganda."<sup>102</sup> In practice, however, while there is some cross-over by *prima facie* refugees to urban centres, and by IRSD refugees to rural settlements,<sup>103</sup> there are several bureaucratic and economic reasons why such

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<sup>96</sup> OPM DoR and UNHCR Uganda statistics available online at <https://ugandarefugees.org/en/country/uga>

<sup>97</sup> This uniquely ensued from of a prerogative of clemency from the President of the Republic, Yoweri Museveni, who, in issuing his presidential directive, instructed the bureaucratic hierarchy at OPM's Department of Refugees to process refugee status for this specific influx of Congolese asylum seekers in moments of state border closures due to the COVID-19 pandemic as a case of *prima facie* RSD. Excerpts from an in-depth interview with Senior Refugee Protection Officer, OPM DoR (online, 16 February 2021)

<sup>98</sup> Ryan, A. (2018). *Op. cit.*

<sup>99</sup> *Id.*, p. 13.

<sup>100</sup> *Id.*

<sup>101</sup> Ryan, A. "Refugee Status Determination: A Study of the Process in Uganda" Nowergian Refugee Council (NRC) Report, 2018.

<sup>102</sup> Section 44(2) of the 2006 Act

<sup>103</sup> Mulumba, D. "African refugees: challenges and survival strategies of rural and urban integration in Uganda" *Mawazo: The Journal of the Faculties of Arts and Social Sciences, Makerere University*, Vol. 9 (1), 2010, pp.220-234.



crossovers – particularly from urban self-settled to rural settlement - are relatively rare.<sup>104</sup> <sup>105</sup> The most significant economic reason is that the entitlements available to refugees in refugee settlements and provided through Implementing Partners are not available to asylum seekers seeking refugee status in Kampala, Uganda’s capital city, or in any other urban area (municipalities and towns). In stark contrast to the plethora of refugee serving agencies to be found in rural settlements, Kampala still only counts a handful. These administrative measures severely undermine the supposed freedom of refugees to choose where to locate themselves.<sup>106</sup>

**i. The connection between individual RSD, urban refugees, and humanitarian assistance**

According to the joint statistics of OPM’s DoR and UNHCR Uganda (as of 31 May 2021), 6.2 per cent (some 92,729 asylum seekers and refugees) are settled in the urban areas of Kampala District alone.<sup>107</sup> Besides Kampala (in its metropolitan sense), self-settled urban refugees are hosted in other cities, municipalities and towns of Uganda, including Arua, Fort Portal, Gulu, Jinja and Mbarara cities; Kasese and Mukono municipalities, Bweyale and Kyenjonjo towns among others. From the figures published by the OPM’s DoR in 2017, for instance, it was reported that 14 per cent of the total refugee population in then Arua District lived in then Arua Municipality, while 10 per cent of the refugee population in Adjumani district resided in Adjumani Town.

Some critics have pointed out that while the law guarantees all recognised refugees (regardless of where they end up settling within Uganda) the right to identity cards for purposes of identification, OPM’s DoR permission to refugees to remain in Kampala as well as other urban areas around the country has tended to depend on those refugees’ ability to prove ‘self-sufficiency,’<sup>108</sup> generally through proof of (formal) employment and/or (fixed) residency; refugees who cannot show such proof are deemed unable to sustain themselves in urban areas and thus strongly discouraged from remaining there. As a result, many urban refugees reportedly self-settle without obtaining full legal documentation.<sup>109</sup> Even where they do have such documentation, self-settlement (often in urban informal settlements) increases their invisibility and makes access to protection-enhancing assistance more difficult. Given that informal urban settlements tend to be ill-served by state services even for citizens, access to

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<sup>104</sup> Section 60(1) of the 2010 Refugees Regulations—the statutory instrument operationalising the Act—only makes reference to designated refugee settlements in terms of integration of refugees in Uganda’s host communities.

<sup>105</sup> In their study of Kampala-settled refugees, Jesse Bernstein and Moses Chrispus Okello argue that Uganda’s refugee protection regime—so much preoccupied with refugee self-reliance in rural settings—remains highly restrictive, in that it focuses assistance and protection “on refugees living in settlements and not those refugees who chose, for many reasons, to live outside such restrictive spaces” (p. 47). See Bernstein, J. & Okello, M.C. “To Be or Not To Be: Urban Refugees in Kampala” *Refuge*, Vol. 24(1), 2007, pp. 46-56.

<sup>106</sup> Bernstein, J. & Okello, M.C. (2007). *Op. cit.*

<sup>107</sup> *Supra note* 116.

<sup>108</sup> Addaney, M. “A step forward in the protection of urban refugees: The legal protection of the rights of urban refugees in Uganda” *African Human Rights Law Journal*, Vol. 17, 2017, pp. 219-44 citing Ssemugenyi, D. “Challenges to refugees’ freedom of movement in Uganda: A case of self-settled refugees In Kisenyi, Kampala”. Unpublished MA thesis, Norwegian University of Science and Technology, 2011.

<sup>109</sup> Buscher, D. “New approaches to urban refugee livelihood.” *Refuge*, 28(2), 2012, pp. 17-29.

basic social health services and other urban amenities for self-settled urban refugees is correspondingly limited. Indeed, as Elizabeth Campbell demonstrated in the case of Congolese refugees settled in Nairobi, attempts by self-settled urban refugees to access a share of meagre resources with other urban poor may further expose them to hostility.<sup>110</sup>

That said, while recognised refugees for many years were barely recorded (in 2007, for example, Hovil spoke of 200 registered refugees in Kampala), in recent years UNHCR and OPM have conducted a number of verification exercises which currently place 6.2% of registered refugees in urban areas. Of the more than 1.5 million refugees currently hosted in Uganda, about 93.8 per cent are settled in designated rural refugee settlements across some eleven refugee-hosting districts, and in some refugee-hosting districts reportedly make up more than one-third of the total population.<sup>111</sup> In May 2021, in furtherance of protection-enhanced assistance to settlement-based (predominantly *prima facie*) refugees, the government of Uganda launched a multi-partner plan known as the ‘Jobs and Livelihoods Integrated Response Plan (JLIRP) for refugees and host communities in Uganda’<sup>112</sup> in line with the ideals of the Global Refugee Compact. The plan envisions self-reliant and resilient refugees and host community households in refugee-hosting districts by 2025. It emphasises increasing economic opportunities by strengthening market systems for both refugees and hosts in refugee-hosting districts of Uganda. For the most part, the land for rural refugee settlements is gazetted by the central government to host refugees. Where it has not been gazetted (for example Palabek Refugee Settlement in Lamwo district, northern Uganda, established in 2017), the central government through OPM’s DoR negotiates for land with local leaders (customary owners) from the host community.

Section 65 of the 2010 Refugees Regulations deals with access to land use. It states that no recognised refugee shall acquire or hold freehold interest in land in Uganda. Refugees residing in a designated refugee settlement shall have “free access to use of land... expect that they shall have *no right to sell, lease or otherwise alienate the land* that has been allocated to them strictly for their individual or family utilization.”<sup>113</sup> Refugees residing outside designated refugee settlements “as a tenant *may legally acquire or dispose of his or her occupancy or leasehold interests in land*, as the law permits resident aliens generally to do.”<sup>114</sup>

For residents of rural settlements, the 0.03 hectare of land allocated per refugee household on average is hugely insufficient, and the quality of land often extremely uneven.<sup>115</sup> What is more,

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<sup>110</sup> Campbell, E.H. “Congolese refugee livelihoods in Nairobi and the prospects of legal, local integration.” *Refugee Survey Quarterly*, Vol. 25(2), 2006, pp. 93-108.

<sup>111</sup> *Ibid.*

<sup>112</sup> A detailed account of this Plan is available online at <https://data2.unhcr.org/en/documents/details/86601> [Ministry of Gender, Labour and Social Development (MGLSD) “Jobs and Livelihoods Integrated Response Plan for Refugees and Host Communities in Uganda, 2020/2021 – 2024/2025” (JLRIP)], May 2021.

<sup>113</sup> Section 65(1) of the 2010 Refugees Regulations; italics added for emphasis.

<sup>114</sup> Section 65(3) of the 2010 Refugees Regulations; italics added for emphasis.

<sup>115</sup> Lester, T. “Addressing the needs of Vulnerable Individuals/Households in Refugee Settlements in Adjumani District” Unpublished Manuscript, 1998, Kampala.

with the exception of a few refugee settlements adjacent to urban centres and highways (such as in Kiryandongo), most are physically isolated and barely have access to wider markets<sup>116</sup> – something which runs counter to the stated ideals of the JLIRP in relation to protection-enhanced resilient assistance for these settlements-based refugees.

For self-settled refugees and asylum seekers who settle in urban areas “in a place other than the designated places or areas [by OPM’s DoR]”<sup>117</sup> not all apply to the Commissioner for permission to reside in such other places as required by the law, and many are unaware of the prohibition on the purchase of freehold land.

## ii. Individual refugee status determination – De Facto

In Kampala, a person seeking asylum fills out an application form (Form G) at a Refugee Registration Desk staffed primarily by police officers of the Criminal Investigation Division and sits for a security screening interview the same day.<sup>118</sup> During this screening interview the officer is expected to record basic bio-data of the individual asylum seeker, after which the Officer in Charge provides an ‘asylum seeker registration slip’ (which includes a registration number) and informs the asylum seeker in question that “in two days time, he or she should undergo a second registration procedure, this time with the Directorate [Department] of Refugees... in the Office of the Prime Minister (OPM).”<sup>119</sup> At OPM’s office, which is less than two kilometers away, the OPM’s DoR conducts an interview to assess the applicant’s country of origin, their background, and their credible fear of return to their country of origin.<sup>120</sup> The records from this interview are sent to the Refugee Eligibility Committee (REC) to make a determination.<sup>121</sup>

The cracks in the process are evident from the first step: While the Refugee Registration Desk is supposed only to ensure that a very basic security check has been conducted before an asylum seeker meets with a DoR interviewing officer, it can in important ways pre-empt and undermine the entire process by refusing to register certain cases for forwarding to the REC. Many applicants are simply told “you do not have grounds.”<sup>122</sup> In the words of one RSD interviewing officer, “from being a mere screening desk set up by an operational decision to increase efficiency, this refugee registration desk has now graduated itself into a *de facto* gatekeeping instance of RSD... Such illegality is really contemptuous.”<sup>123</sup>

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<sup>116</sup> J.D. Mujuzi (2008). *Op. cit.*

<sup>117</sup> Section 44(2) of the 2006 Act.

<sup>118</sup> Regulation 2 of Section 20 of the 2010 Refugees Regulations states that 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 in the 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 habitual residence.

<sup>119</sup> Sharpe, M. & Namusobya, S. (2012). *Op. cit.*, pp. 568-9.

<sup>120</sup> Ryan, A. (2018). *Op. cit.*

<sup>121</sup> *Id.*

<sup>122</sup> Excerpt from two separate in-person FGDs, one with 4 female refugees and asylum seekers (RLP Kampala, 15 February 2021) and another with 5 male refugees (RLP Kampala, 16 February 2021).

<sup>123</sup> Excerpt from a face-to-face in-depth interview with a senior RSD Interviewing Officer: Kampala, 16 February 2021.

Such improvisations result in substantial incidents of non-compliance with important provisions of both the 1951 Convention and the 2006 Refugees Act itself. Complaints made about officers of that Refugee Registration Desk while it was still located within Old Kampala Police Station (a frenetic inner-city station) eventually led to its relocation in January 2021 to a new stand-alone office in Kabusu (within Kampala's Lubaga Division).<sup>124</sup> According to one senior officer in the Department of Refugees, a decision was made to establish the new Refugees Registration Desk "quite a way from Old Kampala Police Station to ensure quality of protection [of asylum seekers] right from the start of the process and increase the much-needed professionalism [of attending officers]."<sup>125</sup>

### iii. Accessibility

Despite the establishment of multiple cities and municipalities in Uganda in recent years, there is still only one Refugee Registration Desk for those seeking to pass through individual RSD and self-settle, namely the one recently relocated to Kabusu, Kampala, as described above.

While the relocation of the Refugee Registration Desk will hopefully reduce the *de facto* arrogation of powers unto itself, the fact that there is no public information about how to pursue an asylum claim means that many potential asylum seekers, despite being in Kampala, do not hear about the Desk and therefore do not begin the registration process until they have already overstayed the statutory limit. Their unintended delay triggers a chain of extortion and bribery for a supposedly free and humanitarian service. One recognised Kampala-based refugee shared how:

Right from that Police Station at Old Kampala I was made to pay 200,000 UGX with no bargaining whatsoever. That was just to get my name written down on a small piece of yellow paper. The interpreter assigned to me explained to me how the bribery deal would fast materialise. Then going down to the OPM to drop that yellow piece of paper containing my name and registered file number, I was now told to cash in 100 USD without fail. I paid this money upon selling my necklace, which was the only remaining item of value on me. The money was given to one 'fixer' within OPM, with the help of the interpreter. The so-called 'fixer' eventually saw to it that my refugee status interview is processed and my refugee ID card issued. I was finally told to come back on a Wednesday, the day earmarked for Somali asylum seekers, to come pick up my refugee ID card. For, as a conspicuously trans-gender person my interpreter thought it wise that I would pass off for a Somali once in camouflage attire and so save him and myself any eventuality of commotion on that day.<sup>126</sup>

During our focus group discussions with refugees and asylum seekers, some reported resorting to survival sex to raise the money required for bribes. They added that the first interview (at

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<sup>124</sup> Information relayed during an online in-depth interview with a senior staff at OPM's DoR, 04 February 2021.

<sup>125</sup> Online interview with OPM's DoR Senior Integration Officer, 04 February 2021

<sup>126</sup> FGD: Kampala, February 2021.

the Refugee Registration Desk) is conducted by armed police officers in uniform (generally male). This can be traumatising for people who suffered at the hands of people in uniform before or during their flight. Respondents described the general demeanour of interviewers as often unfriendly. They added that interpreters generally double as brokers who both demand payment and distort narratives. They noted how a complete registration process at the Refugee Registration Desk requires the taking of fingerprints and passport photos: asylum seekers who are apprehensive about this and seek explanations are given none and are often lost to the system as a result.<sup>127</sup>

Widespread presumptions about almost all nationalities prevail amongst police staffing the registration desk: While South Sudanese, Somali, Ethiopian and Eritrean asylum seekers are presumed to be rich, Rwandan asylum seekers are presumed to be spies engaged in subversive, illicit activities, and Congolese asylum seekers are assumed to be lying.<sup>128</sup> The unchallenged stereotypes often influence the decisions of police officers in charge at the Refugee Registration Desk, to process (or not) first-instance registration of asylum claims. Little wonder that many asylum seekers do not get beyond this stereotype-laden and securitised administrative check-point.

In addition to the above, the sheer volume of claims that the Kampala offices of the DoR have to process is likely to provoke delays. This can be seen in the percentages of asylum seekers relative to recognised refugees. In Kampala in 2021, asylum seekers (21,162 applicants) represented 23.8% of a total of 88,829 refugees and asylum seekers in the city. At nearly one in four, urban asylum seekers are liable to considerable delays, particularly when contrasted to refugee settlements where even in Kyangwali, the settlement with the highest proportion of asylum seekers to recognised refugees, the asylum seekers (3,065) only represented 2.45% of the total population in the settlement (125,039) (see Appendix 1 for figures for all settlements).

#### **iv. Limited opportunity to appeal rejected claims**

For asylum seekers with rejected claims, the grounds for appeal are limited to questions of law and procedure, not to provision of additional evidence. Equally, the opportunities for such an appeal are restricted: The Refugee Appeals Board, as described above, has no power to overrule and reverse the decision of the REC and grant refugee status even when satisfied with the evidence provided by the appellant. In the aftermath of “any inquiry or investigations” the REC itself may either “reject the application” or “grant refugee status to the applicant.”<sup>129</sup>

One senior official from the DoR summed up the RAB vis-à-vis REC conundrum as “a legal lacuna in serious need of amendment.”<sup>130</sup> Moreover, the grounds for an appeal is an important

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<sup>127</sup> Information relayed in the course of an in-person FGD with RLP lawyers invested in RSD processes: Kampala, 02 February 2021.

<sup>128</sup> *Ibid.*

<sup>129</sup> Section 20(2) of the 2006 Act.

<sup>130</sup> Excerpt from a face-to-face in-depth interview with a long-standing member of REC, Senior RSD Officer at OPM DoR: Kampala, 04 February 2021.

ingredient in strengthening the appellant's application. Although intended to underscore natural justice for the aggrieved applicant, the provision allowing asylum seekers to be represented by lawyers at their own cost does not take into consideration that most asylum seekers lack the financial resources to pay for the services of an advocate should they wish to appeal the REC's negative decision.

The fact that the law underscores that the RAB's decision on an appellant's application shall be final frustrates any person's constitutional right to apply for remedy to a competent court of law against a decision taken by an administrative body such as RAB. Whereas Sharpe and Namusobya argue that appellants whose applications are rejected by RAB may in principle apply for a judicial review at a court of competent jurisdiction,<sup>131</sup> this possibility remains elusive.<sup>132, 133</sup>

#### **v. Gender hurdles**

Uganda's 2006 Refugees Act goes beyond the analogous statutes of Lesotho (1983), Tanzania (1998) and South Africa (1998) by extending special refugee protections based on gender and sex discrimination. This progressive stance notwithstanding, the administrative structure in charge of assessing refugee applications and the refugee determination procedure remains laden with gender gaps, and in some cases has simply flipped the burden of exclusion from women to men.

Overall, the statistics for asylum seekers and refugees in Uganda suggest that male and female are almost at parity, with males representing 48.4% of the total, women 51.6%. Amongst asylum seekers men are slightly more represented at 50.5%, compared to women at 49.5% (see Appendix 1). However, whereas any asylum seeker raising a refugee claim that is at least in part gender-related (notably where sexual violence or torture are a key element in the claim) might reasonably be supposed to require a supportive environment where they can be assured of the confidentiality of their claim, the gender composition of all the institutions involved (Refugee Registration Desk through to the REC and RAB) is wanting insofar as there is no specific expertise on the broad range of gender issues (notably those related to conflict-related sexual violence, trafficking in persons, and sexual and gender minorities). It is thus hard to fathom how they can fulfil gender-sensitive and gender-responsive roles in determining the fate of the applicants and appellants. Without any explicit stipulation in law about the gender composition of the REC, the possibility that it will be dominated by men is high given that most central government agencies involved in the REC are often headed by men. Having a male-dominated REC with no appropriate training in gender issues may compromise or bias the decisions made by the Committee when assessing diverse refugee applications.

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<sup>131</sup> Sharpe, M. & Namusobya, S. "Refugee Status Determination and the Rights of Recognized Refugees under Uganda's Refugees Act 2006" *International Journal of Refugee Law*, Vol. 24 (3), October 2012, pp. 561-78.

<sup>132</sup> Ryan, A. (2018). *Op. cit.*, p. 13. One important appeal case that travelled up to the High Court for review is discussed in subsequent sections of this report.

<sup>133</sup> To our extant knowledge, only one case has made it for judicial review at the High Court ever since the 2006 Act came into force. The case in question is under legal representation by RLP (Access to Justice legal officers).

In a FGD with some six female refugees who had been long-standing clients of RLP, participants suggested that, due to the shame and trauma they feel as a result of what happened to them, they “may be reluctant to identify the true extent of the persecution suffered or feared if the interview process and environment do not provide a safe space that allows an open interaction between the interviewer and the applicant.”<sup>134</sup>

For asylum seekers who are openly or visibly LGBTI, irrespective of their age or country of origin, there is no access whatsoever to refugee status if they seek asylum on the basis of persecution related to their sexual orientation or gender identity as the Government of Uganda does not recognise these as legitimate grounds for the grant of refugee status; persons in that situation are generally advised to use alternative grounds related to conflict in their country of origin.<sup>135</sup> This is particularly paradoxical given that asylum from persecution “for failing to conform to gender discriminating practices”<sup>136</sup> constitutes one of the six legal grounds for qualifying for refugee status according to the 2006 Act. In its interpretation section, the Act explicitly states that “‘gender discriminating practices’ includes strict and forced adherence to a dress code, obligatory pre-arranged marriages, physically harmful facial or genital mutilation, rape, domestic violence and *other gender related negative activities*.”<sup>137</sup> Whereas in other jurisdictions, notably South Africa, being a member of a sexual or gender minority is recognised as grounds for asylum, in Uganda it constitutes reason for not being considered at all. The few who try to gain asylum on those grounds are routinely rejected.

Where attempts have been made to lodge appeals with the RAB, those of LGBTI asylum seekers are not even filed. There is thus no written evidence that LGBTI asylum seekers even applied, let alone notice of rejection. Yet, UNHCR has tended to demand written evidence of rejection before even considering the grant of Mandate Status to this category of asylum seekers. As one gay Burundian refugee voiced in a focus group discussion,

I got my temporary asylum seeker certificate from the OPM a little while after I have arrived in Kampala. But, no sooner had I been issued it than the very officials from the OPM recalled it after they got to realise my identity as a gay. Having run from an homophobic society (in Burundi), I soon discovered that I have landed in a far more homophobic state and society (in Uganda). Here, both members of the society and officers of the state won’t hesitate to finish off a gay person simply for who that person is. To be gay here is synonymous with having committed a heinous crime. No amount of vulnerability from a run-away asylum seeker can find sympathy if one is gay. To put it succinctly, this [Uganda] is a deeper hole in hell insofar as protection of LGBTI refugees is concerned.<sup>138</sup>

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<sup>134</sup> FGD with 6 female refugees and asylum seekers: Kampala, 15 February 2021.

<sup>135</sup> Excerpt from an in-person FGD with 5 LGBTI refugees and asylum seekers: Kampala, 16 February 2021

<sup>136</sup> Section 4(d) of the 2006 Act.

<sup>137</sup> Section 2 of the 2006 Act; italics added for emphasis.

<sup>138</sup> *Supra note* 140.

Yet, access to UNHCR Mandate Status—the one remaining avenue for refugee status after recognition by the government’s REC had been blocked—remains next to impossible. The bureaucracy involved in the grant of UNHCR Mandate Status, let alone the political sensitivities on the UNHCR-State relations ensuing from such attempts, make the pursuit of Mandate Statutes by asylum seekers almost inaccessible. Despite being Uganda’s oldest organisation offering legal aid to forced migrants (since 1999), RLP has only witnessed three cases involving the grant of UNHCR Mandate Status in the last twenty-two years. All three were to enable resettlement to a third country rather than to allow a refugee recognised as such to remain in Uganda.

## vi. Accuracy

OPM’s Department of Refugees, despite receiving a large volume of applications for refugee status (see Table 1 below) “currently disposes of some eight overstretched RSD Interviewing Officers, many of us having been ill-prepared school-wise for the job and with so little benefit of appropriate training after getting the job.”<sup>139</sup> This under-staffing compounds the fact that “the bulk of our RSD work, from REC sittings to specialised trainings and access to COI [country-of-origin information] hugely depends on UNHCR funding”.<sup>140</sup> As a result the DoR goes through perennial periods of underfunding, which can compromise the quality and accuracy of REC decisions. Furthermore, the security focus of the REC, together with a general lack of knowledge of the specifics of either refugee law or the ‘softer’ dimensions of forced migration experiences such as gender dynamics, trauma and its impacts on memory, can make REC’s appreciation of some asylum seekers’ applications virtually nil, as exemplified in the following statement by an RSD interviewing officer from OPM’s DoR:

First-instance interviews are often based on the applicant having full, chronological remembrance, yet traumatised memory as is often the case with asylum seeker is, in the main, truncated.<sup>141</sup>

The disconnect between humanitarian intentions, practitioner understanding and systemic bureaucratic tendencies is evident Section 19 (1) of the 2006 Act. This provides for the application of refugee status and requires that “[a]ny person who enters Uganda and wishes to remain in Uganda as a refugee shall make a *written application* to the REC for the grant of refugee status within thirty days after the date of his or her entry into Uganda” [emphasis added]. The requirement for a written application pre-supposes that all asylum seekers are literate and can read and write and articulate their claim effectively, despite available data indicating that literacy levels vary widely across different contexts, and that, globally, women have lower literacy levels than men and are correspondingly more likely to be adversely

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<sup>139</sup> *Supra note* 135.

<sup>140</sup> Excerpt from a face-to-face in-depth interview with a senior staff at OPM’s DoR: Kampala, 04 February 2021.

<sup>141</sup> *Ibid.*



affected by this provision.<sup>142</sup> There is no explicit provision in law for a designated government officer from the DoR or any third-party from civil society or non-governmental entities involved in refugee rights and protection to assist asylum seekers to write their application. The failure to cater in law for submission of oral testimonies—despite the low levels of literacy prevalent in the countries of origin for many asylum seekers—severely compromises the accuracy and quality of written testimonies.

In summary, testimonies from applicants are ridden with gaps in narrative, often for reasons beyond their own control; trauma related to the incidents in country of origin is compounded by the trauma of having to narrate atrocities to a person in uniform; language barriers are aggravated by the fact that asylum seekers have poor/no access to interpretation and poor quality of interpretation. The 2006 Act, as already stated above, puts the burden of availability of language translation on the asylum seeker applying for refugee status—a financial burden too heavy to carry for a great many applicants. Yet, without a competent interpreter (one of the fundamental aspects of a fair and efficient RSD procedure), many an asylum seeker “cannot exercise their right to be heard.”<sup>143</sup> In the guidelines of the UNHCR on basic requirements of procedural fairness (especially following the May 2001 Global Consultation Meeting on International Protection with focus on fair and efficient asylum procedures), the availability of ‘qualified and impartial interpreters’ for refugee applicants is key to guaranteeing not only fairness and efficiency of the RSD procedure, but even more so the accuracy of it. Some interpreters, it was reported, unilaterally edit certain parts of testimonies; resultantly, one of the biggest grounds for appeal is that the “story was changed at the refugee registration desk, mostly by interpreters.”<sup>144</sup> Furthermore, data clerks make many mistakes when recording biodata (names, ages, places and dates of birth, family composition).

Given the shortage of RSD interviewing officers and the recurring dearth of qualified and impartial interpreters, the pressing need for safeguards against wrongful rejection of asylum claims remains unmet. For example, there is no scope for expert witness input for asylum applications before REC. While not all asylum applications before a REC require expert witness opinion in their hearing, some do. Indeed, in some jurisdictions it is standard practice for lawyers supporting an asylum seeker’s case, particularly at appeal level, to introduce expert witnesses offering expertise ranging from deep knowledge of the context from which the asylum seeker hails, to expertise on how a person’s traumatic experience might impact the coherence of their testimony.<sup>145</sup> In Uganda, the only resort is to medical reports in cases involving physical assaults. The lack of provision for expert testimony compromises the reliability of both REC proceedings and of any subsequent RAB. It is against this backdrop

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<sup>142</sup> D.S. FitzGerald & R. Arar (2018). “The Sociology of Refugee Migration” *Annual Review of Sociology* [Available online at <https://doi.org/10.1146/annurev-soc-073117-041204>]; H. Höök, H. (2015). *Sharing the urban space. Urban refugees’ perceptions of life as a refugee in Kampala, Uganda* (PhD dissertation, University of Helsinki, 2015). Retrieved 29 April 2016 <http://hdl.handle.net/10138/155129>.

<sup>143</sup> Beraki, S.T. (2009). *Op. cit.*, p. 74.

<sup>144</sup> *Supra note* 135.

<sup>145</sup> The first author of this paper himself served as an expert witness in several RSD cases in the United Kingdom in the early 2000s.

that the RLP legal team is appearing as defence counsel for a pending judicial review currently before the High Court. This judicial review concerns RSD rejection by both REC and RAB of some 22 asylum seekers' applications under legal representation of RLP. The anticipated jurisprudential value of this case—not just in relation to the constitutionality of a RAB decision as being final, but even more so regarding efficiency of RSD procedure—cannot be overemphasised. Although asylum seekers with legal representation stand a much higher chance of RSD approval, there are very few defence counsels relative to the need.

## **vii. Efficiency**

The establishment and recruitment of RSD Interviewing Officers, while an important advance towards developing a more efficient RSD procedure, remains insufficient. As one such officer observed, they are just “too few in comparison to interviewees whose numbers have kept increasing, particularly since 2012; coupled with logistical hurdles of REC sittings, the ever-growing backlog is far from being cleared.”<sup>146</sup> As with specialised trainings for REC members, REC sittings (including their duration) are hugely dependent on availability of funding from the UNHCR.<sup>147</sup> The REC, according to the law, must make a decision within 90 days of the status determination interview<sup>148</sup>; in practice, however, “this may take up to two years, and there is no formalized fast track procedure for vulnerable cases.”<sup>149</sup>

The REC faces several obstacles to its efficiency: One is that, contrary to the provisions of the 2006 Act, it does not manage to meet frequently to keep ahead of ever growing numbers of asylum claims, and certainly nowhere near once per month as established in the Act. In addition to the difficulties of funding sufficient sittings of the REC, the composition of its members, many of whom are senior members of different security agencies, creates availability challenges and a scheduling headache for the convenor. In short, neither REC nor RAB timeframes, although clearly stipulated in the Act, are adhered to. As one long-standing senior member of REC revealed, “Not even with availability of all the necessary funding is a swift clearing of our extant RSD backlog possible; the numbers have been on a constant increase in comparison to the available manpower. Simply put, the timeframe in law of 90 days is overly unrealistic.”<sup>150</sup> The temporary asylum seeker certificate given to all individual claimants states that they will be granted answer within 30 days. This is very rare; many wait for months, some for years<sup>151</sup>—way beyond expected rounds of renewal of this temporary certificate.

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<sup>146</sup> *Ibid.*

<sup>147</sup> *Supra* note 146.

<sup>148</sup> It should here be remembered that neither asylum seekers applying for refugee status nor any legal representatives may appear in person before REC, for the 2006 Act only provides for formal written asylum applications and legal representation.

<sup>149</sup> Sharpe, M. & Namusobya, S. (2012). *Op. cit.*, p. 570.

<sup>150</sup> *Supra* note 146.

<sup>151</sup> *Supra* note 134.

Table 1 Uganda Refugee Eligibility Committee statistics, 2018-2020<sup>152</sup>

COO	Granted		Rejected		# of applications adjudicated	recognition rate
	# of applications	# of individuals	# of applications	# of individuals		
DRC	4,034		358		4,392	92%
Somalia	3,056		0		3,056	100%
Eritrea	203		351		554	36%
Ethiopia	141		39		180	78%
Burundi	504		18		522	96%
Sudan	7		1		8	87%
Rwanda	85		47		132	64%
Turkey	3		1		4	75%
Palestine	1				1	100%
South Sudan	2				2	100%
Syria			2	2	2	0%
Pakistan			48		48	0%
Yemen			2	2	2	0%
Kenya	1		1	1	2	50%
Russia			2	2	2	0%
Tanzania	1				1	100%
Egypt			1		1	0%
<b>TOTAL</b>	<b>8,038</b>		<b>871</b>		<b>8,909</b>	<b>90%</b>

When OPM's figures for grant of asylum are studied (See Appendix 1), they do appear to suggest a relatively generous reception for asylum seekers. As indicated in Table 1 above, 90% of all applications processed over the period 2018-2020 were successful. The figures also suggest a relatively high throughput/processing of individual applications. In December 2018, for example, there were 1,190,922 recognised refugees in Uganda. This number rose to 1,394,678 in January 2020, an increase of 203,756 newly recognised refugees.<sup>153</sup> Over the same twelve months, OPM figures indicate that 22,956 applications for asylum were processed, of which 21,706 were granted. This corresponds to 45,606 beneficiaries under individual RSD (i.e. both the primary applicants and their dependents). In other words, individual refugee status determinations in that particular year accounted for 22.38% of all newly recognised refugees.

The recognition rate for Eritrean asylum applicants, as captured in Table 1 above, is low at 36%, as is that of Rwandan asylum applicants, at 64%. Both are far below the average rate of 90%<sup>154</sup> across all nationalities. In the case of Rwandan asylum applicants, as was reported in the course of our focus group discussions with some recognised Rwandan refugees, many are presumed by the REC to be either spies of the Rwandan state or fugitives on the run from the

<sup>152</sup> Source: Office of the Prime Minister's Department of Refugees

<sup>153</sup> Source: UNHCR Uganda Office. Available online at <https://data2.unhcr.org/en/country/uga> (accessed 23 March 2021)

<sup>154</sup> *Ibid.*

long arm of prosecutorial justice back in Rwanda.<sup>155</sup> In the case of Eritrean asylum applicants, their exclusion stems both from a similar perception that they may be spies of the Eritrean states, and from the fact of being “part of the largest per capita movement of people in the world *from a country ostensibly at peace*.”<sup>156</sup> In the assessment of the REC, whose RSD decision relies on country-of-origin reports, Eritrean asylum applicants therefore have to prove ‘beyond any reasonable doubt’ their persecution from a country arguably ‘ostensibly at peace’. As Georgia Cole puts it, the rationales for leaving Eritrea—a context plagued by debilitating, coercive and oppressive conditions—potentially include “more future-oriented plans than might be the case for populations escaping contexts of acute, violent conflict.”<sup>157</sup>

Overall, the seemingly high approval rates for Uganda’s RSD procedure, however, need to be qualified given that the very RSD process itself can be discriminatory in some instances. In the words of one senior representative from the UNHCR Uganda Office,

[T]here are layers of complexity, both in the law and in practice, which qualify the reported higher percentage of approvals... the challenge of proper case-tracking for those in the RSD pipeline is still considerable. The mere fact that a great deal of asylum seekers—even those in possession of a Temporary Asylum Seeker Certificate—find it difficult to acquire their own sim cards and hence be reliably contactable on phone by OPM further complicates their RSD process. The UNHCR in concert with the OPM are in consultation with the UCC [Uganda Communications Commission] to look into this matter of sim registration for certified asylum seekers, but for now things are not yet as assuring as they should.<sup>158</sup>

#### viii. Fairness

Section 3 of the Act stipulates that the grant of refugee status is, above all else, a humanitarian act at the discretion of the government. The Government of Uganda has in some instances tended to use this ground for denying refugee status to otherwise recognisable asylum seekers with well-founded fear of persecution. The case of *Tesfaye Shifera Awala v. Attorney General*—the first-ever RSD case in the history of post-independence Uganda to reach the High Court for adjudication, and decided by the High Court just one year before the 2006 Refugees Act was enacted – is pertinent for the ways in which the question of fair hearing would be tackled, in the main, by the two key organs of Uganda’s RSD procedure, even after the introduction of the Refugees Act 2006. The applicant, one Tesfaye Shiferwa Awala of Ethiopian nationality who had come to Uganda through Kenya for asylum, sought the

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<sup>155</sup> *Supra note* 134.

<sup>156</sup> Cole, G. “Questioning the value of ‘refugee’ status and its primary vanguard: the case of Eritreans in Uganda” RSC Working Paper Series No. 124, May 2018, pp. 6-7. Italics added for emphasis.

<sup>157</sup> *Ibid.*, p. 7.

<sup>158</sup> Excerpts from an online in-depth interview with a UNHCR Senior RSD Officer held on Zoom, 22 February 2021.

following orders from the High Court:<sup>159</sup> (a) a writ of *certiorari* to quash and declare as null and void, or otherwise unconstitutional and illegal, the decision of REC denying him refugee status for lack of grounds and ordering him to leave the country within ninety days; (b) a prohibition directed to REC stopping the latter or its agents from deporting him to Kenya or Ethiopia; (c) a declaratory order that his application for refugee status was wrongly and illegally rejected; and (d) an injunction refraining the Respondent and/or his agents from arresting, detaining and subsequently deporting him before the determination of the main application. The grounds of Awala's application for refugee status were stated before court as follows:

The Applicant is an Ethiopian national who came to Uganda through Kenya; he led student demonstrations in April 2001 over bad administration at his university and was arrested and subsequently tortured by Government agents. He and other student leaders, including the students' union president, were released and put under house arrest. The Applicant eventually escaped to Kenya after a tip off that he was to be arrested, together with other student leaders, after the university examinations session. While in Kenya, the UNHCR granted refugee status to the president of the students' union and the rest of the student leaders including the Applicant were denied refugee status. The Applicant was later arrested and charged in a Kenyan court for illegally staying in Kenya, and was convicted and sentenced to a six-month imprisonment with an order of deportation to Ethiopia after serving his prison sentence. The Applicant eventually escaped from that Kenya prison, and, with assistance from other members of the student movement, moved to Uganda. He then applied for refugee status in Uganda and was interviewed, in the first instance, by the Special Branch of the Uganda Police. On the basis of that interview by the Police, the Applicant was denied refugee status in Uganda on the basis that the Applicant was denied refugee status in Kenya. On 28 March 2003, the Refugee Law Project of the Faculty of Law, Makerere University wrote, on behalf of the Applicant, an appeal to REC, to which, on 12 June 2003, the Applicant received another rejection from REC and was given 90 days to leave the country. The REC denied the Applicant refugee status on the basis that his application for asylum lacked grounds and relied on irrelevant considerations. Finally, the Applicant appealed this REC decision, emphasising that he has been treated unfairly in that the REC did not ascertain the relevant facts of the case.<sup>160</sup>

In his ruling delivered on 08 February 2005, the Honourable Justice Gideon Tinyinondi averred the following:

The Applicant's Counsel submitted that the standard of proof in this case was a reasonable possibility but not a balance of probability. On the part of the Respondent, Counsel argued that the standard is very strict. He cited the case of *Al Medani v. Secretary of State for Home Department* [1990J 1 A.C 876]. He gave reasons for this standard. I agree with Respondent's Counsel's submissions and hold that the Applicant failed to live up to this standard. In

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<sup>159</sup> *Tesfaye Shiferwa Awala v. Attorney General* in The High Court of Uganda at Kampala, Miscellaneous Application NO. 688 of 2003.

<sup>160</sup> *Ibid.*

view of the above discourse, I decline to grant the order of *certiorari*... Finally, the Applicant asked for a declaration that his application for refugee status was illegally and unconstitutionally rejected. I repeat my reasons for declining to grant the remedy of *certiorari* and apply them to my refusal to grant the declaratory order. This application stands dismissed with costs to the Respondent.<sup>161</sup>

The standard of burden of proof, in the wake of this historic case, has arguably remained strict and consequently cumbersome for the asylum seeker. As one RLP legal officer averred, this case remains of great jurisprudential importance for our understanding of contemporary Uganda's RSD. Its final ruling—in disfavour of the appellant—was delivered on the heels of the enactment of a new legal regime, the 2006 Refugees Act. The very absence of 'expert witness' in RSD procedure did indeed shrink the room for a fair hearing. Furthermore, with no direct legal representation as applicants indirectly face the REC and the RAB, Uganda's asylum seekers Involved in the individual RSD procedure lack *locus standi* to challenge REC and RAB decisions through the courts of law. Yet, as Edward Khiddu-Makubuya aptly put it, "to subject a person exclusively to administrative/executive justice simply because s/he is a refugee amounts to denial of benefits of the rule of law."<sup>162</sup>

This case showcases the very high bar Ugandan courts set in looking at the evidence in asylum claims should they go for appeal. Rather than deploying "a balance of probabilities" the judge here pushed for "evidence beyond reasonable doubt"<sup>163</sup> in a case in which the applicant is visibly a forcibly displaced person. Another RSD case<sup>164</sup>, again involving RLP legal representation, has made it to the High Court at Kampala for judicial review. At stake in the anticipated verdict of this new case is the test of fairness in RSD procedure under the 2006 Act.

## VI. Quality of protection

"Recognised refugees", the Assistant Commissioner for Refugees underscored in the course of our interview, "are special guests of the state,"<sup>165</sup> and thus deserving of special care throughout their asylum stay in the host country. Nonetheless, while the 1951 UN Convention guarantees a broad regime of rights to refugees, the Ugandan legal framework (with an expansive definition of refugee and an explicit care for *prima facie* refugees settled in designated refugee settlements) espouses a relatively restricted range of refugee rights and benefits, especially for those granted refugee status by way of individual RSD who settle outside the formal refugee settlements.

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<sup>161</sup> Ruling read by the Deputy Registrar of the High Court in *Tesfaye Shiferwa Awala v. Attorney General* before Honourable Justice G. Tinyinondi [Misc. Appl. No. 688 of 2003]

<sup>162</sup> E. Khiddu-Makubuya "The Legal Condition of Refugees in Uganda" *Journal of Refugee Studies*, Vol. 7 (4), 1994, p. 409.

<sup>163</sup> Excerpt from a legal brief (by RLP Legal Officer) on the ruling about *Tesfaye Shiferwa Awala v. Attorney General* before Honourable Justice G. Tinyinondi [Misc. Appl. No. 688 of 2003] (shared with the authors on 19 March 2021).

<sup>164</sup> *Nigsti Yakob and 21 Others v. Attorney General* in the High Court of Uganda at Kampala, Miscellaneous Application No. 45 of 2020.

<sup>165</sup> Excerpt from a face-to-face interview with OPM's DoR Assistant Commissioner for Refugees: Kampala 04 February 2021.

## **i. Protection against refoulement**

Article 33 of the 1951 UN Convention prohibits the denial of entrance to refugees and the return of a refugee to the country from which he or she has fled. As one participant in a FGD recalled, “to quit your own country for refuge in another cannot be caused by a mere issue of frivolity; it is more often than not a very serious matter. That’s why to complicate the RSD process further for an asylum-seeker is all the more painful...”<sup>166</sup> Many (both within and outside the country) have applauded Uganda’s exhibited hospitality, on the whole, for having allowed myriads of forced migrants to enter her territory without let or hindrance. The situation is, however, more complex when it comes to the question of non-refoulement. There have reportedly been some high-profile cases of refoulement, particularly of Rwandans, Burundians and DR Congolese asylum seekers.<sup>167</sup> Incidences of expulsion comparable in magnitude to the events of what came to be known as the ‘chasing of Banyarwanda’ from western Uganda (greater Mbarara) in 1982-83<sup>168</sup> and from central Uganda (Mawogola in Masaka) in 1990<sup>169</sup> have not occurred since the 2000s, but isolated individual cases of refoulement have not completely ceased.

## **ii. Security of Residence**

Section 23 of the 2006 Act stipulates that asylum seekers whose application for refugee status had been rejected and who have gone beyond the subsequent ninety days grace period and any extension of that grace period by the Minister [in charge of refugee affairs], “shall be subject to expulsion or deportation from Uganda or other appropriate action under the applicable laws.”<sup>170</sup> Certainly a great many self-settled urban asylum seekers who hold a ‘temporary pass’ (according to Regulation 13 of the 2010 Refugees Regulations), pending decision of the REC over their refugee status application, report considerable anxieties vis-à-vis residence. As one asylum seeker revealed;

First of all, those Ugandan local leaders in the neighbourhood, where as our family we had initially planned to rent, do not understand a thing about refugee documents. As such, our would-be landlord dropped all the confidence to endorse the tenant agreement when we presented him with our temporary passes from OPM’s DoR. It became hard and eventually expensive for us to secure a place to rent. You go to a bank in hope to open a bank account with your T.P. [temporary pass] and there too you face the same rejection of your documentation. Even Western Union counters cannot serve you your money with this T.P.; getting a sim card using your T.P. was already very hard in the

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<sup>166</sup> Excerpts from an in-person FGD with 5 male refugees and asylum seekers: Kampala, 16 February 2021.

<sup>167</sup> *Ibid.*

<sup>168</sup> Khiddu-Makubuya, E. (1994). *Op. cit.*

<sup>169</sup> Mamdani, M. “African States, Citizenship and War: A Case-Study” *International Affairs*, Vol. 78 (3), 2002, pp. 493-506.

<sup>170</sup> Section 23 (2), (3) & (4) of the 2006 Act.

months passed and it is now impossible. So, basically, one's life is in suspension here [Uganda] while holding a T.P.<sup>171</sup>

Even refugees in possession of a refugee identity card find that this does not automatically translate into security of residence. Many self-settled urban refugees with valid refugee ID cards still face continuous harassment or disdain whenever they seek access to social services where identification is required.<sup>172</sup> And while security of residence is comparatively less challenging for refugees settled in rural refugee settlements<sup>173</sup>, the settlements' boundaries are generally very porous and there are many reports of foreign security operatives entering them and harassing individuals. Worse still, there have been a number of documented inter-ethnic clashes (e.g. Dinka-Nuer, Banande-Banyabwisha), as well as continuations of inter-group insecurity. Uganda's refugee settlements are also sites of serious individual attacks, including rapes and gang-rapes, insecurities which sometimes are comparable to instances of refugee-host frictions in urban areas, particularly where there is a broader context of tension (e.g. election periods, COVID-19 lockdown). LGBTI asylum seekers in informal settlements are particularly vulnerable and targeted in such broader contexts of tension. Most LGBTI refugees and asylum seekers report having to move their accommodation at least once every two months, a pattern that is economically costly and exposes them to multiple risks.<sup>174</sup>

For many, whether urban self-settled or based in Uganda's rural refugee settlements, voluntary repatriation remains a far-fetched notion. As such, naturalisation would be the surest durable way out of refugeehood. However, prospects of refugees' naturalisation in Uganda remain nigh on impossible. Akin to the old regime (the 1960 CARA) when emphasis was on the control rather than on the protection of refugees and temporary sanctuary was granted only until return was possible, the 2006 Act continues to hold recognised refugees in the grip of a 'perpetual alien' status. Citizenship by naturalisation for recognised refugees in Uganda is almost impossible given the provisions of the Citizenship & Immigration Control Act.<sup>175</sup> Those who have dared to attempt this naturalisation route have been fettered by both the cumbersome bureaucracy at both OPM's DoR and courts of law themselves.<sup>176</sup> Even more challenging, while refugees in Uganda may have acquired some form of *de facto* integration, "*de jure* integration through applications for citizenship and naturalization, the Citizenship and Immigration Act, as well as the Constitution of Uganda explicitly denies Ugandan citizenship by birth to children born to refugees in Uganda."<sup>177</sup> These legal and administrative bottlenecks continue to impair refugees' prospects for naturalisation and so challenge their full realisation

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<sup>171</sup> Excerpt from an in-person FGD with 4 female refugees and asylum seekers: Kampala, 15 February 2021.

<sup>172</sup> *Ibid.*

<sup>173</sup> According to Regulation 47(2), a recognised refugee who intends to relocate from one refugee settlement to another shall, prior to the relocation, seek permission from the Commissioner.

<sup>174</sup> Excerpt from an in-person FGD with 5 LGBTI refugees and asylum seekers: Kampala, 16 February 2021.

<sup>175</sup> Section 16(5) of the Uganda Citizenship and Immigration Control Act underscores the qualifications for citizenship by naturalisation along the lines of length of stay: (a) having resided in Uganda for an aggregate period of twenty years; (b) having resided in Uganda throughout the period of twenty-four months immediately preceding the date of application; (c) having acquired adequate knowledge of a prescribed vernacular language or of the English language; etc.

<sup>176</sup> *Supra note* 137.

<sup>177</sup> See JLIRP (May 2021). *Op. cit.*, p. 13.



of security of residence in the host country. In a nutshell, when a refugee application for citizenship by naturalisation is lodged, it is on the basis of the length of stay of the applicant, rather than refugee status *per se*.

### iii. Freedom of movement

The movement of refugees and their ostensible right to live anywhere in Uganda is heavily qualified: Freedom of movement for recognised refugees in Uganda, according to the law, “is subject to reasonable restrictions... or directions issued by the Commissioner, which apply to aliens generally in the same circumstances, especially on grounds of national security, public order, public health, public morals or the protection of the rights and freedoms of others.”<sup>178</sup> Settlement-based refugees are supposed to obtain movement permits that are issued at the discretion of settlement commandants. Direct humanitarian assistance to recognised refugees in Uganda is pegged to being registered as resident in a rural settlement. With such regimented bureaucracy, it is difficult to see how the majority of recognised refugees can become integrated into mainstream host society, much though as Hovil has argued, some “self-settled refugees are taking control of their lives without any additional external assistance and are planning for the day they can return to their homeland”.<sup>179</sup> These realities of bureaucratic process do present themselves as carrots (humanitarian care in a refugee settlement) and sticks (required movement permits for settlement-based refugees) recognised refugees in Uganda. Identity cards issued to recognised refugees in Uganda do mention ‘residence’.<sup>180</sup> Refugees who choose to self-settle in urban areas forgo such assistance and thus cease to enjoy several protection-enhancing forms of assistance accruing from residence in refugee settlements.<sup>181</sup> This resonates with findings in other contexts where refugees find difficulties in earning their living due to restrictive government policies in urban areas. This position also reflects some previous concerns in Uganda about lack of freedom of movement and the government’s enforcement of segregated settlement undermining development of vital social networks between refugees and host community.<sup>182</sup>

Furthermore, the logistical failure by OPM’s DoR to provide ID documents consistently or in a timely manner creates further obstacles to movement for those without documentation. The near total failure to issue Convention Travel Documents (CTDs) prevents any international travel by refugees seeking, for example, to attend conferences or short-term trainings. Despite the cost (UGX 150,000 /~USD 42 for one CTD) being exorbitant for a great many refugees, official records at OPM’s DoR indicate that about 700 refugees apply for CTDs annually.<sup>183</sup> Officials from the OPM’s DoR often remind applying refugees of the provision in law

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<sup>178</sup> Section 30(2) of the 2006 Act.

<sup>179</sup> Hovil, L. “Self-settled Refugees in Uganda: An Alternative Approach to Displacement?” *Journal of Refugee Studies*, Volume 20, Issue 4, December 2007, Pages 599–620

<sup>180</sup> See Form H in the Third Schedule of the 2010 Refugees Regulations in relation to Regulation 42(3).

<sup>181</sup> Höök, H. “Sharing the urban space: Urban refugees’ perceptions of life as a refugee in Kampala, Uganda” Unpublished PhD dissertation, 2015.

<sup>182</sup> Kaiser, T. “Participating in development? Refugee protection, politics and developmental approaches to refugee management in Uganda.” *Third World Quarterly*, 26 (2), 2005, pp. 351-367.

<sup>183</sup> *Supra note* 146.

according to which the Act reserves to the Ugandan government the duty to issue CTDs to refugees wishing to travel outside Uganda. Thus, CTDs are mainly issued to individuals traveling for resettlement and/or on health grounds, and still only at the discretion of OPM's DoR officials. As one LGBTI respondent whose CTD had expired groaned: "twice since the year [2021] began I went to the OPM for renewal of my CTD, but my request has been categorically denied with no explanation whatsoever given to me."<sup>184</sup>

#### iv. Work

Section 29(1)(vi) of the 2006 Refugees Act underscores that every recognised refugee in Uganda has the right to have access to employment opportunities and engage in gainful employment. Regulation 64 of the 2010 Refugees Regulations further clarifies that a recognised refugee 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 recognised 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" (italics added for emphasis).

As of June 2021, however, there is still no government-wide clarity about the need (or not) for work permits for refugees (to be) engaged in wage-earning employment: the Ministry of Internal Affairs argues for (free) work permits for refugees, while OPM's DoR asserts that work permits for recognised refugees are unnecessary.<sup>185</sup> The need for clear guidelines on work permits for refugee economic integration has been raised on several occasions by RLP to the Department of Immigration. The latter acknowledges that refugees are not necessarily the same as other migrants but still vacillates on whether to issue a different type of work permit for refugees. There is thus no clear stance on the status of refugees' employment. Such inconsistency in interpreting the Act in relation to work permits reportedly impacts employers' decisions on whether to employ professional and highly skilled refugees in the formal sector.<sup>186</sup> Refugees find themselves in a weaker position when negotiating employment, and potential employers caught between the two sides can end up withdrawing offers of employment to refugees as a result of these ambiguities. As a result, many refugees who have professional qualifications or specialized skills end up being employed in informal jobs or informal self-employed activities. A great many refugees in Uganda (urban in particular) are thus prone to the whims of both employers and those involved in processing documents (equivalency in certification), putting them at a further disadvantage compared to other aliens and locals. To

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<sup>184</sup> Excerpt from an In-person FGD with 5 LGBTI refugees and asylum seekers: Kampala, 16 February 2021

<sup>185</sup> According to the Assistant Commissioner for Refugees (Kampala, 04 February 2021) an harmonisation meeting was called in late January 2021, which brought together senior representatives from the OPM (Ministry of Relief, Disaster Preparedness and Refugees) and from the Ministry of Internal Affairs to iron out the differing views concerning the issue of work permits requirement for refugees. It was reportedly proposed (and severally seconded) that refugees will have to apply for and be granted work permits free of charge or otherwise officials from the OPM's DoR could simply share their refugee databases with their counterparts from the Department of Immigration at the Ministry of Internal Affairs. Abiding agreement from what was proposed in that 'harmonisation meeting' is yet to ensue.

<sup>186</sup> *Supra note* 137.

cap it all, urban refugees who otherwise venture into some pro-poor urban economic activities are not integrated into urban programmes by city planners. This is mainly because OPM's DoR and UNHCR have not proactively engaged the Kampala City Council Authority (KCCA) in integrating vulnerable refugees in urban plans, a stance that reflects the position held by OPM's DoR and UNHCR that only refugees who can demonstrate self-sufficiency can live in urban areas.

The lack of consistency in the application of provisions in the refugee legal and policy framework can arguably be seen as symptomatic of a failure of bureaucratic processes of refugee protection at many levels. The recently launched government plan for jobs and livelihoods for refugees and host communities in Uganda (May 2021) subtly echoes this frustration: Inclusion of recognised refugees into a market system for wage or self-employment depends not only on access to a wide range of support services including finance, job placement services, training, and access to education at all levels, but also “on a conducive environment shaped by rules and regulations governing rights and security [of refugees]...”<sup>187</sup>

## **v. Education**

Section 29(1)(e)(iii) of the 2006 Act underscores that a recognised refugee in Uganda shall receive at least the same treatment accorded to aliens generally in similar circumstances relating to “education, other than elementary education for which refugees 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” (italics added for emphasis). The National Council for Higher Education demands equivalency for qualifications but obtaining this is costly and time-consuming. No allowances are made for refugees who seek to access/resume tertiary education but were forced to leave documents in country of origin. Even refugees with professional training can hardly register with professional bodies (legal fraternity, the medical/nursing order, engineers' board, etc.) for lack of certification of equivalency of their qualifications.<sup>188</sup>

To engage in a professional job in the formal sector and to join a body of relevant professional associations, any academic qualifications attained from a foreign nation needs to be equated with the Ugandan system (The Universities and Other Tertiary Institutions (Equating of Degrees, Diplomas and Certificates) Regulations, 2007). The processes of equation of certificates and belonging to a professional association are meant to establish one's credibility for the job to be undertaken. But these processes also serve the means of securing and protecting the labour market for a few professionals and hence as a mechanism of labour control. The need for equivalency of foreign academic certificates and entry into professional circles adds to the challenges refugees experience in their quest for work permits. Given the circumstances of their forced migration, some refugees have lost their documents or the documents got destroyed in the course of displacement and obtaining new documents from

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<sup>187</sup> See JLIRP (May 2021) *Op. cit.*, p. 11

<sup>188</sup> *Ibid.*

their respective institutions is demanding. Where refugees have the documents to be equated, the process of ascertaining the individual's competence in the stated profession is excruciating. As a result, otherwise qualified candidates fail to obtain enrolment into institutions for higher education in Uganda.<sup>189</sup>

In addition, entry into professional associations comes at a cost which many impoverished refugees cannot afford. Processes of certificate translation and entry into professional associations are indications that provision of rights to employment in policy documents do not necessarily equate to refugees being able to attain sustainable livelihoods. Rights can be of use only if they are synchronised with other legal instruments and employment practices such as professional requirements. Where they are not, as is the case in Uganda, refugees remain disadvantaged compared to expatriates when pursuing jobs because of the differences in the processes of certificates translation, certification of their acquired knowledge/expertise, and entry into professional associations.

## VII. Discussion and Conclusions

This paper began with several critical questions about the nature of Uganda's refugee recognition regime. The scale of Uganda's contribution to absorbing some of the world's biggest forced migration shocks should not be under-estimated. The corresponding challenges to establishing functional systems that are accessible, accurate, efficient and fair are not insignificant, and the negative impacts of gaps in the system on relatively large numbers of individuals are not in doubt.

Perhaps the most important observation is that it is, perhaps of necessity, a dual system involving both *prima facie* and individual refugee status determination. The sheer volume of persons seeking asylum in Uganda attests to the pragmatic need for such a combination of modes of refugee recognition. The majority of the more than 1.4 million refugees currently in Uganda gained their status through *prima facie* procedures, though individual status determination, at 22% of all new refugees (2019), is also critical.

This report has sought to disentangle what asylum seekers should expect *de jure* from Uganda's much vaunted hospitality, and what they might encounter *de facto* once entering into the asylum determination process. What emerges is that Uganda—Africa's topmost refugee-hosting country—manifests a regimented regime of restricted refugee rights that in some important elements is far from the much-hyped narrative of 'refugees as special guests of the state'. These findings corroborate existing reports such as Hovil's 2018 assessment for the International Refugee Rights Initiative which argued that "debates around the benefits of Uganda's migration management and asylum policies have tended to remain somewhat blind

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<sup>189</sup> Ibid.

to the multiple complexities associated with their implementation, the political context in which these policies are pursued, and the historical trajectories that fomented their creation”<sup>190</sup>

Uganda’s juggling of dual refugee status determination processes is only partly successful: The individual RSD process is in some senses arbitrary insofar as individuals whose flight deposits them in Kampala are likely to be taken through the IRSD, while peers who are directed to a rural reception centre and subsequently to a rural refugee settlement, access refugee status through far less laborious *prima facie* procedures. IRSD also emerges as under-resourced, understaffed (particularly in terms of gender balance, interviewing staff, interpreters, etc.) and inaccessible for asylum seekers who find themselves outside the capital city and outside a handful of refugee settlements. It is also underinformed in terms of the expertise brought to bear on decision-making, an expertise gap which is compounded by a) the security focus of the REC membership and b) the subordination of the RAB to the REC. The IRSD is correspondingly vulnerable to corruption as well as many potential errors in the adjudication of claims. While steps have recently been taken to address some of these problems, notably through the relocation of the Refugee Registration Desk in Kampala, none have been taken to address issues such as the lack of understanding of gender and/or trauma in asylum seeking individuals, or the costs of a lack of provision for country specific expert witnesses. This tends to suggest that while Uganda has gone further than many other countries in terms of progressive language in its 2006 Refugees Act, this progressive ethos is repeatedly undercut by its actual practice and resourcing.

A further overarching finding is that, while the Refugees Act (2006) signals an intention to move away from the *control* of refugee aliens and towards a greater degree of *protection*, the reality is that the control elements remain prominent, most notably in the near impossibility of attaining naturalization as a durable solution. Protection is further undermined by the corruption of the process that compels certain asylum seekers to ‘lie’ about their circumstances simply to be granted protection that in another jurisdiction where they were free to tell the truth they would anyway be granted (e.g. Rwandans having to claim to hail from eastern DRC, LGBTI persons having to claim protection on the grounds of ongoing conflict in their country of origin rather than on the grounds of persecution due to membership of a social group).

Uganda’s RRR and especially its institutional RSD process can thus, in some respects, be understood as a power relationship in which control over refugees is exercised through the bureaucratically routinised subjection of refugees into ‘waiting’ (and indeed, suppressing their own truth). As some scholars have noted, waiting is usually for the less powerful; the more power one has, the less one has to wait. In this sense waiting can be understood as a process and manifestation of power dynamics.<sup>191</sup> Waiting is also a manifestation of liminality, where refugees are placed in “no man’s land.”<sup>192</sup> During this ‘waiting period’ asylum seekers remain in a state of limbo during which they may stay in the country but access few social services

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<sup>190</sup> Hovil, L. 2018, p3.

<sup>191</sup> Sutton, R., Vigneswaran, D., & Wels, H. “Waiting in liminal space: Migrants' queuing for Home Affairs in South Africa.” *Anthropology Southern Africa*, 34(1-2), 2011, pp. 30-37.

<sup>192</sup> *Ibid.*, p. 32

and receive almost no official and private assistance in the form of direct aid or finding employment.

## Appendix 1: Uganda Refugees & Asylum Seekers as of 31 January 2021



GOVERNMENT OF UGANDA OFFICE OF THE PRIME MINISTER  
UGANDA REFUGEES & ASYLUM SEEKERS AS OF 31/Jan/2021

### Population Summary by Settlement/Sex

Settlement	Total HH	0-4		5-11		12-17		18-35		36-59		60 and Over		Total	Total					
		Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male							
Adjumani	32,725	11,467	11,861	23,328	29,680	30,203	59,883	22,431	24,233	46,664	32,165	25,483	57,648	14,174	6,598	20,772	5,388	2,053	7,441	215,736
Bidibidi	42,701	12,686	12,446	25,132	38,696	38,426	77,122	22,935	24,689	47,624	33,024	26,095	59,119	11,657	7,565	19,222	3,933	1,807	5,740	233,959
Imvepi	19,925	4,705	4,818	9,523	9,256	9,318	18,574	5,875	6,426	12,301	10,651	8,753	19,404	3,529	2,627	6,156	1,389	682	2,071	68,029
Kampala	47,070	3,456	3,510	6,966	6,236	6,401	12,637	5,439	5,415	10,854	19,394	23,648	43,042	6,422	7,553	13,975	729	626	1,355	88,829
Kiryandongo	10,481	5,723	5,227	10,950	8,349	8,608	16,957	7,197	8,084	15,281	10,408	10,026	20,434	4,045	1,701	5,746	1,105	337	1,442	70,810
Kyaka li	40,901	8,954	8,959	17,913	15,420	15,491	30,911	8,970	9,437	18,407	19,152	19,291	38,443	7,704	7,246	14,950	1,822	1,482	3,304	123,928
Kyangwali	42,248	11,199	11,057	22,256	15,220	15,366	30,586	8,471	8,796	17,267	20,322	14,741	35,063	8,449	7,092	15,541	2,551	1,775	4,326	125,039
Lobule	891	371	376	747	686	668	1,354	677	707	1,384	681	571	1,252	444	216	660	103	62	165	5,562
Nakivale	39,244	10,402	10,618	21,020	14,666	14,867	29,533	10,209	10,230	20,439	20,722	21,382	42,104	9,990	9,945	19,935	1,758	1,610	3,368	136,399
Oruchinga	1,896	696	693	1,389	896	908	1,804	641	672	1,313	1,168	1,033	2,201	661	555	1,216	123	130	253	8,176
Palabek	16,016	3,392	3,468	6,860	7,661	8,397	16,058	4,748	5,672	10,420	8,328	6,916	15,244	2,875	1,725	4,600	988	360	1,348	54,530
Patorinya	30,354	6,419	6,523	12,942	15,284	15,363	30,647	11,257	11,890	23,147	19,287	15,235	34,522	8,817	6,793	15,610	3,469	1,949	5,418	122,286
Rhino	30,200	6,655	7,140	13,795	15,955	16,384	32,339	11,651	13,406	25,057	19,067	18,173	37,240	6,284	4,162	10,446	1,931	914	2,845	121,722
Rwamwanja	18,526	7,660	7,465	15,125	9,829	9,494	19,323	5,761	5,717	11,478	9,863	8,292	18,155	4,781	4,583	9,364	982	885	1,867	75,312
<b>Total</b>	<b>373,178</b>	<b>93,785</b>	<b>94,161</b>	<b>187,946</b>	<b>187,834</b>	<b>189,894</b>	<b>377,728</b>	<b>126,262</b>	<b>135,374</b>	<b>261,636</b>	<b>224,232</b>	<b>199,639</b>	<b>423,871</b>	<b>89,832</b>	<b>68,361</b>	<b>158,193</b>	<b>26,271</b>	<b>14,672</b>	<b>40,943</b>	<b>1,450,317</b>



GOVERNMENT OF UGANDA OFFICE OF THE PRIME MINISTER  
UGANDA REFUGEES & ASYLUM SEEKERS AS OF 31/Jan/2021

### Population Summary by Country of Origin/Sex

Country of Origin	Female	Male	Total
South Sudan	466,828	424,026	890,854
Democratic Republic of the	216,292	206,697	422,989
Burundi	24,019	25,669	49,688
Somalia	20,266	24,716	44,982
Rwanda	9,186	8,770	17,956
Eritrea	8,570	7,997	16,567
Ethiopia	1,476	1,777	3,253
Sudan	1,308	2,010	3,318
Pakistan	90	163	253
Kenya	91	132	223
Turkey	19	30	49
Yemen	13	17	30
Syrian Arab Republic	2	22	24
Congo, Republic of the	10	14	24
Central African Republic	20	18	38
Egypt	4	6	10
Senegal	4	6	10
Guinea	3	2	5
Cameroon	2	4	6
Chad	1	8	9
Mali	1	3	4
United Republic of Tanzania	7	5	12
Russian Federation	1	1	2
Palestine	0	3	3
Nigeria	1	1	2
Iran, Islamic Republic of	0	1	1
Malawi	0	1	1
India	0	1	1
Côte d'Ivoire	0	1	1
Zambia	1	0	1
Liberia	1	0	1
<b>Total</b>	<b>748,216</b>	<b>702,101</b>	<b>1,450,317</b>



**GOVERNMENT OF UGANDA OFFICE OF THE PRIME MINISTER**  
UGANDA REFUGEES & ASYLUM SEEKERS AS OF 31/Jan/2021

Population Summary by Refugee Status/Sex

Refugee Status	Female	Male	Total
Asylum Seeker	12,887	13,105	25,992
Refugee	735,329	688,996	1,424,325
<b>Total</b>	<b>748,216</b>	<b>702,101</b>	<b>1,450,317</b>



**GOVERNMENT OF UGANDA OFFICE OF THE PRIME MINISTER**  
UGANDA REFUGEES & ASYLUM SEEKERS AS OF 31/Jan/2021

Population Summary by Refugee Status/Settlement

Settlement	Asylum Seeker	Refugee	Total
Kyangwali	3,065	121,974	125,039
Rhino	21	121,701	121,722
Kampala	21,162	67,667	88,829
Kyaka li	465	123,463	123,928
Kiryandongo	23	70,787	70,810
Adjumani	75	215,661	215,736
Bidibidi	0	233,959	233,959
Imvepi	36	67,993	68,029
Nakivale	497	135,902	136,399
Palorinya	14	122,272	122,286
Rwamwanja	622	74,690	75,312
Oruchinga	2	8,174	8,176
Lobule	0	5,562	5,562
Palabek	10	54,520	54,530
<b>Total</b>	<b>25,992</b>	<b>1,424,325</b>	<b>1,450,317</b>



**2019 REC decisions during  
January - December**

COO	Granted		Rejected		Deferred		# of applications adjudicated	Recognition rate
	# of applications	# of individuals	# of applications	# of individuals	# of applications	# of individuals		
DRC	8,148	23,306	655	1,436			8,803	92%
Somalia	8,936	11,570					8,936	100%
Sudan	220	321	3	3			223	99%
Eritrea	555	1,074	299	488			854	64%
Ethiopia	127	209	33	40			160	79%
Rwanda	143	460	112	379			255	56%
Burundi	3,551	8,619	144	410			3,695	96%
Turkey	8	20					8	
Palestine	1	1					1	
South Sudan	9	16	2	2			11	
Yemen	1	1					1	
Nigeria	1	1					1	
Pakistan			2	2			2	
Congo Brazaville	1	1					1	
Kenya	1	1					1	
CAR	1	1					1	
Egypt								
Syria								
Chad								
Cameroon	3	5					3	
<b>TOTAL</b>	<b>21,706</b>	45,606	<b>1250</b>	2,760			<b>22,956</b>	
							48,366 individuals	

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