



**Submission by the United Nations High Commissioner for Refugees
for the Office of the High Commissioner for Human Rights' Compilation Report
- Universal Periodic Review:**

UGANDA

I. Background and current conditions

Uganda acceded to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (henceforth jointly referred to as the 1951 Convention) on 27 September 1976. The country also ratified the broader, regional *1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa* in 1987.

In February 2010, Uganda ratified the *African Union Convention for the Protection and Assistance of the Internally Displaced Persons* (also known as the “Kampala Convention”) that was adopted by the Special AU Summit convened on 23 October 2009 in Kampala, Uganda.

Uganda also acceded to the *1954 Convention relating to the Status of Stateless Persons* on 15 April 1965 with no reservations, but is not a State party to the *1961 Convention on the Reduction of Statelessness*.

Refugees

As of February 2011, Uganda is host to 146,108 refugees and asylum-seekers. The refugee population in Uganda has resulted from civil strife in neighbouring countries such as Burundi, Rwanda, the Democratic Republic of Congo, Ethiopia, Eritrea, Kenya, Somalia and Southern Sudan. Currently, the most common country of origin of refugees in Uganda is the Democratic Republic of Congo.

The bulk of the refugee population resides in 9 refugee settlements in the North Western and South Western parts of the country. Of this population, 26% are hosted in urban centres; the majority, around 38,800, is in Kampala.

The municipal asylum policy and practice of Uganda are governed by the Refugees Act 2006. The administrative framework for Uganda's asylum policy and practice falls under the mandate of the Office of the Prime Minister (OPM), which relies on UNHCR for administrative and operational costs of the refugee programme.

Overall, Uganda is welcoming of refugees. The admission rate is one of the highest in the world, and Uganda is unique in the region in not following a policy of encampment. Refugees are accorded absolute freedom of movement and are allowed to stay where they choose. In the settlements refugees are provided land, which they can till for a living. Government policy dictates that refugees who elect to reside in urban areas should be self-sufficient; if they are unable to provide for themselves, then they must reside in a settlement. This policy, however, is not implemented consistently. Uganda's reservation to Article 17 on wage earning employment¹ notwithstanding, refugees have been able to find employment, mainly in the private sector.

Following the signing of the Comprehensive Peace Agreement (CPA) between the warring parties in Sudan, over 100,000 refugees voluntarily left Uganda for their country of origin, both spontaneously and through organized return convoys. UNHCR expects that with the referendum having been carried out in a peaceful manner, some 10,000 refugees will return home during 2011. This would leave a residual case load of around 10,000 persons in Uganda for whom demarches for consideration for local integration are being arranged.

IDPs

As of January 2010, there were 125,598 internally displaced persons (IDPs) in Uganda

This situation was created by 20 years of activities of a rebel movement known as the Lord's Resistance Army (LRA). At the peak of the LRA insurgency in Northern Uganda in 2005, over 1,840,000 people were displaced, mainly, within the Teso, Lango, Madi and Acholi Sub regions.²

After the cessation of hostilities between the LRA and the Government of Uganda in August 2006, the Government declared freedom of movement and facilitated a program for return and reintegration. Due to inadequate basic services, the presence of UXOs and exploits of Karimajong warriors, only 14 active camps in Acholi and Teso have remained.

With support from the central government and local government structures, UNHCR has continued facilitating returns and reintegration of IDPs through providing protection and assistance, and significant camp phase-out activities (clean-up, assessment, community

¹ "In respect of article 17: The obligation specified in article 17 to accord to refugees lawfully staying in the country in the same circumstances shall not be construed as extending to refugees the benefit of preferential treatment granted to nationals of the states who enjoy special privileges on account of existing or future treaties between Uganda and those countries, particularly states of the East African Community and the Organization of African Unity, in accordance with the provisions which govern such charters in this respect."

² The bulk of this population has since returned to its areas of origin or is in transit camps en route to their areas of origin. 125,598 IDPs remain in camps.

feedback and decommissioning) both in active and closed camps. Some 52,300 IDPs are still in transit sites/areas. UNHCR continues to provide assistance and protection to IDPs, especially to persons with specific needs, estimated at 10,190 individuals. As of today, the population of IDPs still in the camps stands at 125,598 individuals.

In the last quarter of 2010, the eight camps in Madi-Adjumani for IDPs outside their districts of origin were closed. Camp transformation activities and livelihood support programmes to especially vulnerable individuals/persons of specific needs continue to take place in Kiryandongo district (Bunyoro region). Some 20,000 IDPs who opted for local integration face land disputes and inadequate social services.

In order to facilitate durable solutions for IDPs, the Norwegian Refugee Council -ICLA programme has continued providing legal assistance and mediation to address any barriers to return and reintegration. In the transition from the cluster to sectoral approach, the Uganda Human Rights Commission (UHRC) is being empowered to monitor protection and carry out human rights programs, particularly after the exit of UNHCR and other protection stakeholders, expected at the end of 2011.

The key objectives for 2011 are protection monitoring and advocacy that are both based on the framework for durable solutions and in support of the national system and its institutions, and coordinated support to strengthen resettlement and reintegration in return areas. Measures taken in support of these objectives are aimed at ensuring return and local integration of those still in need of support, transforming the 14 problematic, active camps, improving basic infrastructure and protection sector leadership, coordination and advocacy, and improving district and local capacity in the Acholi sub region, and other IDP locations.

While UNHCR has advocated for a three pronged approach in terms of solutions - return to the areas of origin; integration within the community where IDPs currently reside; or relocation to another part of the country - Ugandan authorities have focused on return to the areas of origin to the exclusion of the two other solutions.

Returnees

As the war in Uganda ended in 1986, save for in the Northern part of the country, few Ugandans are still outside of the country as refugees today. From 2004 to 2010, UNHCR assisted 143 returnees in total to re-establish themselves within their respective communities in Uganda. Others returned without the assistance of UNHCR. The returnees came from Sudan, Zambia, Kenya, Congo (Brazzaville), South Africa, Nigeria, Rwanda and Burundi.

Stateless persons

The stateless population in Uganda is currently unknown.

Ugandan nationality legislation lacks safeguards to prevent statelessness among children born on the territory (see Art. 10 of the 1995 Constitution, as amended in 2005). Accordingly, children born in Uganda to non-citizens will be stateless if their parents are stateless or, if they possess a nationality, but are unable to confer nationality under the laws of their state.

II. Achievements and positive developments

UNHCR commends the Government and the people of the Republic of Uganda for their open and generous attitude towards refugees on their territory. The Government is also commended for allocating arable land to refugees and for the renowned policy of freedom of movement.

UNHCR also wishes to acknowledge that Uganda's municipal law is in conformity with international refugee instruments. The Government is particularly commended for recognizing gender related persecution (e.g. strict and forced adherence to dress code, obligatory pre-arranged marriages, physically harmful facial practices or genital mutilation, rape and domestic violence) as a distinct ground for asylum. UNHCR has maintained demarches with the authorities to ensure the asylum regime is in accordance with the provisions of this legislation.

III. Challenges, constraints and recommendations

UNHCR suggests that the Office of the High Commissioner for Human Rights considers including in its compilation report the following issues and recommendations aimed at enhancing the protection of populations of concern to UNHCR in Uganda.

Issue 1: The Government should reconsider its policy toward Rwandese refugees and asylum-seekers

The Ugandan Government has not extended its typically generous refugee policy to Rwandese refugees since the year 2009. In July of that year, authorities in Uganda denied Rwandese refugees access to land in an effort to persuade them to return home. This action was taken following intense pressure from the Rwandan Government, both bilaterally and within international fora.

To encourage return, the Rwandan Government has claimed that all factors causing flight from Rwanda have since subsided. However human rights reports, oral accounts of asylum-seekers, and the flight of high-ranking Government officials, paint a different picture. The bulk of the Rwandese refugee population has refused to return home citing reasons of: harassment for actual and perceived opposition to the current political establishment in Rwanda; abductions, arbitrary arrests and disappearances; forceful subscriptions to political parties; non-restitution of property; unfounded indictments by

the *Gacaca* courts, and ethnic discrimination. These reasons were communicated to the Rwandan delegation during the 8th tripartite meeting held in Mbarara on 12 May 2010.

Despite these fears, the Government of Uganda continues to deny to Rwandese refugees access to land. UNHCR's pleas that the refugees be permitted to farm the land until they can voluntarily return home have not been effective, and the refugees remain in an anxious and desperate situation, believing they will be *refouled* to Rwanda at any time. The Government has also shown a reluctance to grant asylum to Rwandese asylum-seekers.

Recommendations:

- (a) The Government should lift the ban on tilling land by Rwandese refugees and afford them the same treatment given to other refugees. Refusal to do so will be considered an act meant to compel refugees return home against their will, making any such return an imposed return akin to *refoulement*.
- (b) The Government of Uganda should await a report from the Government of Rwanda following the 8th tripartite meeting of 12 May 2010 on its findings to issues raised by refugees as to why they do not wish to return to Rwanda for onward communication to the Rwandan refugees.³
- (c) Rwandan refugees should not be compelled to return against their will. Upon invocation of the cessation clause of the *1951 Convention*, due consideration should be given to those with compelling reasons as to why they cannot return to Rwanda,

A good domestic law having come into play, UNHCR encourages the Government of Uganda to adhere to the provisions of this legislation.

Issue 2: Local integration as a durable solution for certain refugee groups

While Uganda offers a hospitable environment for refugee protection, it has not been as open to local integration of resident refugees. There remain some groups of refugees that have been in the country for over twenty years without such a stay leading to naturalization. In addition, Article 12 of the Ugandan Constitution expressly denies refugees and refugee descendents any form of naturalization in Uganda. Under these considerations, the residual Sudanese caseload that has been in the country for more than twenty years would make a good case for consideration of local integration as a solution.

³ The Rwandan Government had been strongly advocating for the return of its entire population, claiming that Rwanda was safe and that factors which had initially caused persons to flee and seek refuge no longer existed. In the meeting, the Government was presented with a list of reasons that refugees had shared with UNHCR, indicating why they did not wish to return home, notwithstanding the promotion of repatriation to Rwanda. It was agreed that the Government of Rwanda look into these reasons and address any factors inhibiting return to Rwanda and provide a report to the Government of Uganda to be shared with UNHCR and the Rwandan refugees.

Additionally, UNHCR suggests that refugees with Ugandan spouses and those who have attained economic self-sufficiency should also be considered for local integration as a durable solution.

Recommendations:

- (a) The Government should consider local integration as a solution to refugee plight, as an addition to its commendable open asylum policy.
- (b) Refugees with Ugandan spouses and those who have been in the country for over 15 years should be considered for local integration.
- (c) The Government should consider the solution of local integration for refugees with a sound economic base, who contribute to the country's economy, are self-reliant and do not require material assistance from the international community.
- (d) The Government should repeal or amend Article 12 (1)(ii) of the Constitution to allow for naturalization of refugees and their descendants after a certain period of residence.

Issue 3: Refugees within the context of national security concerns

The twin terrorist bombings of 7 July 2010 understandably led to serious national security concerns, including a heightened screening of foreigners entering Uganda, particularly of those from the Horn of Africa. As a result, some Somali nationals were arrested, detained and threatened with deportation to Somalia.

The decision by the Government of Uganda to adopt a cautious approach towards Somali asylum-seekers is understandable from a national security point of view. Indeed, some of the asylum-seekers detained by the authorities and threatened with deportation had been in the country for some time prior to expressing their intent to seek asylum. The asylum-seekers have now been released to UNHCR for adjudication of refugee status under the Statute of the Office of the High Commissioner for Refugees.⁴

Recommendations:

- (a) The Government of Uganda should acknowledge that broader migratory flows, containing some persons planning to partake in terrorist activities may also contain persons in need of international protection.
- (b) The Government of Uganda should ensure that the security screening of migrants does not negate requests for asylum by civilians who have a well-founded fear of persecution in their country of origin and are in need of international protection.

⁴ UN General Assembly, *Statute of the Office of the United Nations High Commissioner for Refugees*, 14 December 1950, A/RES/428(V), available at: <http://www.unhcr.org/refworld/docid/3ae6b3628.html>

Issue 4: Adherence to the provisions of the Refugees Act 2006

The Government of Uganda is commended for the promulgation of a municipal law that conforms to international refugee law and recognizes persecution on the basis of gender as grounds for asylum.

It is concerning, however, that the Crime Intelligence Office is part of the adjudication arm for refugee status. This office is a police entity with no *locus standi* in refugee matters under the provisions of the law, and should not be involved in refugee status determination. Additionally, the appeal process is ineffective, as many refugees do not have their appeals fully considered.

Recommendations:

- (a) The Government of Uganda should ensure that the asylum regime in the country is governed within the provisions of the municipal legislation.
- (b) The Government should ensure that adjudication officers are engaged within the provisions of the law, and that an independent appellate board is in place.

Issue 5: Increase solutions for IDPs

The Ugandan authorities have focused on return to the areas of origin as the sole solution for IDPs. UNHCR recommends that a more expansive approach be taken that considers reintegration of IDPs at their current locations and relocation to other parts of the country as solutions in addition to return.

Recommendations:

- (a) The Government of Uganda should permit IDPs to integrate at their current locations or relocate to other parts of the county, if they are unable to return to their places of origin.
- (b) The Government should investigate issues relating to land ownership in order to ensure that the IDPs will not be dislocated upon return.

Issue 6: Stateless persons

Every child has a right to acquire a nationality. Ensuring this right requires that States have in place safeguards against statelessness in their nationality laws, so that children acquire the nationality of the country in which they are born, if they do not acquire any other.

The 1961 Convention on the Reduction of Statelessness establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. This treaty is therefore complementary to

standards contained in other human rights treaties. An increase in the number of States parties is essential to strengthening international efforts to prevent and reduce statelessness.

- (a) UNHCR recommends that Uganda amends its nationality legislation to ensure that every child born on the territory acquires Ugandan nationality, if they do not acquire any other.
- (b) UNHCR recommends that the Government of Uganda accedes to the 1961 Convention on the Reduction of Statelessness.

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