1A - International Experiences of Refugee Status Determination

Chair: John R. Campbell (SOAS, UK)  
jc58@soas.ac.uk

Legal literacy and the refugee asylum experience: Developed vis-a-vis developing countries

Annie Margaret Ihoreere Wagana  
Magistrate Grade One  
Courts of Judicature Kampala, Uganda

The process of asylum seeking varies greatly between the developed and developing world. Due to their status internationally, and despite being recognized by both international and national law, refugees nonetheless still fall within vulnerable minority groups in host nations. Through the lens of a Ugandan Magistrate that has adjudicated over disputes involving refugees as at least one of the litigants, it is interesting to juxtapose the two contrasting experiences of asylum seekers in rural Uganda versus one in modern Europe. It is noteworthy to comprehend a refugee’s experience in deficient informational environments, where legal literacy is highly constrained. As caseloads in Uganda increase, refugee mobility is constrained by poor infrastructural systems for facilitating the deportation of refugees entangled with the law. In addition, the political environment heightens the tensions between the host nation and refugees in most countries as the geopolitics in different geographical regions changes. Further, while in Europe, asylum cases are handled by the courts, in Uganda they are handled by the Office of the Prime Minister (OPM) working together with the United Nations High Commissioner for Refugees (UNHCR), while deportation on the other hand in some instances is ordered by the courts. Legal literacy remains important in assisting refugees to not only understand their rights, but have the confidence to maneuver through the legal system. This paper further seeks to draw comparisons between European judiciaries strained by heavy caseload vis-a-vis the Ugandan OPM and UNHCR caseloads; the efficacy of the two systems; and what recommendations could be made for either methodology of handling refugees, where legal literacy is equally wanting in both circumstances. This study is anchored on desktop research and personal experience.

Keywords: Legal literacy, asylum seekers, refugee mobility, Uganda

Wagana, Annie Margaret Ihoreere  
Courts of Judicature Kampala, Uganda  
mia.wagana@gmail.com
Ms. Annie Margaret Ihoreere Wagana (she/her/hers) is a Magistrate living in Uganda. She is currently in the process of applying to do a PhD in International Development, and in particular on ‘Refugee mobility’ in the UK. She has a legal career spanning over a decade. Of the 8 years that she has served as a judicial officer, she has spent 3 years handling refugee litigants. She also had the opportunity to inspect refugee settlements with her fellow justice law and order providers, to assess refugees’ legal needs. Being born a forced migrant herself, and eventually permanently repatriating to her home country has inspired her career trajectory.

South Africa has no camps: The attitude of judges in refugee claims adjudications concerning the policy of encampment in other Southern African states

Cristiano d’Orsi  
Senior Research Fellow, Lecturer (South African Chair for International Law)  
University of Johannesburg, South Africa

When we focus on refugee claims adjudications in Southern Africa, the first, and perhaps only, country that comes up to mind of an extra-African expert, is South Africa, whose courts have historically been sensitive to refugee claims. However, as South Africa formally has no camps, South African judges have never adjudicated on this delicate subject. Conversely, this matter has been adjudicated in other Southern African countries that promote and implement encampment for asylum-seekers and/or refugees. Thus, my work focuses on assessing the adjudications by the courts of other Southern African countries concerning the encampment of refugees. Indeed, in the past courts tended to often endorse the encampment policy put in place by governments, such as in the 2008 Ex Parte Nsabimana case. In that context, the High Court of Lilongwe declared that the request of the applicant to quash the order of the respondent (the Department of Poverty and Disaster Management Affairs) giving notice to all refugees and asylum-seekers residing outside designated areas to return to the appropriate camps, had no merit. However, this view has been completely reversed in the 2017 Kituo Cha Sheria Kenyan case. In that situation, the Kenyan Government had issued a directive requiring relocation of refugees living in urban areas to refugee camps. The respondents sought that the court declare the Government’s decisions unlawful. In that circumstance, the High Court of Nairobi quashed the government directive. As such, through my work I show how the same issue, the policy of encampment, has been historically adjudicated in different ways according to the country of adjudication as well as according to several conditions.

Keywords: Courts, adjudication, encampment, Southern Africa

d’Orsi, Cristiano  
University of Johannesburg, South Africa  
cristiano.dorsi@graduateinstitute.ch

Dr Cristiano d’Orsi (he/him/his) is a Senior Research Fellow and Lecturer at the South African Research Chair in International Law (SARCIL), Faculty of Law, University of Johannesburg. He holds a two-year Diplôme d’Etudes Approfondies (Master of Advanced Studies equivalent, International Relations (International Law), Graduate Institute for International and Development Studies, Geneva); and a Ph.D. in International Relations (International Law) from
the same institution. His research interests mainly focus on the legal protection of asylum-seekers, refugees, migrants and IDPs in Africa, on African Human Rights Law, and, more broadly, on the development of Public International Law in Africa.

BANGLASTORIES: An introduction to the Bangladeshi community in Palermo through their legal experience of the asylum application

Valentina Grillo  
PhD candidate (Anthropology)  
University of Vienna, Austria

In 2018 the Italian Government took the decision to close its ports to all boats of incoming migrants. In October 2018, it approved the immigration law reform that abolished one form of international protection. In 2018, several newspapers described these measures as fascist (https://www.independent.co.uk/voices/italy-fascist-policies-march-rome-matteo-salvini-donaldtrump-a8586711.html, last accessed on 23.02.2021). How do these practices of exclusion take place in the Refugee Status Determination Procedure in a specific context, like the one of the Bangladeshi community in Palermo?

Bangladeshi applicants constitute most of the migrant population in Palermo. Ricca and Sbriccioli (2017, Processi culturali e spazi giuridici. Dal Bangladesh all’Italia: migrazioni, protezione umanitaria e reinterpretazione del divieto di patto commissorio, p. 182, Questione Giustizia 1/2017) explain why Italian authorities may recognise humanitarian protection to Bangladeshi applicants who are exposed to trafficking, and labour exploitation. The administration of Palermo challenges the indiscriminate fight of migration, pursued on a national level (https://www.aljazeera.com/features/2019/5/13/sicilians-have-affinity-for-the-islamic-world-in-theirdna, last accessed on 23.02.2021) Indeed, while the stay of the Bangladeshi community is socially and economically grounded, their legal status is not. The purpose of this contribution is to present legal procedures in the field of international protection. Before a call for cultural rights, in fact, it is worth looking into asylum law. This provides researchers and activists instruments to investigate people’s perspectives and have their right for protection recognised.

Keywords: International protection, legal anthropology, Bangladeshi community, refugee status determination, Italy

Grillo, Valentina  
University of Vienna, Austria  
a01203835@uninet.univie.ac.at

Ms. Valentina Grillo (she/her/hers) graduated in International Relations and Diplomacy, University of Trieste, and holds a MA in Social and Cultural Anthropology, University of Vienna. Her research interest in migration and minorities led her to conduct fieldwork in Austria, Namibia, and Tunisia. She specialised in asylum law in Austria, the UK, and Italy. She worked as a case-worker until 2019, when she enrolled at the INALCO to learn Bengali. Since 2020, she is dedicated to her Ph.D. in SC Anthropology (University of Vienna) on the Everyday Life of Refugees from Myanmar in Bangladesh.