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REPORT ON CITIZENSHIP LAW: UGANDA

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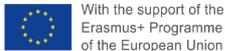
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Report on Citizenship Law Uganda

Tigranna Zakaryan

1. Introduction

This report will discuss both the historical and current debates relevant to the laws on the acquisition and loss of citizenship in Uganda as a former British Protectorate, as well as in its post-independence era as the Republic of Uganda, initially, under the 1962 Uganda Citizenship Act and, currently, as defined by the 1995 Uganda Constitution¹ and the 1999 Uganda Citizenship and Immigration Control Act (UCICA)², as amended in 2005 and 2009. Through the Ugandan case-study, the report will demonstrate the significant challenges with regard to fully enjoying citizenship rights based on the doctrines defining indigeneity and belonging in the Ugandan state. The report will also explore the rights of ethnic minorities and refugees, who are of particular relevance when assessing Uganda's post-independence political history and citizenship laws and practices.

Upon the introduction of the mass national identification registration drive, which is discussed in greater depth below, various communities learned that they did not have access to Ugandan citizenship— such experiences are prevalent during administrative processes such as attempting to obtain a passport and being subjected to difficult vetting and discrimination. While the depth of this report will not cover the experiences of those who are not listed in the 1995 Constitution, it will discuss to an extent, two particular case studies including the Maragoli community, as well as the Ugandan Asian community.³ These two communities have continuously argued to be included as indigenous on the grounds of being present in Uganda in 1926, and while progress has been made, their status continues to remain in the state of ambiguity.

¹ Constitution of the Republic of Uganda. Uganda Legal Information Institute. <https://ulii.org/ug/legislation/consolidated-act/0> (accessed 12 December 2018).

² Uganda Citizenship and Immigration Control Act. Uganda Legal Information Institute. <https://ulii.org/ug/legislation/consolidated-act/66> (accessed 12 December 2018).

³ For a more in-depth analysis of other communities in Uganda who have not been included under the Third Schedule of the 1995 Constitution, see further: Bronwen Manby, *Statelessness and Citizenship in the East African Community*, United Nations High Commission for Refugees, 2018. <https://data2.unhcr.org/en/documents/download/66807> (accessed 18 December 2018).

2. Historical Context

2.1. Pre-independence legislation

Uganda became a British Protectorate in 1894 and Ugandans were deemed ‘British protected persons’ under the British Protected Persons Order 1934⁴ and the British Nationality Act of 1948. The British empire maintained three types of territories in Africa: colonies which were under the direct control of the British government in London; protectorates which were nominally managed by local governing structures under British protection; and the former German territories which were mandated to British administration by the League of Nations.⁵

Prior to the 1948 British Nationality Act, those who were born in the United Kingdom or a colony -- such as Kenya -- were considered ‘British subjects’, while those who were born in a protectorate, such as Uganda, were considered ‘British protected persons’ (unless entitled to ‘British subject’ status or another nationality). The British Nationality Act of 1948 maintained the status of ‘British protected person’ for those born in a protectorate, but all those who had been ‘British subjects’ – whether born in the UK itself or in a colony -- acquired the new status of ‘citizen of the United Kingdom of colonies’. The term ‘British subject’ continued, but only as an umbrella term for all those with a citizenship status in one state of the newly created Commonwealth. Under the 1948 framework, those with British protected person status were extended some rights, including being regarded as a British national when outside of their protectorate, but did not have the same status as a citizen of the UK and colonies, and did not have the right of free entry into the UK itself.

2.2. Transition to Independence

Commonwealth countries generally followed the same template in defining access to citizenship in the newly independent States. For those born before independence, this included three main avenues: automatic acquisition, which applied to those who were born in the country before independence and were citizens of the UK, or subjects of its colonies or protected states; the right to register; and the right to apply for naturalisation.

At independence, former British territories in the East African Community including Kenya, Uganda, and Tanganyika shared similar legal frameworks determining access to nationality, which were negotiated into the independence constitutions agreed upon with Britain. In Uganda, the initial framework for determining citizenship was introduced in the 1962 Uganda Constitution. The constitution was then supplemented by the 1962 Uganda Citizenship Act which provided the procedural details for access to citizenship with through registration and naturalisation.

The 1962 Constitution of Uganda provided for the automatic acquisition of citizenship at independence on the basis of two generations born in Uganda.⁶ Those who were born outside

⁴ British Protected Persons Order 1934. Government of United Kingdom. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/633482/pandp_states.pdf (accessed 02 January 2019).

⁵ This history is summarised from Bronwen Manby, *Citizenship in Africa: the Law of Belonging*, Hart Publishing, 2018, chapters 3.1 and 7.3.

⁶ Constitution of Uganda 1962, Article 7(1): “Every person who, having been born in Uganda, is on the 8th October 1962 a citizen of the United Kingdom and Colonies or a British protected person shall become a citizen of Uganda on 9th October 1962: provided that the person shall not become a citizen of Uganda by virtue of this subsection if neither of his parents were born in Uganda”.

of Uganda would acquire citizenship automatically if the person's father received citizenship based on this provision.⁷ Those born in Uganda without a parent also born in Uganda were entitled to register as citizens, as could women married to a person who became a Ugandan citizen.

2.3. Post-independence era

The provisions defining citizenship in Uganda in its post-independence era were initially established by the 1962 Constitution, supplemented by the Uganda Citizenship Act.⁸ These provisions were common to other Commonwealth states on gaining independence. In relation to those born after independence, the Constitution granted citizenship on the basis of birth in the territory, otherwise known as *jus soli*, with the only exception being applied to child whose father was a diplomat (unless the mother was a citizen) (Article 9). Gender discrimination was applied to those born outside the country, who would only acquire citizenship if the father was a citizen; while transmission of citizenship to those born outside was restricted to one generation (Article 10). A women who married a Ugandan national was eligible for citizenship through registration (Article 11). Dual citizenship was not permitted: any person born with dual nationality was meant to renounce the citizenship of the other country on attaining majority or lose their Ugandan citizenship (Article 12).

The Citizenship Act 1962 provided further detail on registration and naturalisation based on residence for five years in Uganda, establishing preferential routes to acquire citizenship for those originating in another Commonwealth or another African state, and more onerous conditions for those without such a connection. In all cases, a person registering or naturalising was required to renounce any other citizenship.⁹ The Act also established the rules for deprivation of citizenship (from a person who had registered or naturalised only).¹⁰

During its immediate post-independence era, Uganda experienced tumultuous transitions in political leadership and legislative practices. In 1962, Milton Obote became the first Prime Minister of Uganda. After four years, Obote struggled to consolidate power among the various localised power dynamics that existed throughout Uganda's many ethnic and cultural communities. An attempted military coup led to Obote suspending the country's Constitution in 1966. Thereafter, an Interim Constitution was passed in 1966 with no debate among members of parliament, and a year later in 1967, a new Constitution was adopted.

The 1967 Constitution fundamentally changed the citizenship regime and did not maintained the core elements of the citizenship provisions of the 1962 Constitution and Citizenship Act. It removed *jus soli* citizenship rights (while maintaining the citizenship of those who already held it) and provided instead that for citizenship to be attributed to "every person born in Uganda after the commencement of this Constitution one of whose parents or grandparents is or was a citizen of Uganda" (Article 4(1)b)). Although the new provisions established no gender discrimination for those born in Uganda, for those born outside Uganda, the new constitution maintained gender discrimination with a hard-to-interpret provision that continued to refer to the father's citizenship.¹¹ Citizenship on the basis of marriage continued

⁷ Ibid. Article 7(2).

⁸ Uganda Citizenship Act 1962 (Cap.65, Laws of Uganda), entry into force 9 October 1962.

⁹ Citizenship of Uganda Act 1962, Part II and Schedule 2.

¹⁰ Ibid., Part III.

¹¹ Constitution of Uganda 1967, Article 4(1)(c): "Every person born outside Uganda after the commencement of this Constitution one of whose parents or grandparents is or was a citizen of Uganda, provided that his father

to provide only for women to have the right to acquire citizenship through their husbands, and not vice versa (Article 4(1)(4)).

2.4. The Amin regime and mass expulsions

Following Uganda's independence, the policy of the Obote government was to privilege Ugandan over other workers, including unskilled black East Africans who had migrated within the zone of free movement during the colonial era. In 1970, many East Africans, mainly Kenyan Luos, were expelled.¹² One of the most notable episode in Uganda's post-independence era with regard to citizenship deprivation was the mass expulsion of Ugandan citizens and residents of South Asian descent, in 1972, under president Idi Amin Dada who seized power by military coup in 1971.¹³

The expulsion of this community has been commonly analysed by scholars as a consequence of the visible wealth and class mobility of South Asians. It has been argued that this was a direct result of the administrative repression the Ugandan colonial state inflicted toward African traders while encouraging Indian traders. Hence, the status of Uganda's Indian community, and the state-driven discrimination they were subjected to following independence, was not as much a racial or ethnic issue, as it was socio-economic.¹⁴

The 1969 census reported that of the total just under 75,000 people of Asian descent living in Uganda just over 25,000 were Ugandan citizens. It is estimated that approximately twelve thousand to fifteen thousand believed they had Ugandan citizenship based on Article 7(1) of the 1962 Ugandan constitution, which stated that citizenship was automatically acquired on the day of independence by every person born in Uganda, provided that one of their parents was also born in Uganda.¹⁵ Around 25,000 had applied to register as citizens within the two year deadline established for those born in Uganda without one parent also born there, but only 11,000 had been granted citizenship by this route.¹⁶ Over twelve thousand applications for Ugandan citizenship by registration were made before 9 October 1964 but never reviewed because there was no legal timeframe for which these application were meant to be processed.¹⁷

President Amin announced that Asians resident in Uganda would be expelled for 'sabotaging Uganda's economy and encouraging corruption'.¹⁸ Due to international pressure, President Amin qualified his expulsion policy by suggesting that he did not intend on expelling Asians who were Ugandan citizens should they present documents verifying their citizenship. This proceeded with a brief verification period in which any Asian claiming Ugandan

was a citizen of Uganda otherwise than by virtue of this paragraph, at the time of that person's birth or, in case of the father's death before that person's birth, at the time of the father's death".

¹² Ali Mazrui, *Casualties of an Underdeveloped Class Structure: The Expulsion of Luo Workers and Asian Bourgeoisie from Uganda*, in William A. Shack and Elliott P. Skinner (eds.) *Strangers in African Societies*, University of California Press, 1979.

¹³ This history is set out in Bronwen Manby, *Citizenship in Africa: The Law of Belonging*, Hart Publishing, 2018, chapter 7.3.

¹⁴ Hundle, Anneeth Kaur. *1970s Uganda: Past, Present, Future*, Journal of Asian and African Studies, Vol. 53, no. 3 (2018): 455-75.

¹⁵ K. C. Kotecha, *The Shortchanged: Uganda Citizenship Laws and How They Were Applied to Its Asian Minority*, International Lawyer (ABA) 9, no. 1 (1975): 1-29, pp.1 and 5.

¹⁶ John Jean Barya, *Reconstituting Ugandan Citizenship under the 1995 Constitution: A Conflict of Nationalism, Chauvinism and Ethnicity*, Centre for Basic Research, Kampala, 2000, p.55.

¹⁷ Kotecha, op cit, p.6.

¹⁸ Quoted in Kotecha, op cit, p.1.

citizenship had to provide an original birth certificate or a certified copy; those who did not possess original documents faced the challenge of acquiring one from the Office of the Registrar of Births and Deaths.¹⁹ In December 1971 representatives from the Asian community complained about the unprocessed applications to President Amin, in which he informed that his government had come to power through a coup d'état and was not responsible for the shortcomings of the previous administration.²⁰ Even for those who had managed to become citizens either through registration or naturalisation faced challenges in seeking administrative support, such as applying for a passport in which their original documents would be filed away by the Office of Immigration and never returned; such occurrences which would result in them being deemed non-citizens.²¹

The legal measures to enable the final expulsions were two immigration decrees adopted in 1972 allowing for cancellation of entry permits and certificates of residence.²² Ugandan Asians were forced to leave Ugandan within a three-month period of which the official deadline was the 9th of November 1972. They were also required to leave behind their property and possession without any compensation.²³ This event was a critical turning point for the discourse characterizing access to nationality and citizenship in East Africa following the decolonization period and the manner by which the right to belonging was defined, in addition to having broader international ramifications.

2.5. The post-Amin regime

Amin's rule came to an end when he was forced into exile as a result of the Uganda-Tanzania War or 1978-1979. Nyerere had never officially recognized Amin's regime and enjoyed a close relationship with former Ugandan president Obote, to whom he offered exile following his ousting.²⁴ Amin's annexation of the Kagera Salient located in northwestern Tanzania in November of 1978 served as the trigger for the war which would end his rule in April 1979.²⁵ This would lead to Obote's eventual return to power for another five-year second term.

In 1983, the new government passed the Expropriated Properties Act,²⁶ which allows for the return of Ugandan Asians and the right to reclaim their confiscated properties. The Act provided for the "transfer of the properties and businesses acquired or otherwise expropriated during the military regime to the Ministry of Finance [and] the return to former owners or disposal of the property by the Government". The beneficiaries were identified "departed Asians" who had left Uganda in 1972. This measure, however, did not reinstate citizenship rights for this particular group, and upon, for example, applying for a passport previously expelled persons would find out they were still not considered a Ugandan citizen.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

²² Immigration (Cancellation of Entry Permits and Certificates of Residence) Decree No.17 of 7 August 1972, and the Immigration (Cancellation of Entry Permits and Certificates of Residence) (Amendment) Decree No.30 of 25 October 1972.

²³ Frank Wooldridge; Vishnu D. Sharma, "International Law and the Expulsion of Ugandan Asians", *International Lawyer (ABA)* 9, no. 1 (January 1975): 30-76.

²⁴ Roberts, George. *The Uganda-Tanzania War, the Fall of Idi Amin, and the Failure of African Diplomacy, 1978-1979*, *Journal of Eastern African Studies* 8, no. 4 (November 2014): 692-709.

²⁵ Ibid.

²⁶ Expropriated Properties Act 1983. Uganda Legal Information Institute. <https://ulii.org/ug/legislation/consolidated-act/87> (accessed 12 December 2018).

Uganda introduced a new constitution in 1995. It was implemented following country-wide consultations led by the ‘Odoki Commission’, a constitutional review commission named after its chair.²⁷ While the 1962 and 1967 constitutions focused on defining citizenship rights for the country’s Asian population, the debates shaping the 1995 Constitution focused on providing a more explicit definition for the citizenship rights of the countries’ many ethnic communities, including addressing the status of African immigrants and refugees. Hence, the 1995 Constitution defined access to citizenship through a more explicit ethnic definition that listed fifty-six groups considered ‘indigenous’ to Uganda. Nine more communities were added by 2005 Constitutional amendments. While ethnic communities such as the Banyarwanda whose status in Uganda fuelled much of the debates shaping access to citizenship in the 1995 framework were included in the list of indigenous communities, attempts by Asians to argue for their inclusion were unsuccessful.²⁸

Thus, Uganda is among a small group of counties whose legal framework is explicitly based on ethnic identity. While the introduction of “indigenous communities” into the 1995 Constitution provided support in protecting some communities from statelessness, it simultaneously created a risk of statelessness among those groups that are not represented among the 56 communities defined by the Constitution. The sections below will outline Uganda’s current citizenship practices both in legal merit and practical approaches.

3. Current Citizenship Regime

3.1. Introduction

The current citizenship framework in Uganda is outlined in chapter three of the 1995 Constitution of the Republic of Uganda (as amended in 2005) and the 1999 Uganda Citizenship and Immigration Control Act (as last amended in 2009). The Uganda Citizenship Regulations (SI No.63 of 2009) establish the technical procedures for implementation of the law, including those pertaining to the registration of citizenship, adoption of a child, and dual citizenship.²⁹

The 1995 Constitution introduced an ethnic basis for citizenship, under the Third Schedule of the Constitution³⁰. While the Constitution provided for those who already possessed Ugandan citizenship to continue doing so (Article 9), it established an entirely new framework for acquisition of citizenship at birth (Article 10). The new framework restored the “jus soli” provision that had been in place for those who were born prior to 1967, but restricted the new provision to those characterised as ‘indigenous’ on the grounds of being a member of a community present in Uganda in 1926 when its original colonial borders were established. One of the major legal gaps in the Constitution and the UCIC is the fact that Uganda’s ‘jus sanguinis’ provision on acquisition of citizenship from a parent does not extend citizenship to

²⁷ Manby, Bronwen. *Struggles For Citizenship in Africa*. London: Zed, 2009.

²⁸ Ibid.

²⁹ The Uganda Citizenship Regulations, 2009. Citizenship Rights in Africa Initiative. <http://citizenshiprightsafrika.org/wp-content/uploads/2018/11/Uganda-Citizenship-Regulations-2009-draft.pdf> (accessed 12 December 2018).

³⁰ Third Schedule, Constitution of the Republic of Uganda, 1995. Uganda Legal Information Institute. <https://ulii.org/ug/legislation/consolidated-act/0> (accessed 14 December 2018).

any member of a nonindigenous group and is limited to only the children of citizens by birth (i.e., those who are members of an ‘indigenous community’).

The 1995 Constitution also reformulated the definition for citizenship entitlement through registration and naturalisation, as well as the parameters that constitute the loss of citizenship.

The 1995 Constitution created the National Citizenship and Immigration Board. This entity holds various responsibilities, among which include granting and cancelling citizenship by registration and naturalisation [Article 16(3)(c)], among other activities.

3.2. Acquisition of citizenship

3.2.1. At birth

The 1995 Constitution and the UCICA provide two categories by which citizenship by birth can be acquired. First, Ugandan citizenship is acquired automatically by every person born in Uganda, one of whose parents or grandparents is or was a member of any of the indigenous communities existing and residing within the borders of Uganda as at the first day of February 1926, as listed in the Constitution [Constitution, Article 10(a) and Third Schedule, as amended 2005; UCICA, Article 12(a)].³¹ Second, for persons born outside Uganda, they automatically acquire Ugandan citizenship provided one of their parents or grandparents were at the time of birth of that person a citizen of Uganda by birth [Constitution, Article 10(b); UCICA, Article 12(b)].

The two categories, by design, omit the right for whites and Asians to acquire Ugandan citizenship by birth.³² They also exclude members of other communities not listed in the schedule to the constitution, generating debates surrounding the Constitution’s definition of Ugandan ‘indigeneity’. It is also important to highlight that citizenship by birth does not solely impact the rights of an individual by virtue of where they are born, and the relationship they maintain with the State as a result, but in the Ugandan context it also determines the collective rights of communities and the manner by which they can be represented within the State structure.³³

3.2.2. Foundlings and Adopted Children

Under the Constitution, foundlings acquire Ugandan citizenship by birth. A child found in Uganda who is five years of age or younger, and whose parents are not known, is presumed to

³¹ According to the Third Schedule of the 1995 Constitution, fifty-six indigenous communities are identified: Acholi; Alur; Baamba; Babukusu; Babwisi; Bafumbira; Baganda; Bagisu; Bagungu; Bagwe; Bagwere; Bahehe; Bahororo; Bakenyi; Bakiga; Bakonzo; Banyabindi; Banyankore; Banyara; Banyarwanda; Banyole; Banyoro; Baruli; Basamia; Basoga; Basongora; Batagwenda; Batoro; Batuku; Batwa; Chope; Dodoth; Ethur; Ik (Teuso); Iteso; Jie; Jonam; Jopadhola; Kakwa; Karimojong; Kebu (Okebu); Kuku; Kumam; Langi; Lendu; Lugbara; Madi; Mening; Mvuba; Napore; Nubi; Nyangia; Pokot; Sabinu; So (Tepeth); and Vonoma. According to the 2005 Amendments, nine additional indigenous communities were added: Aliba; Aringa; Banyabutumbi; Banyaruguru; Barundi; Gimara; Ngikutio; Reli; and Shana.

³² Manby, Bronwen. *Struggles For Citizenship in Africa*. London: Zed, 2009.

³³ For further elaboration of the relationship between individual and collective rights in Uganda, reference the case of the Buganda community in demanding for federal status: Barya John-Jean, “Reconstituting Ugandan Citizenship Under the 1995 Constitution: a Conflict of Nationalism, Chauvinism, and Ethnicity”, *Centre for Basic Research*, (2000). Working Paper No. 55.

be a citizen by birth [Article 11(1)]. A child is entitled to citizenship through registration in the case they are under the age of eighteen and is adopted by a citizen of Uganda [Article 11(2)]. In accordance with the 2009 Regulations, an adopted child above the age of sixteen is to take an oath of allegiance in the presence of their parents, while those under the age of sixteen are not required to do so (Part II, Section 4).

3.2.3 Registration based on birth in Uganda and residence since 1962

Article 12(1) of the 1995 Constitution establishes entitlement to citizenship through registration for a person born in Uganda on the basis that at the time of birth, “(i) neither of his or her parents and none of his or her grandparents had diplomatic status in Uganda; and (ii) neither of his or her parents and none of his or her grandparents was a refugee in Uganda; and (b) who has lived continuously in Uganda since the ninth day of October, 1962”. Given the requirement to have lived continuously in Uganda since independence day in 1962, this provision appears to be aimed at providing a solution for those persons born before independence who did not acquire citizenship automatically based on the transitional provisions in place at independence, but who are also not a member of an ‘indigenous community’ to whom citizenship is attributed by Article 10(a).

3.2.4. Residence-based acquisition

Ugandan citizenship can be acquired in two ways, after a certain period of residence. First, a more facilitated form of acquisition by ‘registration’ is available on application to persons who have either ‘legally and voluntarily’ migrated to Uganda and lived there for at least ten years (Constitution, Article 12(2)(b)) or who, on the commencement of the 1995 Constitution, have lived in Uganda for at least twenty years (Constitution, Article 12(2)(c)). The constitutional provision allows parliament to change the length of residence required for registration under Article 12(2)(b) based on ‘legal and voluntary’ migration, and the original version of UCICA adopted in 1999 raised the period to 20 years -- but this was reduced again to ten years by its 2009 amendments.³⁴ Second, a discretionary ‘naturalisation’ procedure of residence-based acquisition is open to persons who have resided in Uganda for an “aggregate period of twenty years” and for twenty-four month following their application for naturalisation (Constitution, Article 13; UCICA, Article 16). In addition, persons should have knowledge of a “prescribed vernacular language” or English [which is the official language of Uganda]; and maintain good character.

Uganda’s naturalisation laws have a major gap as it pertains to children because in the case a child’s parent has become a citizen through means of naturalisation, a child must also undergo the same process in order to acquire Ugandan citizenship. As indicated above, the twenty-year residency period does not apply to minors despite having either been born or grown up in Uganda. Therefore, in practice, once a minor becomes an adult at the age of eighteen, they have the opportunity to naturalise twenty years later at the age of thirty-eight. Under the 1995 Constitution, anyone who became a citizen of Uganda was required to renounce any citizenship of another country (Article 15). Following the Constitutional Amendments Act of 2005, however, renunciation of a previous citizenship is no longer required.

³⁴ Uganda Citizenship and Immigration Control Act, 1999, Section 14(2)(b), as amended by Uganda Citizenship and Immigration Control (Amendment) Act 2009, Section 4.

3.2.5. Marriage

A person married to a Ugandan citizen is entitled to register as a citizen after three years of marriage (Constitution, Article 12(2)(a); UCICA, Article 14(2)(a)).

3.2.6 Re-acquisition of Ugandan citizenship

Reacquisition of citizenship was possible under the 1995 Constitution for a Ugandan citizen who had lost citizenship due to the acquisition of another, and requires the renunciation of that citizenship in order to reacquire Ugandan citizenship (Article 15(4)). This provision was later repealed in the 2005 Amendments which granted the right to maintain dual nationality (reference section 3.4 of this report for further elaboration). The Constitution further qualifies that in the case the law of another country requires a person to renounce the citizenship of their origin country, for example in the case of acquisition of citizenship through marriage, a former citizen of Uganda has the right to reacquire their Ugandan citizenship upon the dissolution of that marriage (Article 15(5)).

The UCICA as amended in 2009, further specifies the reacquisition of Ugandan citizenship through two key provisions. According to Article 19G, “(1) a person who was a citizen of Uganda by birth and who on acquiring the citizenship of another country renounced his or her Ugandan citizenship, may apply to the [National Citizenship and Immigration Board] in the prescribed manner to re-acquire his or her former Ugandan citizenship” and further notes “(2) The board may allow a former Ugandan citizen to reacquire his or her Ugandan citizenship if it is satisfied that the grounds for the loss of his and her Ugandan citizenship are of no adverse effect to the public order and security of Uganda.”

3.3. Loss and deprivation of citizenship

The parameters by which citizenship is lost (by operation of law) or deprived (by act of the executive) are set by the Constitution and by the UCICA 1999.

3.3.1. Voluntary renunciation of citizenship

A Ugandan citizen may voluntarily renounce her or his citizenship, provided that he or she has acquired citizenship of another country, by declaration to the National Citizenship and Immigration Board, and the request must be formally registered by the Board. (UCICA, Section 20(1)). The Board may refuse to do so if the declaration is made during a period of war with a foreign country, or “if in the opinion of the board it is otherwise contrary to public policy” (Section 20(2)).

3.3.2. Loss of citizenship

The original versions of the Constitution and of the UCICA, prior to the amendments of 2005 and 2009 which allowed for dual nationality, provided for automatic loss of citizenship by birth by any person who retained or voluntarily acquired another citizenship after majority (except through marriage), and similarly for citizens by birth or registration (Constitution 1995, Articles 13-15; UCICA 1999, Sections 17-19). These provisions were repealed or amended when the absolute prohibition on dual citizenship was ended, as discussed below.

However, Section 24 of UCICA relating to cancellation of citizenship based on dual citizenship was not amended with the other provisions and remains in force. Section 24 of UCICA requires any person who acquired Ugandan citizenship through means of registration or naturalisation to provide documentation within a ninety-day period proving the renunciation of any other nationality: “the registration or naturalisation of that person as a citizen of Uganda shall be cancelled; and he or she shall be taken never to have been so registered.”

3.3.3. *Deprivation of citizenship*

Article 14 of the Constitution and Section 17 of UCICA provide that the National Citizenship and Immigration Board has the right to deprive a person of their citizenship (if it had been acquired through registration) based on the following criteria: the voluntary acquisition of the citizenship of another country (subject to the Constitutional Amendments Act of 2005 which grants the opportunity of dual nationality in some cases; see further section 3.4 of this report), voluntary services in armed/ security forced in a country which is either hostile or at war with Uganda; the initial acquisition of citizenship through fraud; or committing espionage against Uganda (Article 17, UCICA, as amended). For naturalised citizens, the Board has the ability to apply the same criteria as for those who are registered citizens, in addition to the individual maintaining a fraudulent naturalisation certificate (Article 18, UCICA, as amended).

3.4 Dual citizenship and the rights of citizens living abroad

The African diaspora has grown globally through both formal and informal migration trends, as well as through the involuntary legacy of slavery. Following the independence era, newly independent countries throughout Africa commonly did not allow dual nationality based on the assumption that this would allow citizens to maintain two loyalties, and more particularly, encourage maintaining loyalty to former colonial powers.³⁵ However, through the lobbying efforts of the African diaspora, significant political pressure was generated in their origin countries to allow for dual nationality and disproved the popular thought that dual nationality would generate disloyalty to either State.³⁶

In this context, the growth of the Ugandan diaspora following its independence has led to sizeable communities of Ugandans living abroad. The Constitutional Amendments Act of 2005 repealed the restriction on dual citizenship formally put in place by the Uganda Constitution and Citizenship Act of 1962, and retained by the 1995 Constitution and 1999 Citizenship and Immigration Control Act. The Constitution Amendment Act of 2005 changed this position, although the law was not amended to bring it into line with new provisions until 2009.

The 2005 Constitutional amendments substitute Article 15 of the 1995 Constitution which previously prevented dual nationality with the following, “A citizen of Uganda of eighteen years and above, who voluntarily acquires the citizenship of a country other than Uganda may retain the citizenship of Uganda subject to this Constitution and any law enacted by Parliament” [Article 6, Section (a)(1)]. Additionally, “A person who is not a citizen of Uganda may, on acquiring the citizenship of Uganda, subject to this Constitution and any law enacted by Parliament, retain the citizenship of another country” [Article 6, Section (a)(2)]. Further, the Amendment goes on to permit Parliament to adopt legislation for the retention of

³⁵ Bronwen, Manby, *Citizenship in Africa: the Law of Belonging*. Hart Publishing, 2018.

³⁶ *Ibid*.

Ugandan citizenship in the case a Ugandan is to acquire the citizenship of another country, in addition to permitting non-Ugandan citizens to apply and receive Ugandan citizenship while retaining the citizenship of their origin countries.³⁷

The 2009 revisions to UCICA then inserted new sections 19A to 19G into the act, providing a highly elaborated set of rules around the conditions under which it is possible to hold dual citizenship. These include giving notice to the National Citizenship and Immigration Board that the person wishes to apply for another citizenship; or, if applying for citizenship, evidence that the other country permits dual citizenship, and a range of other conditions that are not applied to a person seeking to register as Ugandan while not retaining another citizenship. The rules also establish no more than one other citizenship may be held together with Ugandan citizenship. In addition, the 2009 amendments establish an extensive list of state offices that may not be held by persons with dual citizenship (Section 19D and fifth schedule added to the principal act).

4. Current Debate and Reforms

4.1 Ethnic Basis for Citizenship

Uganda's colonial boundaries established in the context of the European "Scramble for Africa" are arbitrary, and there are cross-border communities residing in its neighbouring countries including the Democratic Republic of Congo, South Sudan, Rwanda, and Kenya.

The 1995 Constitution added another layer of complication in defining the right to citizenship in Ugandan by explicitly identifying ethnic communities whose ancestors were of indigenous origin to Uganda and were therefore entitled to citizenship by birth. This is noted in the Third Schedule of Article 10(a), which identifies Uganda's ethnic communities based on the demarcation of Uganda's borders as of the 1st of February 1926. Based on schedule three, one has access to *jus soli* citizenship if their parents or grandparents "is or was a member of any of the indigenous communities existing and residing within the borders of Uganda as at the first day of February 1926". This excludes, for example, Europeans and those of Asian descent who resided in Uganda prior to its independence, and are deemed ineligible based on this provision. The Constitution (Amendment) Act, 2005 amended the Third Schedule of the 1995 Constitution by inserting additional communities considered indigenous based on the stated February 1926 standard, bringing the total number to sixty-five, who are eligible to attain citizenship based on the same guidelines. During the negotiations of the 1995 Constitution, Uganda's Asians community attempted to advocate for their recognition as an indigenous community.³⁸ To date, they are not recognized, alongside other communities, some of which are highlighted in the sub-sections below.

³⁷ The Constitution (Amendment) Act, 2005. United States Department of Justice. https://www.justice.gov/sites/default/files/eoir/legacy/2014/09/10/constitution_amendment2005.pdf (accessed 14 December 2018).

³⁸ Bronwen, Manby, *Citizenship in Africa: the Law of Belonging*. Hart Publishing, 2018, chapter 7.3.

a. The case of the Maragoli community

Several ethnic communities have complained of their exclusion from Ugandan citizenship under the Third Schedule of the 1995 constitutional provisions defining indigeneity. Among the various groups who face this reality, the Maragoli community living within Uganda's Bunyoro Kingdom is a key example. The Maragoli community are a part of the broader Luhya ethnic community found in Kenya. According to the Maragoli community, their migration history into Ugandan dates back to the 19th century or earlier. Their community in Uganda is known to have grown during the 20th century when the Maragoli arrived to support the construction of the Uganda Railway. In 1957, the king of the Bunyoro Kingdom extended an invitation for members of the Maragoli community to settle in his home region of western Uganda and allocated them land.³⁹ Though the Bunyoro community spans from western to central Uganda, and the Maragoli community is concentrated in Uganda's central, Kiryandongo District.

The Maragoli are not included in the 1995 Uganda Constitution under the Third Schedule identifying indigenous communities, nor are they included in the 2005 Amendments. In 1999 they formed the Maragoli Community Association as a response to their exclusion from being officially recognized among Uganda's other indigenous communities and as a means to advocate for both the citizenship as well as socioeconomic inclusion of their members.⁴⁰

In 2014/15 Uganda began a mass registration exercise in order to introduce national IDs (see below). This process led to the National Identification and Registration Authority (NIRA) withholding national IDs of the Maragoli community on the basis on them not meeting the indigeneity requirements as listed in the Third Schedule, and thus, claiming that they are not entitled to citizenship. Through continuous lobbying efforts, the Maragoli were offered citizenship by naturalisation during Uganda's mass registration process under the National Security Information System (NSIS) project.⁴¹ For the Maragoli however, the prospect of attaining citizenship through naturalisation would mean that they would have to prove having resided in Uganda for twenty years, and further, would not be able to transmit citizenship to their children (on the basis on the naturalisation laws as described above). Hence, the Uganda government's offer did not present a plausible solution.

In 2014, the Maragoli community petitioned the Ugandan Parliament to be included under the Constitution and to be acknowledged as an indigenous community under the Third Schedule. They appeared before the Legal and Parliamentary Affairs Committee of the Ugandan Parliament in order to present their case and requested an Amendment to the Constitution to recognize their citizenship. As a result of this effort, the Committee recommended the establishment of a Constitutional Review Commission to review the prospect of their inclusion in the Constitution. In 2018, four years following the initial petition, preliminary nominations to the commission were made.⁴²

³⁹ Bronwen Manby, *Statelessness and Citizenship in the East African Community*, United Nations High Commission for Refugees, 2018. <https://data2.unhcr.org/en/documents/download/66807> (accessed 18 December 2018).

⁴⁰ The International Refugee Rights Initiative, *A Quest for Citizenship: the Maragoli*, 23 January 2019. <http://refugee-rights.org/wp-content/uploads/2019/01/Quest-for-Citizenship-Maragoli-1-1.pdf> (accessed 08 February 2019).

⁴¹ *Ibid.*

⁴² *Ibid.*

This process has been slow moving and the status of the Maragoli community is still pending. In February of 2016 the Attorney General issued an official statement to the NIRA characterizing the “legal interpretation of the citizenship status of the Maragoli Community” and informing that the Chairman of the Maragoli Community that their inclusion in the Third Schedule of the Constitution was to be handled only through a constitutional amendment, and further directed NIRA to issue national identification cards given the “pending constitutional amendment for inclusion of the Maragoli as one of the indigenous communities”.⁴³ The immediate need to issue national IDs was attributed to the challenges faced by the Maragoli community in accessing services such as land leases, health care, education, employment opportunities, as well as in some cases, the ability to register child births.⁴⁴

Following the Attorney General’s advice, the Maragoli community still continued to struggle in obtaining National IDs and filed a complaint with NIRA in August 2016. They also complained to the Ministry of Internal Affairs (MIA) and the Attorney General’s office following prolonged administrative issues in accessing the above-stated services. As a result, the MIA raised this issue with NIRA, and it was resolved that the Government of Uganda would accept the Maragoli claim to Ugandan citizenship and their inclusion in the Third Schedule of the Constitution.⁴⁵

Despite the positive developments, it was reported in May of 2017, that the NIRA was still withholding an estimated 15,000 national IDs from the Maragoli.⁴⁶ This led to their writing to the President of Uganda, H.E. Yoweri Museveni who responded by instructing the Ministry of Constitutional Affairs to include the proposed constitutional amendment. Further efforts included a petition to the Equal Opportunity Commission, who mobilized local government officials in Masindi District to host a public dialogue about this issue in March 2018, in addition to a nationality workshop hosted by the International Refugee Rights Initiative⁴⁷ in which this issue was raised. By mid-2018, NIRA released the formally withheld national IDs during the 2014/15 mass registration drive, and by November 2018 fourteen members were appointed to the Constitutional Review Commission in order to review the Maragoli case.⁴⁸

Despite the perseverance of this particular community in their citizenship claims, it is imperative to equally acknowledge that they are other minority groups who while less vocal, also face the same circumstances.⁴⁹

⁴³ Maragoli Petition to Attorney-General of Uganda, 22 December 2015. (Accessed 18 December 2018). <http://citizenshiprightsafrika.org/wp-content/uploads/2018/06/Maragoli-petition-to-AG-Uganda-2015-responses.pdf>

⁴⁴ The International Refugee Rights Initiative, *A Quest for Citizenship: the Maragoli*, 23 January 2019. <http://refugee-rights.org/wp-content/uploads/2019/01/Quest-for-Citizenship-Maragoli-1-1.pdf> (accessed 08 February 2019).

⁴⁵ Ibid.

⁴⁶ The Observer (Kampala), *Uganda: NIRA Withholds 15,000 National IDs of Maragoli Tribe*. <https://allafrica.com/stories/201705250122.html> (accessed 08 February 2019).

⁴⁷ International Refugee Rights Initiative, *Summary of IRRI Hosted Workshop on the AU Draft Protocol on the Right to a Nationality*, 2018. <http://refugee-rights.org/irri-hosts-meeting-in-kampala-on-the-draft-protocol-on-the-right-to-a-nationality/> (accessed 08 February 2019).

⁴⁸ The International Refugee Rights Initiative, *A Quest for Citizenship: the Maragoli*, 23 January 2019. <http://refugee-rights.org/wp-content/uploads/2019/01/Quest-for-Citizenship-Maragoli-1-1.pdf> (accessed 08 February 2019).

⁴⁹ The complexities in defining Uganda's ‘indigeneity’ in relation to both its colonial past and its contemporary post-independence era is an underlying issue on a cross-sector of the area defining its current public policies. see further: The 2013 Uganda National Land Policy has a more inclusive definition for minority groups which are left out of the Third Schedule of the 1995 Constitution. *Uganda National Land Policy*, Ministry of Lands, Housing and Urban Development, 2013, <http://extwprlegs1.fao.org/docs/pdf/uga163420.pdf>

b. Children of Ugandan Asian “returnees”

The children of Ugandan Asians who later returned to Uganda have faced challenges securing citizenship.⁵⁰ This is because the registration or naturalisation of one’s parents does not transfer to the child following the parent’s acquisition of Ugandan citizenship. In addition, the children of registered or naturalised citizens do not acquire citizenship at birth, even if born in Uganda (1995 Constitution, Article 19(b)). Thus, in some cases, the children of Ugandan Asian “returnees” do not have Ugandan citizenship despite having grown up or born in Uganda.⁵¹ Others, on the other hand, might be stateless in the case their parent renounced their citizenship to another country in order to acquire Ugandan citizenship prior to dual citizenship being permitted.⁵²

c. Somali Community

The Somali ethnic community has been growing in Uganda since the 1990s following the collapse of the Somali state. Despite many Somalis in Uganda maintaining refugee status, there is a sizeable community which descends from pre-independence migrants who originate from Somaliland. The Isaq Somali migrants were considered British protected persons and by virtue, would be eligible either for automatic citizenship acquisition or through registration.⁵³ Despite Somalis not being a recognized indigenous community of Uganda, authorities do recognise Isaq Somalis who presented with evidence of belonging to this community.⁵⁴ Nevertheless, this community continues to face challenges in obtaining national ID cards or passports. Somalis are meant to prove that they meet the requirements of citizenship acquisition during independence in 1962. For those who were not alive, they then have to prove that either a parent or grandparent was born in Uganda prior to independence, or that they meet the requirement of applying for citizenship either through registration or naturalisation.⁵⁵ It has so occurred that those who met the requirement for Ugandan citizenship through automatic acquisition at independence have been turned down—an issue which prevents their children from rightfully enjoying citizenship on the basis on decent.⁵⁶

d. Uganda’s Multiracial Community

On the 15th of February 2016, a complaint was filed by Yasin Omar against the Attorney General of Uganda. The complainant is the chairperson of the non-governmental organization known as the “Multi-racial Community of Uganda” which is an organization that promotes the right of “half castes” in Uganda. The complaint was filed based on the allegation of various occurrences by which the so-called “half caste” community faces discrimination by the

⁵⁰ Bronwen Manby, *Statelessness and Citizenship in the East African Community*. United Nations High Commission for Refugees, 2018. <https://data2.unhcr.org/en/documents/download/66807> (accessed 18 December 2018).

⁵¹ In accordance with the UCICA, Section 12(b), 14, 15, 25: The 10-year period required to apply for citizenship by registration does not apply to students or minors.

⁵² The Constitution (Amendment) Act, 2005. United States Department of Justice https://www.justice.gov/sites/default/files/eoir/legacy/2014/09/10/constitution_amendment2005.pdf (accessed 14 December 2018).

⁵³ Bronwen Manby, *Statelessness and Citizenship in the East African Community*. United Nations High Commission for Refugees, 2018. <https://data2.unhcr.org/en/documents/download/66807> (accessed 18 December 2018).

⁵⁴ *Ibid.*

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

Ministry of Internal Affairs (MIA).⁵⁷ As documented in the ruling, instances of discrimination happen when individuals attempt to apply for or renew passports and national identity cards. This allegation by virtue, suggests that the MIA is violating their constitutional rights to citizenship in addition to access to passports and national ID cards.⁵⁸

There were three main issues identified by the Tribunal requiring a legal judgment on the basis of whether discrimination did indeed take place. These include the following: 1) “whether the actions of the officials of MIA involved in the processing of the Passports and National Identity Cards amounted to discrimination of multi-racial individuals ordinarily known as half castes”, 2) “whether the actions of the said officials of the MIA amounted to violation of the Complainant’s and other members of the Multi-racial community’s right to citizenship”, and 3) “whether multi-racial communities may be accorded Affirmative Action in the political, social, and economic opportunities available to other Citizens of Uganda”.⁵⁹

The ruling confirmed that the accuracy of the evidence provided by the witnesses claiming discrimination by the MIA, noting “alarming discrimination against multi-racial individuals”.⁶⁰ The ruling called upon officials of the MIA to provide an equal opportunity for all Ugandans to apply for passports, and for MIA official to refrain from withholding passports due to the colour of one’s skin. Additionally, the case brought into question the right to access citizenship of Mr. Feher Ahmed Hamed, which ruled that he met all the legal requirements in accordance with Article 12(1) and 12(2) of the 1995 Constitution, in addition to Section 14 of the UCICA, and called the MIA to grant him citizenship by registration.⁶¹ Furthermore, the ruling outlines the following legal framework, which the MIA should uphold in order to avoid the discrimination of multi-racial communities in Uganda: Articles 12, 20, 21(1), (2) and (3), 32 and 36 of the 1995 Constitution. It also called upon the MIA to “diligently perform the functions of the Directorate of Immigration and Citizenship as contained in Section 7 of the Uganda Citizenship and Immigration Control Act, Cap 66 as amended” and practice refraining from any personal bias and discriminatory practices.⁶²

4.2 Introduction of New National ID Card

The Citizenship and Immigration Control Act 1999 provided for the issue of ID cards⁶³—but the government only took action to require registration for a national ID card more than ten years later. A mass registration process for a new national identity card was carried out during 2014/15 under the existing legislation. In January 2016, new legislation entered into force, the Registration of Persons Act 2015, which established a new agency, the National Identification and Registration Authority (NIRA) to be responsible for its implementation.

In February of 2019, NIRA launched a further three-month massive registration for all Ugandan citizens to ensure that everyone is included in the national register and provided a

⁵⁷ The Equal Opportunities Commission, EOC Ref No. EOC/CR/010/2016, Yasin Omar [Complainant] Versus Attorney General [Respondent], 15 February 2016. http://www.eoc.go.ug/sites/equalopportunities/files/publications/yasin_omar_vs_attorney_general_ruling.pdf (accessed 05 February 2019).

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² Ibid.

⁶³ Citizenship and Immigration Control Act 1999, Part IV, provided for “Registration of citizens and issue of national identification numbers and national identity cards.”

National Identification number. It was believed that approximately 2.4 million Ugandans above the age of sixteen still did not possess national identification cards; including more than half a million whose application for national IDs had been queried for lack of documentation or insufficient information.⁶⁴

The introduction of the new national ID card has revealed or exacerbated many of the problems of communities not considered ‘indigenous’ within the constitutional framework.

A complaint mechanism was developed to address cases of those persons whose citizenship was in question. During this process, the Directorate of Citizenship and Immigration supported the verification of citizenship and registered eligible people as citizens; in the case one’s citizenship was brought into question, cases were to be heard in person and decisions were only to be made on the basis of providing valid documentation. This posed a challenge for many who do not have birth certificates or other forms of documentation.⁶⁵ Further, this procedure is merely administrative and does not carry any judicial weight in identifying stateless persons and provide a pathway for citizenship.⁶⁶

4.3 Access to Citizenship for Refugees

Despite a sizable number of the country’s refugees having lived in Uganda between twenty to forty years, the time they have spent in Uganda is not considered in relation to the country’s citizenship laws.⁶⁷ A sizeable number of refugee communities in Uganda are multigenerational refugees who do not have Ugandan citizenship, and in some cases do not have access to the citizenship rights of their origin countries.⁶⁸

Uganda is a signatory of the 1951 UN Convention and Protocol Relating to the Status of Refugees⁶⁹ which states the need for refugee-hosting states to extend every effort to the “assimilation” and “naturalisation” of refugees in a timely and cost-efficient manner. Moreover, the popular opinion among Ugandan nationals proves mixed among those who have participated in a perceptions survey on the topic of refugees having the ability to access citizenship: it demonstrates that while 53 per cent believe that refugees should be granted citizenship, approximately 47 per cent oppose the idea.⁷⁰

The Refugees Act of 2006 is the legal framework guiding refugee management in Uganda.⁷¹ Article 45 of this Act determines that a refugee is eligible for naturalisation based on the “Constitution and any other law in force in Uganda regulating naturalisation”. According to this provision, the naturalisation process for refugees is based on the 1995 Constitution (as

⁶⁴ Daily Monitor, *NIRA starts massive 3-month Registration for IDS*, 11 February 2019.

<https://www.monitor.co.ug/News/National/NIRA-starts-massive-3-month-registration-IDS/688334-4976194-13ft11ez/index.html> (accessed 11 February 2019).

⁶⁵ Bronwen Manby, *Statelessness and Citizenship in the East African Community*. United Nations High Commission for Refugees, 2018. <https://data2.unhcr.org/en/documents/download/66807> (accessed 18 December 2018).

⁶⁶ Ibid.

⁶⁷ International Rescue Committee, *Uganda: Citizens’ Perceptions on Refugees*, June 2018.

<https://www.rescue.org/sites/default/files/document/2858/ircuganda.pdf> (accessed 10 February 2019)

⁶⁸ The greater majority of Uganda’s refugee communities are from South Sudan, the Democratic Republic of Congo, Burundi, Rwanda, among other countries.

⁶⁹ Convention and Protocol Relating to the Status of Refugee. United Nations High Commission for Refugees. <https://www.unhcr.org/3b66c2aa10.html> (accessed 24 January 2019).

⁷⁰ Ibid.

⁷¹ Uganda: The Refugee Act 2006 [Uganda], Act 21, 24 May 2006.

<https://www.refworld.org/docid/4b7baba52.html> (accessed 02 February 2019).

amended 2005) and the 1999 UCICA (as amended 2009). Unfortunately, these legal instruments fall short of granting tangible pathways for refugee communities to access citizenship in Uganda, and subsequently face significant legal challenges in the naturalisation process.⁷²

When assessing the possibility of refugees becoming citizens through registration based on ten years' residence in the country,⁷³ Article 12(2) of the Constitution and Article 14(2) of the UCICA directly exclude refugees. Article 12(2)(b) of the Constitution requires registration for citizenship to be on the bases of a person having “legally and voluntarily migrated” to Uganda, a status which excludes refugees by definition given their forced displacement into Uganda. Article 14(1)(a)(ii) of the UCICA, providing for registration of those born in Uganda and residence since 1962, provides that citizenship through registration is only available in the case “neither of his or her parents and none of his or her grandparents was a refugee in Uganda”.⁷⁴

Article 13 of the Constitution also provides that “Parliament shall by law provide for the acquisition and loss of citizenship by naturalisation”. UCICA Article 16 specifies the conditions which must be satisfied to naturalise. This includes a twenty-year residence period, knowledge of a prescribed vernacular language or English, being of good character and the intention to permanently reside in Uganda.⁷⁵ There is no specific exclusion based on ‘legal and voluntary’ migration.

The desire for refugees to fully integrate into Ugandan society through citizenship, and especially those who have no intention of returning to origin country and are long-term refugees, continues to be a challenge in the Ugandan citizenship context. This lack of clarity in legal interpretation prompted the Refugee Law Project, a non-profit organization providing legal aid to refugees and asylum seekers throughout the Great Lakes Region, to seek clarification on refugees' rights to citizenship with respect to the 1995 Constitution and UCICA.⁷⁶ A petition was filed calling upon to Uganda Constitutional Court (UCC) to provide clarification on whether refugees are eligible for citizenship either by registration, naturalisation, or both. In October 2015, the UCC issued a ruling which deemed that refugees are indeed eligible for citizenship through naturalisation but cannot access citizenship through registration because they did not “voluntarily migrate” to Uganda.⁷⁷

Despite this ruling, however, the prospects of extending citizenship to refugees remain sensitive as to date and there have been no successful cases of naturalisation. The complexities which challenge the systematic registration of refugees was explained by Uganda's former Commissioner for Refugees, who referred to the steps taken by the Office of Prime Minister (OPM), Department for Refugees to support certain refugees in acquiring Uganda citizenship. He stated:

⁷² Tigranna Zakaryan, Lina Antara, *Political Participation of Refugees: The Case of South Sudanese and Congolese Refugees in Uganda*. International Institute for Democracy and Electoral Assistance, April 2018. <https://www.idea.int/sites/default/files/publications/political-participation-of-refugees-the-case-of-south-sudanese-and-congolese-refugees-in-uganda.pdf> (accessed 08 December 2018).

⁷³ Between 1999 and 2009 the period specified by UCICA – as authorised by the Constitution -- was twenty years.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Constitutional Petition No. 34 of 2010 between Centre of Public Interest Law Ltd. Salima Namusobya [Petitioners] and The Attorney General [Respondent], 06 October 2015. https://refugeelawproject.org/files/others/constitutional_court_ruling_on_refugees_eligibility_to_become_Ugandans.pdf (accessed 23 January 2018).

⁷⁷ Ibid.

“OPM has submitted a list of people [to Ministry of Internal Affairs] we believe to be eligible for naturalisation but championing this issue can be misconstrued and we need to be strategic with the timing... Elections and the economic dynamics of society play a role, but we need to be active or we will end up with stateless populations.”⁷⁸

This reality demonstrates the contrast between Uganda's progressive refugee policies and its ability to fully integrate refugee communities and provide them with a sense of belonging in the long-term.

4.4 Birth Registration

Uganda continues to face challenges in registering births and providing certificates to the entirety of its populations, the majority of whom reside in rural and remote communities. As of 2019, thirty-two percent of children under the age of five were registered at birth, while nineteen percent of children under the age of five have a birth certificate.⁷⁹ These challenges are further exacerbated for its refugee and asylum seekers communities as Uganda continues to be the epicentre of forced displacement in the Great Lakes Region. In an attempt to acknowledge and address this reality through a broader framework, Uganda is a signatory to both international and regional treaties, which seek to uphold the rights of children with respect to ensuring their proper identification and preventing stateless, in addition to mirroring these initiatives in its own domestic legislation.

In 1990, Uganda ratified the “Convention on the Rights of a Child” (CRC), which requires that “The child shall be registered immediately after birth and shall have the right from birth to a name, [and] the right to acquire a nationality” (Article 7).⁸⁰ The CRC further requires that “State Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.” Regionally, Uganda is a party to the African Charter on the Rights and Welfare of the Child.⁸¹ Article 6 of the Charter notes that “(1) Every child shall have the right from birth to a name; (2) Every child shall be registered immediately after birth; (3) Every child has the right to acquire a nationality”. These provisions are reflected in Uganda’s domestic legislation, which states that “The State shall register every birth, marriage, and death occurring in Uganda” (1995 Constitution, Article 18).

Uganda’s domestic framework is further supported by the Registration of Persons Act 2015, which upon its establishment of the NIRA, was designed to provide a national identification card and alien identification cards. The Act characterizes one of the key functions of NIRA as (b) “to register citizens of Uganda” (Article 5(b)) as well as “to register births and

⁷⁸ Tigranna Zakaryan, Lina Antara, *Political Participation of Refugees: The Case of South Sudanese and Congolese Refugees in Uganda*. International Institute for Democracy and Electoral Assistance, April 2018. <https://www.idea.int/sites/default/files/publications/political-participation-of-refugees-the-case-of-south-sudanese-and-congolese-refugees-in-uganda.pdf> (accessed 08 December 2018).

⁷⁹ UNICEF, *Situation Analysis of Children in Uganda – 2019*. July 2019. <https://www.unicef.org/uganda/media/5181/file/Situation%20Analysis%20of%20Children%20in%20Uganda%202019-FINAL.pdf> (accessed 20 March 2020).

⁸⁰ United Nations Human Rights Office of the High Commissioner, *Convention on the Rights of the Child*. <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx> (accessed 08 February 2019).

⁸¹ African Commission on Human and Peoples’ Rights, *African Charter on the Rights and Welfare of the Child*. http://www.achpr.org/files/instruments/child/achpr_instr_charterchild_eng.pdf (accessed 10 February 2019).

deaths” (Article 5(d)).⁸² The Act also deems the free and compulsory registration of births through Article 28.

Despite the existing legal structures however, the process of ensuring all children are documented has proven to be one of immense complexity.⁸³ This can be attributed to lack of awareness among parents who do not differentiate between notifying of their child’s birth as opposed to acquiring a proper birth certificate, in addition to being unaware of how to access the services, which would grant their child documentation (despite them being free).⁸⁴ Although birth registration and documentation may pose minimal significance during the earlier course of a child’s life, the ramifications of not having documentation especially as a refugee, vary from the inability to eventually access both humanitarian and socio-economic resources (i.e. education and health care), in addition to more broader consequences like the risk of becoming stateless or being excluded from the opportunity to eventually access citizenship either in Uganda, or in their origin country should they repatriate.

4.5 Participation in Continental & International Debates on Nationality & Statelessness

As a member state of the International Conference on the Great Lakes Region (ICGLR),⁸⁵ Uganda is in the process of implementing the “Action Plan of the International Conference on the Great Lakes Region (ICGLR) on the Eradication of Statelessness”—a step intended to harmonizing the efforts of ICGLR member states to address the phenomena of statelessness in the African Great Lakes Region and expanding the right to a nationality.⁸⁶ It is also a part of a global campaign spearheaded by the United Nations High Commission for Refugees (UNHCR) to end statelessness by the year 2024.⁸⁷

The ICGLR and UNHCR work with each member state to share best practices and the implementation of capacity-building measures to actualize the regional action plan. In December 2018, the Ministry of Internal Affairs, and the UNHCR hosted a stakeholders meeting to develop a national plan for Uganda.⁸⁸ This initiative was expected to launch in

⁸² *Registration of Persons Act 2015*, Uganda Legal Information Institute, <https://ulii.org/system/files/legislation/act/2015/4/Registration%20of%20Persons%20Act%202015.pdf> (accessed 12 December 2018).

⁸³ Citizenship Rights in Africa Initiative, *Birth Registration of South Sudanese Refugee Children: The View from Uganda*, 2017. <http://citizenshiprightsafrika.org/birth-registration-of-south-sudanese-refugee-children-the-view-from-uganda/> (accessed 10 February 2019).

⁸⁴ *Ibid.*

⁸⁵ The ICGLR is an intergovernmental organization working to promote the following pillars in the Great Lakes Region: peace and security; democracy and good governance; economic development and regional integration; humanitarian and social issues. Member states include Angola, Burundi, Central African Republic, Republic of Congo; Democratic Republic of Congo; Kenya; Uganda; Rwanda; Republic of South Sudan; Sudan; Tanzania; Zambia.

⁸⁶ This effort is a result of each ICGLR member states reaffirming their commitment to end stateless by signing the “Declaration of International Conference on the Great Lakes Region (ICGLR) Member States on the Eradication of Statelessness” in Brazzaville, Republic of Congo, on the 16th October 2017; see further: Regional Treaties, Agreements, Declarations and Related, *Declaration of International Conference on the Great Lakes Region (ICGLR) Member States on the Eradication of Statelessness*, 16 October 2017, CIRGL/CIMR/DEC/15/10/2017. <https://www.refworld.org/docid/59e9cb8c4.html> (accessed 05 February 2019).

⁸⁷ UN High Commissioner for Refugees (UNHCR), *Campaign Update, October – December 2018*, October 2018. <https://www.refworld.org/docid/5c1783737.html> (accessed 5 February 2019).

⁸⁸ For further details for the action plan for Uganda, reference objective 3.2.2. under *the Action Plan of the International Conference on the Great Lakes Region (ICGLR) on the Eradication of Statelessness*. <https://data2.unhcr.org/en/documents/download/62888> (accessed 01 February 2019).

March of 2019 through the Directorate of Citizenship and Immigration Control.⁸⁹ This effort is in line with the ICGLR member states commitment to review their nationality laws and related legislation, and align themselves with international frameworks as identified in the Declaration, more specifically the United Nations 1954 Convention relating to the Status of Stateless Persons⁹⁰ and the 1961 Convention on the Reduction of Statelessness.⁹¹ The objective was to establish a harmonised regional approach toward addressing issues of statelessness among ICGLR members. Uganda is party to the 1954 Convention and is in the process of considering the adoption of the 1961 Convention on Statelessness.

5. Conclusion

If anything has become clear from this report, it is that the way in which Uganda currently regulates the acquisition and loss of citizenship reflects the impact of the colonial era and Uganda's history as a British Protectorate, as well as the formation of Uganda's government and institutions following its post-colonial era. It is equally important to acknowledge the legal debates and discourse challenging the boundaries of citizenship and belonging in Uganda as ever-changing as the Government works to institutionalize its policies and bridge legal theories with the practical approaches relevant to Uganda's contemporary context.

As this process continues to evolve, the objective of all stakeholders working to expand the access to citizenship should continue to embrace Uganda's ethnic and cultural diversity and support the progressive integration of Uganda's domestic citizenship laws alongside broader regional and international initiatives that support access to citizenship rights. Such efforts will ensure that citizenship does not remain symbolic, as it tends to throughout various African states. Rather, policies and practices should be spearheaded in a manner which continuously expand the right to belong to a nation, and that the social, economic, and legal benefits which are associated with the right to claim citizenship and maintain a tie to a State are enjoyed by all populations, and in this case, by all Ugandans.

⁸⁹ Interview with Johanna Seidl, Citizenship Programme Coordinator, *International Refugee Rights Initiative*, 28 January 2019.

⁹⁰ 1954 Convention relating to the Status of Stateless Persons. United Nations High Commission for Refugees. https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf (accessed 24 January 2019).

⁹¹ 1961 Convention on the Reduction of Statelessness. United Nations High Commission for Refugees. https://www.unhcr.org/ibelong/wp-content/uploads/1961-Convention-on-the-reduction-of-Statelessness_ENG.pdf (accessed 24 January 2019).

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