

FAHAMU

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A MONTHLY FORUM FOR
NEWS AND DISCUSSION ON
REFUGEE LEGAL AID

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Web links are marked in [blue](#).

Providing open access to legal literature

Contributed by [Elisa Mason](#), manager of the [Forced Migration Current Awareness](#) blog.

This brief note introduces a strategy that authors can employ to promote access to their legal scholarship. 'Open access' (OA) literature is [defined](#) as 'digital, online, free of charge, and free of most copyright and licensing restrictions. For writers, the principal [benefits](#) of open access are 'increased visibility, usage and impact for their work'. So how can legal aid providers deliver open access to their legal commentaries and analyses?

Self-archive article reprints

Continue to write for traditional print journals and law reviews. After you submit an article to a publisher for consideration, deposit an electronic version of it (a 'preprint') in a digital repository. The [Social Science Research Network](#) (SSRN) is a [popular venue](#) for law articles — for a recent example of a preprint destined for the *International Journal of Refugee Law*, see: '[Institutionalizing statelessness](#): the revocation of residency rights of Palestinians of East Jerusalem'. In addition, consider archiving the 'postprint' version, or the draft that has undergone peer review and/or editing. What about copyright? [According to OA expert, Peter Suber](#), one of the best kept secrets of scholarly publishing is that most [journals already allow](#) eprints to be deposited in

repositories like SSRN. As such, self-archiving is an opportunity to more widely disseminate scholarly output that authors should not pass up.

For a step-by-step guide to self-archiving, please refer to these two blog posts: '[Self-archiving guide: journal article eprints](#)' and '[Self-archiving guide: unpublished papers](#)'.

Self-archive other legal materials

Besides journal articles, you can also self-archive other forms of legal scholarship — book chapters, conference presentations, theses and dissertations, working papers. If you are affiliated with an academic institution, you may have access to an [institutional repository](#) that will help you collect your scholarly works. Other subject-specific repositories include Forced Migration Online's [digital library](#) and the [Refugee Research Network](#) (RRN).

The following table highlights examples of other types of materials and their archive location:

Type	Title	Location
Book chapter	Non-refoulement obligations in public international law : towards a new protection status?	SSRN (SR)
Conference presentation	Contested legality and the insecurity of status : some snapshots from a decade of refugee law	Univ. of Western Ontario (IR)
Dissertation	Europe and extraterritorial asylum	Leiden Univ. (IR)
Unpublished paper	On the morality and legality of borders : asylum seekers and border policies	Bepress (SR)

IR = institutional repository; SR = subject repository

Open access law journals

Another option is to submit an article to a journal that has adopted an open access model. Some examples follow (these are legal titles that have all included forced migration-related articles at some point and that I have previously referenced on my [blog](#)):

- [Amsterdam Law Forum](#) (VU University Amsterdam, Netherlands)
- [Duke Law Journal](#) (Duke University, US)
- [Goettingen Journal of International Law](#) (University of Goettingen, Germany)

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- *Harvard Human Rights Journal* (Harvard Law School, US)
- *International Journal of Legal Information* (International Association of Law Libraries, US)
- *Melbourne University Law Review* (University of Melbourne, Australia)
- *Merkourios: Utrecht Journal of International and European Law* (Utrecht University, Netherlands)
- *Osgoode Hall Law Journal* (York University, Canada)

For more examples, browse the [law titles](#) listed in the [Directory of Open Access Journals](#) (DOAJ).

Law blogs

The Internet has made it possible to share legal scholarship via a wide range of alternative vehicles. For example, instead of writing an article for a law review, start a blog — and a conversation — instead. Some blogs that focus on asylum and refugee law issues include the following (a description of the authors is indicated in parentheses):

Erratum

In our editing of 'Resettlement in exchange for protection and "local integration" in Egypt: a dubious bargain' by Merrill Smith (FRLAN November 2011, p. 2), we incorrectly identified Michael Kagan, the author of the article under discussion, as 'of Asylum Access'. This was incorrect: while Mr. Kagan previously served as Asylum Access's Policy Director, he does not currently work for Asylum Access. The positions he expressed in his article were his own, not those of Asylum Access. – the Editors

Legal resource update

[Current Law Journal Content](#) (CLJC), one of the resources highlighted in 'Looking online for legal literature' (FRLAN, April 2011), is no longer being updated. Even though they do not provide the same features and functionality as CLJC, two alternatives for locating specific journals and/or articles are the American Bar Association's 'Free full-text online law review/journal search' and 'Law reviews with online content' from the New York Law School.

- [Asilo in Europa](#) (by an Italian lawyer who specialises in European law on immigration and asylum)
- [The Asylum & Refugee Law Project](#) (by a student-led research group at the University of Queensland, Australia)
- [The Asylumist: Asylum and its Discontents in the United States](#) (by an American immigration attorney)
- [Free Movement: Updates and Commentary on Immigration and Asylum Law](#) (by a UK-based immigration barrister)
- [IntLawGrrls](#) (see [posts](#) by a law professor at Temple University, US)
- [Migrants at Sea](#) (by a law professor at the University of Southern California, US)
- [Right to Work for Asylum Seekers and Refugees](#) (by a legal researcher based in France)
- [RSDWatch](#) (by an immigration and refugee law professor at the University of Nevada, US)

If you decide to launch a blog, please consider applying a Creative Commons [license](#) to it. This is a tool that allows authors to more explicitly indicate how their work can be used and shared. For two examples, visit the European Council on Refugees and Exiles (ECRE) [website](#) (scroll to the bottom of the home page) and the [copyright page](#) on Forced Migration Online (FMO).

To learn more about open access and how to implement it, check out the [Open Access Scholarly Information Sourcebook](#) (OASIS). •

United States Board of Immigration Appeals required to consider testimony from asylum seeker, and not just Department of State reports, for asylum claim

In the United States, the Eleventh Circuit vacated and remanded a decision by the Board of Immigration Appeals (BIA) that denied asylum to a woman from Senegal. The woman's young daughter would likely be forced to undergo Female Genital Mutilation (FGM) if the family returned to Senegal. The mother applied for asylum because she feared that she would be beaten or killed if she attempted to protect her daughter from FGM. The immigration judge and the BIA did not consider extensive evidence and testimony provided by the mother, and instead relied only on Department of State reports to conclude that the woman and her daughter would be safe if they lived in Dakar. The Eleventh Circuit remanded with instructions that the Board consider all of the evidence in the record. [Eleventh Circuit on FGM, Senegal, Relocation: *Seck v. Atty. Gen.* \(8 Dec. 2011\)](#). •

*The Fahamu Refugee Legal Aid Newsletter is distributed in **Pambazuka News**, the authoritative pan-African electronic weekly newsletter and platform for social justice in Africa. With over 1000 contributors and more than 500,000 readers, Pambazuka News provides cutting edge commentary and in-depth analysis on politics and current affairs, development, human rights, refugees, gender issues and culture in Africa. Visit [online](#) or subscribe by [email](#).*

Refugees languish in unknown Djibouti detention centre

By refugee estimates, the detention centre at Nagad Military Academy in Djibouti City houses 124 refugees in one room, approximately 20 metres by 20 metres. The refugees there sleep in shifts for adequate floor space. Despite a number of recorded cases of tuberculosis (verified by UNHCR), the room lacks functioning ventilation, and is stiflingly hot under the summer sun. Refugees are not permitted out of the holding facility. They report no access to urgent medical care, and threats of deportation when they raise concerns with detention centre staff. Refugees are not provided clothing, and remain in the tatters of whatever they were wearing when they were arrested by the Djiboutian authorities. Most have been held for three years or more. Visits from UNHCR staff are irregular and rarely result in any action, according to one refugee on the site.

According to UNHCR, Djibouti hosts 14,000 refugees, primarily from Somalia, but also large numbers of Ethiopians and Eritreans. Despite a detained refugee population at Nagad since mid-2008, UNHCR makes no mention of the detention centre or the absence of detained refugees' access to legal or urgent medical aid in its [Djibouti country profile](#), preferring to focus on the much larger and similarly challenged Ali Adde refugee camp along the country's southern border. In fact, Nagad detention centre has only gained publicity through a confidential [Wikileaks cable](#) released in 2008, in which UNHCR reports the conditions at the detention centre — which

primarily houses Eritrean military defectors — as 'satisfactory' and justifies the further detention of refugees in the centre, stating it would be 'impossible to accommodate [the refugees] at Djibouti's sole refugee camp at Ali Adde ... since the addition of former Eritrean soldiers would likely cause uncomfortable tensions among the camp's existing Somali, Ethiopian and Eritrean civilian refugees'.

Concern for refugees in Djibouti is mounting, including a recent appeal by the Human Rights League of the Horn of Africa [regarding extrajudicial arrest and violation of refugee protection by Djiboutian authorities](#). The US Department of State has [similarly criticised](#) the Djiboutian government's treatment of refugees and asylum seekers, including a lack of respect for refugee rights, sexual violence, lack of access to basic needs, and arbitrary arrest and detention. Others have accused the government of Djibouti of colluding with neighbouring countries for the 'gestapo-style' [round-up and extradition of refugees](#) seeking asylum there. Djibouti's history of [refugee deportations is well documented](#), including a massive operation in 2003.

Despite this information, however, Djibouti remains without the substantive attention of refugee advocates, and the Nagad detention centre continues to exist under the radar of rights organisations. The [Southern Refugee Legal Aid Network](#) has not yet found a person in residence in Djibouti who provides legal aid for refugees there. If any readers are aware of legal aid possibilities for the detained refugees, please [contact the Editors](#) by email. •

R E Q U E S T S

Interviews with female Mexican asylum seekers in the US

[Celia Garcia Perez](#), a student seeking assistance with her self-funded master's thesis on female Mexican asylum seekers, would like to establish contacts with any attorneys, professors, NGO workers, or any other individual or organisation working with (or for) Mexican asylum seekers in the US. The research question is: 'what do the lived experiences of Mexican women seeking asylum (or those formally recognised as refugees) tell us about the failures and successes of US Latin American refugee policy?', and the thesis will explore the connections between the current drug war in Mexico and individual or family based cases of persecution that propel women to seek asylum in the US. Ms Perez's goal is to conduct interviews with people who have experienced first hand the US asylum system in this particular context. Identification and contact with prospective interviewees should take place in January and February 2012, and interviews would then be conducted in late February and/or March either in person if within 350 miles of the Washington, DC metropolitan area, or via Skype online or telephone if elsewhere in the United States.

Expert brief on Burmese refugees case

[Milbank, Tweed, Hadley & McCloy LLP](#) in New York, representing Burmese refugees *pro bono*, is seeking the assistance of immigration law professors and experts to draft an amicus brief in a case asking the Second Circuit to take a new look at its firm resettlement doctrine, which is out of step with most circuits. If you are interested in working on this project, please [email](#) Mr Lawrence T. Kass from the firm for a memo describing the case and any further information.

Information on deprivation of liberty in European countries

In 2012, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) intends to examine the treatment of persons deprived of their liberty in Croatia, Estonia, Iceland, Italy, Lithuania, Monaco, Portugal, Russian Federation, Slovenia and United Kingdom. If you have information concerning deprivation of liberty in any of these countries which you believe could assist the CPT, you are invited to bring it to the Committee's attention. For more information, please visit this [website](#). Media contact: [Patrick Müller](#), Secretariat of the CPT, Council of Europe, +33388412388.

Fahamu Refugee Programme seeks applications for new Director

About the Fahamu Refugee Programme

The Fahamu Refugee Programme (FRP) is a department of the UK-based charity the Fahamu Trust. The FRP was established to provide support to the growing refugee legal aid and advocacy movement in the global south, and to encourage active sharing of information, knowledge and experience between legal and advocacy practitioners and NGOs throughout the world. For more information about the activities through which the FRP seeks to achieve these goals, including the Southern Refugee Legal Aid Network (SRLAN), its website, its training activities, the FRP list-serv and this newsletter, please visit [the SRLAN website](#). Through these activities FRP has been able to connect a growing number of legal aid professionals across the globe and to make a qualitative difference in the lives of refugees. The FRP is now seeking a Director to continue the management of the programme as well as to further FRP objectives to expand the content of the website and ensure accessibility to an even greater audience of refugee rights practitioners.

Programme Director job description

- Develop and maintain contacts with refugee legal aid specialists and highly qualified lawyers who offer their services as resource persons to the SRLAN website.
- Oversee the publication of the monthly Fahamu Refugee Legal Aid Newsletter.
- Expand the current database of training materials to include resources on areas that are of increasing interest such as LGBTI, deportation and family reunion.
- Develop and maintain contacts with governmental, inter-governmental and non-governmental partners to advocate for improvements in refugee protection and provide mutual support in developing activities.
- Oversee preparations for the SRLAN yearly meeting in Geneva on the occasion of UNHCR's Annual Consultation with NGOs and represent FRP in meetings with UNHCR, NGOs and other civil society actors. Facilitate NGO consultations with UNHCR and coordinate plenary and side-meetings with participating legal aid organisations to further advocacy efforts.
- Direct incoming emergency requests for assistance and information to appropriate external organisations and individuals that can address specific needs.
- Assist the Director of Research and Training with organising and providing training for refugee lawyers and advocates.
- Oversee the administrative management of FRP including quarterly reports to the Fahamu Trust Board and meeting financial reporting obligations.
- Play the lead role in recruiting, training and supervising volunteer interns with an eye to inspiring another generation of legal aid providers for refugees.
- After assuming the full position as director, take main responsibility for fundraising.
- Perform other such duties as are necessary.

Qualifications and experience

- Be fluent in English with outstanding English drafting skills.
- Advanced university degree in public international law, human rights law, asylum and refugee law, or related field.
- Experienced lawyer with practice in the provision of legal aid to refugees.
- Expertise in forced migration, refugee and asylum issues.
- Comfortable working with people of different backgrounds and cultures.
- Experience supervising legal staff and volunteers from diverse cultural backgrounds.
- Experience in developing and managing relationships with external organisations and individuals such as UN agencies, NGOs, civil society groups, lawyers and experts.
- Flexible and able to handle conflicting priorities in a demanding environment while working with limited resources.
- Committed and strongly motivated to achieve the objectives of the programme.

Job type: Full-time

Location: Oxford, UK

Duration: Three years in the first instance, beginning as soon as possible

Starting salary: GBP19,150 to be raised to GBP29,370 as funds become available.

How to apply

Please send a CV, cover letter, contact details of three referees and an unedited writing sample to [Barbara Harrell-Bond](#). The position will be filled as soon as an appropriate candidate is identified. FRP will only contact shortlisted candidates.

Assessing the United Kingdom Border Agency's Operational Guidance Notes

Mike Kaye is the Advocacy Manager for [Still Human Still Here](#), a coalition of more than 40 organisations that are campaigning to end the destitution of refused asylum seekers in the UK.

Still Human Still Here believes that many asylum seekers who should be granted some form of protection in the UK are being refused and subsequently end up destitute. In 2010, it was estimated that around 70 percent of destitute refused asylum seekers in the UK came from just eight countries, all of which were either in conflict or had serious and widespread human rights violations. These countries were Zimbabwe, Iran, Iraq, Sudan, Afghanistan, Somalia, the Democratic Republic of Congo (DRC) and Eritrea (Still Human Still Here, *At the end of the line: Restoring the integrity of the UK's asylum system*, 2010, p. 38).

Still Human Still Here's contention that the Home Office incorrectly refuses many asylum seekers any form of protection in the UK is supported by a review of the number of decisions which are subsequently overturned on appeal. In 2010, 27 percent of appeals were allowed. That is to say that in more than one in four cases the UKBA got the initial decision wrong.

For some of the nationalities highlighted above, however, the overturn rates on appeal were significantly higher. For example, 50 percent of Somalis won their appeals in 2010 and 36 percent of Eritreans and Zimbabweans were also successful. During 2011, asylum seekers from these and other countries have continued to have an extremely high percentage of their appeals allowed. For example, 57 percent of Eritreans, 53 percent of Somalis, 38 percent of Sri Lankans and 31 percent of Zimbabweans won their appeals in the third quarter of 2011. These cases alone affected 218 individuals, causing them unnecessary anxiety and wasting considerable amounts of taxpayers' money by forcing them to go to appeal when in many cases they could have been granted refugee status at the initial determination.

While the appeals process works for some refugees, it should be stressed that success at appeal is largely dependent on having good quality legal advice and representation and this is in increasingly short supply, particularly since the closure of both [Refugee and Migrant Justice](#) and the [Immigration Advisory Service](#).

One way in which Still Human Still Here believes refugees could be better identified at the initial determination would be through improvements to the Operational Guidance Notes (OGNs). The OGNs outline conditions and risks to particular groups in various countries and are used by case owners as a key resource when deciding on individual asylum applications.

Several OGNs contain country of origin information and references to case law which are outdated. For example, the current OGN on the DRC was issued in December 2008 and

relies heavily on the Country of Origin Information Service *DRC Country Report* from May 2008, which is now more than three-and-a-half years old. Since the beginning of 2009, more than 500 new applications for asylum have been made by individuals from the DRC. Decisions will have been reached on these applications on the basis of information which, at best, was seven months old. In this context, it is not surprising that the percentage of DRC appeals that are successful has risen to 34 percent in 2011 (up to October).

There are currently 30 OGNs published on the countries from which the UK receives the most asylum applications. Those countries from which there are lower numbers of applications tend to be updated with even less frequency. For example, the most recent OGN for Rwanda was issued in March 2009 and generally relies on country of origin information which was published in November 2008.

Even where OGNs are updated regularly, Still Human Still Here considers that many have inconsistencies and omissions between their conclusions and currently available country of origin information and/or case law.

For example, before an update on 15 December this year, the Somalia OGN cited a UKBA fact-finding mission as reporting 'travel within Al-Shabaab controlled areas of southern and central Somalia was common and considered relatively safe'. It further noted that 'everyone can move freely in south central' and that given 'the relative ease of travel within many areas of Somalia, it will be feasible for many to return to their home areas from Mogadishu airport as most areas are accessible' (paras. 2.4.3 and 2.4.6).

This assessment appeared to ignore various reputable sources which note that checkpoints operated by armed militias and groups associated with Al-Shabaab inhibit passage and expose civilians to rape, violence, extortion and forced recruitment. Indeed, the United Nations *Report of the Secretary-General on Somalia*, 30 December 2010, noted that '[i]nternally displaced persons and refugees fleeing southern Somalia continued to report abuses by militias manning checkpoints before they reached safe areas, including rape, beatings and looting' (para.33).

In order to draw attention to these sorts of inconsistencies, Still Human Still Here has published OGN commentaries, including 2011 [commentaries on the most recent OGNs for Afghanistan, Sri Lanka, Jamaica, Zimbabwe, Iran, Eritrea and Sudan](#). These commentaries are intended as tools to assist legal practitioners in preparing appeals; we hope they will help ensure that individuals who may be at risk of persecution or other serious harm in their country of origin have a reasonable chance of getting protection in the UK. •

COUNTRY OF ORIGIN & LEGAL NEWS

AFRICA

KENYA: Dozens of [refugees injured in Dadaab security operation](#) by Kenyan police; [Journalist threatened for his coverage](#) of an incident involving police officers in which as many as seven people were killed

NAMIBIA: Refugees from Caprivi region highlight [little-known conflict](#), human rights violations

NIGERIA: An estimated [90,000 forced to flee city](#) rocked by violent clashes

RWANDA: Kagame denies role in [killing of dissident journalist in exile](#)

SOUTH AFRICA: Supreme Court of Appeal [scolds lower courts in asylum judgements](#); Court victory as new Johannesburg [refugee reception office remains a possibility](#) despite recent closures; Consortium for Refugees and Migrants [defends right to work](#)

ZAMBIA: Rwandan refugees [release letter to Zambian Minister for Home Affairs](#) detailing the need for legal representation

EUROPE

CYPRUS: Amnesty International condemns immigration detention and [urges Cypriot authorities to fulfill their international obligations and respect the rights of asylum seekers and migrants](#)

EU: ECRE, Amnesty, and IDC call for [an end to child detention](#)

FRANCE: French Government to amend [immigration law to make it more restrictive](#)

GERMANY: UN human rights body releases statement on [arbitrary detention in Germany](#)

GREECE: Human Rights Watch condemns [‘racist violence’ against asylum seekers in Greece](#); Government’s plans for [construction of border fence with Turkey](#) approved

MALTA: [Constitutional Court awards compensation](#) to two Somali men for *refoulement* to Libya

UNITED KINGDOM: High court rules [UKBA is violating Article 3 of the ECHR](#); Iranian hunger strikers [granted asylum in the UK](#); UKBA introduces [new fees](#) for immigration and asylum appeals

AMERICAS

CANADA: Critics question government’s response to [refugee claims based on sexual orientation](#)

UNITED STATES: US [drops deportation case against same-sex partner](#); President Obama offers [asylum for homosexuals overseas](#); Judge [blocks part of South Carolina immigration law](#) ([full opinion here](#))

ASIA-PACIFIC

AUSTRALIA: Australia [eases asylum seeker detention policy](#); Health experts warn [Australia ‘will pay the price’ of extended refugee detention](#)

BANGLADESH: [Nearly 1,500 Rohingya arrested](#) along border with Myanmar

MYANMAR: Government [considers Rohingya repatriation](#), raising questions of treatment

MALAYSIA: APRRN and IDC host [immigration detention workshop in Kuala Lumpur](#)

NEPAL: Bhutanese refugee situation [gains attention](#)

TAIWAN: [New policy](#) on immigrant detention

MIDDLE EAST

EGYPT: New Egyptian Interior Minister [denies responsibility for massacre of refugees](#) during 2005 Cairo protest; IOM reports [organ theft from refugees](#) in Sinai

IRAN: Reporters Without Borders recounts [press freedom violations in 2011](#)

IRAQ: Iraqis who worked with US forces, and their families, left [in danger after US withdrawal](#); Deadline for closure of Camp Ashraf, where Iranian dissidents are housed, [extended to April 2012](#), Iraqi government and UN sign [deal to resettle more than 3,000 of the camp’s residents, 400 of which have started to relocate](#)

ISRAEL: Israeli Parliament Committee on the Interior [passes ‘anti-infiltration law’](#), likely to take effect by end of 2011 (see [more information](#) on and a [petition](#) against the law); Nearly 3,000 Africans held in [Saharonim detention centre](#); Israeli Interior Minister [dismisses possibility that some Africans in Israel may be refugees and promises to deport every African’ infiltrator’](#); Israel displaces a record number of Palestinians in 2011; Israeli Member of Parliament [organises ‘anti-African’ rally in Tel Aviv](#)

KUWAIT: Stateless protesters demanding rights [attacked and arrested by government forces](#), government hints that 34,000 (out of 105,000) stateless persons may be granted citizenship

LEBANON: [Lebanon begins revoking citizenship](#) from those that acquired it under naturalisation law in 1994; LGBTI refugees [face hardship in Beirut](#)

SYRIA: [Army defectors ‘gunned down’](#)

TURKEY: Return of Syrian refugees raises [questions about coordination between Turkey and Syria over dissidents](#)

YEMEN: Ongoing instability [threatens refugees](#)

GLOBAL

[Liberian refugees to lose status](#) through cessation clause in June 2012

Equal Rights Trust notes steps taken around the world [recognising the gender identity of gender variant persons](#)

High Commissioner for Refugees António Guterres: Refugees’ [right to work is crucial](#)

Organisational profile: NCADC makes the case against deportation from the UK

Contributed by [Lisa Matthews](#), an asylum and human rights campaigner working in London, UK.

At the [National Coalition of Anti-Deportation Campaigns](#) (NCADC), we are faced with the hard sell. Our campaigns highlight the plight of individuals at risk of administrative removal or deportation from the UK, and attempt to stop those individuals being removed.

Garnering widespread support for immigrants' rights is always challenging, but the climate in the UK is becoming increasingly entrenched. The Conservative–Liberal Democratic coalition government has [opted out of the revamped Qualification Directive](#) (the implementation of the Refugee Convention in European law), and is encouraging hostility to the concept of human rights by aligning it with the idea of an overly meddling European Union. This is combined with — or is in response to — the poor economic conditions that traditionally foster xenophobic and racist anti-immigration views, and widespread cuts to organisations supporting migrants in the UK.

Working with people at the end of the line in terms of legal processes has additional considerations. The public and the press do have some time for the concept of asylum, when it is presented in its simplest form of people fleeing war, genocide or persecution needing sanctuary. So how do you convince people that a campaign for somebody who has lost their asylum claim is valid? Those of us who work in the refugee sector in the UK know all too well how flawed the adversarial legal system is in deciding asylum and human rights cases. But the general public doesn't know this. Many people trust that if there is a legal system assigned to deal with these cases, and someone has been through the system and not been named a 'refugee', that person does not need to be here. They believe the asylum system produces justice.

In far too many situations, this is simply not the case. Access to justice is increasingly harder to secure. Legal aid for immigration cases (non-asylum) will be cut under the [legal aid reform bill](#) currently going through British parliament. This means that issues such as family reunion (the right to which is incorporated in the refugee convention) and appealing deportation will not be covered by legal aid (in the UK

context, deportation usually refers to foreign nationals who have served criminal sentences. In legal terms, those whose asylum claims have been refused are 'removed' rather than 'deported'). The fees legal aid lawyers get paid have already been slashed, and many legal centres are closing down due to lack of funds. The two biggest providers of legal aid for refugees in the UK — Refugee and Migrant Justice and the Immigration Advisory Service — have both gone into administration in the last two years.

More and more people are unrepresented in a system in which the odds are stacked against them. There is a culture of disbelief at the UK Border Agency, and notoriously [poor quality of first-instance decision making](#). NCADC, through supporting individuals, families and communities at risk of removal from the UK, seeks to raise awareness of these obstacles to justice, and explain that many individuals being forcibly removed from the UK are at risk of mistreatment and persecution back home. A refused asylum claim does not mean, in real terms, the absence of risk.

It is an uphill struggle. Despite human rights groups reporting on the torture of [returned Tamil asylum seekers](#) in Sri Lanka, the UK government has forcibly returned scores of Tamils since the end of the civil war, using charter flights shrouded in secrecy. A recent [Justice First report](#) demonstrated the risk to those removed from the UK to the Democratic Republic of the Congo, yet the UK Border Agency is determined to deport Congolese, even [young women](#) with no family or social contacts to protect them in the '[rape capital of the world](#)'.

As well as working closely with local groups across the UK to support migrants to run campaigns for their rights, anti-deportation campaigners in Britain also need to be part of a global community. Once people are deported, it is hard to keep track of what happens to them. But it is crucial that we know, so that the UK government cannot say it is safe to return people when it is not; to rebut [country of origin guidance](#) relied upon in legal cases; and to make a compelling case against deportation. •

ANNOUNCEMENTS

Palestine Refugees and International Law weekend workshop, 10–11 March 2012, Oxford, United Kingdom

A two-day, non-residential workshop places the Palestinian refugee case study within the broader context of the international human rights regime. It examines, within a human rights framework, the policies and practices of Middle Eastern states as they impinge upon Palestinian refugees. Through a mix of lectures, working group exercises and interactive sessions, participants engage actively and critically with the contemporary debates in international law and analyse the specific context of Palestinian refugees in the Middle East (Lebanon, Syria, Jordan, the West Bank and Gaza). The workshop will be held at the Refugee Studies Centre, University of Oxford, and has a limit of twenty-five places. Fees are GBP300, and further information can be obtained by contacting [Heidi El-Megrisi](#), or accessing [this link](#).

American University in Cairo Short Courses in January/February 2012, Egypt

The Center for Migration and Refugee Studies at the American University in Cairo is offering the following four short courses between 29 January–18 February 2012: *Demographics Measures of Migration*; *Migration and Refugee Movements in the Middle East and North Africa*; *Palestinian Refugees*; and *Training Skills for Trainers of Psychosocial and Mental Health Workers in Countries Affected by Emergencies*. The tuition fee for each course is USD500, and the application deadline is **10 January 2012**. For further information, including the duration of each course and how to apply, access [this link](#).

Applications sought for Practitioners-in-Residence at the American University in Washington, DC

American University's Washington College of Law seeks applications for Practitioners-in-Residence for academic years 2012–13 and beyond in their in-house, 'live-client' international human rights clinic and the immigrant justice clinic. The Practitioner-in-Residence Programme is designed to train lawyers or entry-level clinicians interested in becoming clinical teachers in the practice and theory of clinical legal education. Many graduates of the programme have gone on to tenure-track teaching positions at other law schools. These are term positions, and practitioners can serve in these positions for up to three years, during which they will supervise student casework, co-teach weekly clinic seminars and case rounds, and engage in course planning and preparation with the clinic's tenured faculty. They also teach a course outside of the clinical curriculum. The programme provides full-year training in clinical theory and methodology and a writing workshop designed to assist practitioners in the development of their clinical and doctrinal scholarship. Minimum qualifications include a JD degree, outstanding academic record, three years' experience as a lawyer and membership in a state bar. Applications consisting of a curriculum vitae and cover letter should be e-mailed to [Professor Michael Carroll](#), Chair, Faculty Appointments Committee, with copies to [Professor Brenda V. Smith](#), Acting Director of the Clinical Program. Paper applications can be mailed to: Professor Brenda V. Smith, Acting Director Clinical Programs, American University, Washington College of Law, 4801 Massachusetts Avenue, Room 442, NW, Washington, DC 20016. Candidates are strongly encouraged to submit their applications by **13 January 2012**. More information on the programme can be found on the [website](#).

APRRN Secretariat seeks 2012 interns

The [Asia Pacific Refugee Rights Network](#) (APRRN) Secretariat seeks unpaid interns in 2012 for a period of 3–6 months. Internship responsibilities include supporting the Secretariat with external and internal communication (updating website, newsletters, managing social media, Google Groups, press releases and other publication), and

with writing funding proposals and reports; helping to organise trainings and consultations on legal aid, immigration detention, refugee mental health, refugee law, as well as the 4th Asia Pacific Consultation on Refugee Rights in August 2012; and researching assigned issues. Candidates should ideally have a background in social sciences, development studies, political science or law. Experience and knowledge on refugee issues in the Asia Pacific region will be an advantage. Interested applicants should forward a motivation letter and CV [to this address](#) by **15 January 2012** and mention 'Internship Application' in the subject line.

Call for Papers: 2012 edition on refugees and migration for *Righting Wrongs* journal

[The Institute for Human Rights and Humanitarian Studies at Webster University](#) is currently soliciting undergraduate papers and critical book reviews for possible publication in the 2012 issue of *Righting Wrongs: A Journal of Human Rights*. Entering its second year, *Righting Wrongs* is a peer-reviewed academic journal that provides space for students to explore human rights issues, challenge current actions and frameworks, and engage in problem-solving aimed at tackling some of the world's most pressing issues. The 2012 edition of *Righting Wrongs* will centre on the themes of refugees and migration in coordination with Webster's 2011/2012 Year of International Human Rights. Students whose work focuses on refugee and migration issues are especially encouraged to submit their papers for consideration. The submission deadline is **16 January 2012**, and further information can be found [here](#).

Fellowship programme for journalists interested in working on US-related immigration issues

[The Institute for Justice and Journalism](#) is accepting applications for its 2012 professional fellowship programme which will examine the contentious immigration issues playing out across the country on local, state and federal levels and their role in the 2012 election campaign. Applicants must be US citizens, lawful permanent residents or non-citizens with unrestricted employment authorisation. Students are not eligible. The deadline for applications is **17 January 2012**. For more information and details on how to apply, visit the [website](#).

Refugee Law Initiative inaugurated at the University of London, registration for short course open

The newly-established [Refugee Law Initiative \(RLI\)](#) at the [Human Rights Consortium of the School of Advanced Study](#), University of London is the only academic centre in the United Kingdom to concentrate specifically on international refugee law. As a national focal point for leading and promoting research in this field, it works to integrate the shared interests of refugee law scholars and practitioners, stimulate collaboration between academics and non-academics, and achieve policy impact at the national and

international level. The RLI is offering an eight-week course on [The International Protection of Refugees and Other Displaced Persons](#), to be held on Wednesday evenings, February–March 2012. The deadline to apply for the course is noon on **24 January 2012**; limited places are available, and registration is on a first come, first serve basis. [Download the programme details here](#).

Call for Papers: CARFMS conference on global dynamics of displacement

‘Restructuring Refuge and Settlement: Responding to the Global Dynamics of Displacement’, a conference organised by the Canadian Association for Refugee and Forced Migration Studies (CARFMS) and hosted by the Centre for Refugee Studies, York University, Canada, will be held from 16–18 May 2012. The conference will bring together researchers, policymakers, displaced persons and advocates, from diverse disciplinary and regional backgrounds, to discuss the issue of restructuring refuge and settlement with a view to better understanding how migration policies, processes and structures respond to the global dynamics of displacement. Participants from a wide range of perspectives are invited to explore the practical, experiential, policy-oriented, legal and theoretical questions raised by refuge and settlement at local, national, regional and international levels. Individuals wishing to present a paper at the conference must submit a 250-word abstract and 100-word biography by **31 January 2012**. The conference organisers welcome submissions of both individual papers and proposals for panels. For more information, visit [the website](#).

Summer school at York University’s Centre for Refugee Studies in Toronto, Canada

The [Centre for Refugee Studies \(CRS\)](#), York University, Toronto, Canada is hosting its Summer Course on Refugee and Forced Migration Issues from 6–12 May 2012. This non-credit course for academic and field-based practitioners working in the area of forced migration serves as a hub for

researchers, students, practitioners, service providers and policy makers to share information and ideas, providing an interdisciplinary, interactive and experiential approach to the study of forced migration. All participants who complete the full course receive a York University Centre for Refugee Studies Summer Course Certificate. The course registration deadline for visa applicants is **1 Feb 2012**. For more details on the course and how to apply, visit the [website](#).

Applications open for International MA in Migration Studies at Tel Aviv University

The [International MA in Migration Studies at Tel Aviv University](#) is currently accepting applications for the 2012–2013 academic year. The intensive, one-year programme is taught in English, and the regular deadline for applications is **1 March 2012**. For more information on the programme and how to apply, please visit the [website](#).

Scholarships available for candidates from African Commonwealth countries for the MSt in International Human Rights Law at Oxford University

The Commonwealth Scholarship Commission and the Foreign Office’s Chevening Scholarship Fund have recently announced that they will jointly pay for five new scholarships for candidates from African Commonwealth countries to study on the MSt in International Human Rights Law, starting September 2012. The awards are intended for human rights advocates from African Commonwealth countries who would be unable, without assistance, to take up their place on the course. They provide course and college fees at the University of Oxford over two years, a stipend to cover living costs and return air travel from the scholar’s home country for each residential session. The deadline for making an application to this scheme has been extended to **30 March 2012**. Click [here](#) to open detailed information about the scheme.

Exceptions to Dublin II where Member State is not observing fundamental rights of asylum seekers

The Court of Justice (ECJ) of the European Union found [in its judgement on 21 December 2011](#) that ‘an asylum seeker may not be transferred to a Member State where he risks being subjected to inhuman treatment’. This was examined in relation to Greece, which is the point of entry for approximately 90 percent of irregular migrants entering the EU, where the [asylum system is completely overloaded and conditions in detention centres are inhumane](#). Thirteen Member States, the Swiss Confederation, the United Nations High Commissioner for Refugees, Amnesty International and the Advice on Individual Rights in Europe Centre intervened in the proceedings.

The ‘Dublin II’ Regulation determines the ‘responsible state’ in the EU when a person applies for asylum in an EU state different from the state of entry. Dublin II was adopted based on the principle of mutual confidence within the European Union in the interest of speed and efficiency. It was thought that this would serve the interests of asylum seekers and the affected EU member states.

The UK's Court of Appeal and Ireland's High Court brought the cases to the ECJ after Afghan, Iranian and Tunisian asylum seekers were to be sent to Greece (cases *C-493/10*, *C-411/10*) because according to Dublin II, this was the responsible state. The cases posed two questions: 1) whether the sending state must check whether the 'responsible state' actually observes fundamental rights, and 2) whether the sending state is then bound to processing the application themselves if the 'responsible state' (in this case Greece) is shown not to be fulfilling its obligations.

The ECJ found that EU member states must ensure that States' obligations under the Common European Asylum System are fulfilled and that the objective of quickly designating the Member State responsible is achieved. However, the Court made the following findings:

- EU law precludes a conclusive presumption that the Member State indicated by the Regulation as responsible observes the fundamental rights of the EU.
- The Member States, including the national courts, may not transfer an asylum seeker to the Member State indicated as responsible where they cannot be unaware that systemic deficiencies in the asylum procedure and in the reception conditions of asylum seekers amount to substantial grounds for believing that the asylum seeker would face a real risk of being subjected to inhuman or degrading treatment within the meaning of Article 4 of the Charter of Fundamental Rights of the European Union.
- The Court adds that, subject to the right itself to examine the application, the Member State which should transfer the applicant to the Member State responsible under the Regulation and which finds it is impossible to do so, must examine the other criteria set out in the Regulation, in order to establish whether one of the following criteria enables another Member State to be identified as responsible for the examination of the asylum application.
- In that regard, it must ensure that it does not worsen a situation where the fundamental rights of that applicant have been infringed by using a procedure for determining the Member State responsible which takes an unreasonable length of time. If necessary, it must itself examine the application. •

P E T I T I O N S

Requesting UK MPs to debate *refoulement* of Congolese asylum seekers in the UK Parliament

UK residents are asked to contact their MP to express concern that the UK is returning people to torture in the Democratic Republic of Congo — see the [Unsafe Return](#) report for more information. If the [e-petition](#) reaches 100,000 signatures it will be considered for debate in the Commons. Please disseminate widely.

Protecting Rwandan refugees: the Fahamu Refugee Programme continues to solicit endorsements

On 7 October 2011, the UN News Centre released '[Rwanda and UN refugee agency agree to step up repatriation efforts](#)' announcing that, as a result of meetings between the Government of Rwanda and UNHCR in the margins of the recent session of the latter's Executive Committee (of which Rwanda holds only observer status) in Geneva, 'UNHCR will recommend to States that they invoke the cessation of refugee status by 31 December 2011, to become effective on 30 June 2012'.

This delay of implementation of the cessation clause was a partial victory for Fahamu and others who have raised the alarm over stripping tens of thousands of Rwandan refugees of protection in light of the repression, continuing human rights violations, and instability of [the situation in Rwanda](#). At the NGO Consultation in June 2011, UNHCR had promised to release a 'roadmap' to implementation of cessation a 'few weeks' later, but this is still unavailable.

We suspect that that the delay in this and in the effect date of implementation may be rooted in the procedural nightmare that awaits UNHCR. If cessation is done properly, refugees stripped of their status would have the right to be considered for another 'durable' solution; a right that many, perhaps most, will likely invoke. Since the host countries of most of them lack adequate processes, this burden will fall on UNHCR.

The struggle is far from over and the anxiety and uncertainty for refugees over their status will only continue and mount. The Government of Rwanda and UNHCR called a meeting of all relevant States and other actors in December 'to achieve increased voluntary repatriation and find greater opportunities for local integration or alternative legal status for refugees in countries of asylum'. If the past is any guide, however, pressure to repatriate involuntarily will be the principal result. If you or your organisation have not yet endorsed the international civil society petition for the continued protection of Rwandan refugees and opposing invocation of the 'cessation clause' of the 1951 Convention relating to the Status of Refugees with respect to Rwanda, **please do so now by following [this link](#), and circulate it to your networks.**

Report of meeting granted by UNHCR officials to delegation of Rwandan refugee organisations

This report was submitted by a representative of the Rwandan delegation and translated from French by Jackie Cartwright, Fahamu Refugee Programme intern.

On 5 December 2011, organisations of Rwandans in exile in Switzerland, supported by other Rwandans from the Netherlands and France, demonstrated in the Place de Nations in Geneva. Their actions took place within the context of the demonstrations across the globe criticising the impending cessation of refugee status for Rwandans. The delegation was received by three senior UNHCR officials: the officer responsible for protection policy and two colleagues from the Africa Bureau.

During the discussion, which lasted one hour and thirty minutes, the delegation began by announcing that it had the mandate of all Rwandan refugee organisations which were simultaneously demonstrating in their respective countries of asylum. It then handed over a memorandum prepared for the occasion before outlining its content: indignation and concerns at seeing the authorities of UNHCR, a United Nations organisation, endorsing the decision to deprive Rwandans of protection. This is at a time when the current regime is accused by the same United Nations, in its [Mapping Report of October 2010](#), of grave violations of human rights including crimes against humanity, even possible genocide against Hutu refugees in the Democratic Republic of Congo (DRC).

The delegation also highlighted the decreased space for political and free expression available to Rwandans, which has meant that members of the political opposition and independent press have had only three choices: exile, prison or death. They cited recent assassinations of political leaders and journalists, attempted assassinations and imprisonment that has affected the leaders of all opposition parties and the press, as well as the interminable list of persons, who, to save their lives, have had no choice other than to seek exile.

The delegation expressed the fear that, at a time when the number of Rwandans fleeing their country continues to increase, those seeking asylum would be refused by administrative authorities precisely because of this cessation of refugee status. Rwanda would effectively be considered henceforth a safe state. Finally, the delegation reminded UNHCR of its role in the DRC particularly at Tingi Tingi, where it served as a lure to refugees who were then massacred by elements of the Rwandan army. For the delegation, the cessation of refugee status would strangely resemble a repeat of Tingi Tingi.

The UNHCR representatives then explained to the delegation that there was indeed a project of cessation of refugee status for Rwandans but that it is a long process, already initiated

but not yet completed. They explained that cessation was part of a strategy comprising four main parts: voluntary repatriation, integration into host countries, continued protection and the cessation of refugee status. They stated that, for the moment, their actions were essentially directed towards integration. In view of the difficulties of granting naturalisation for African countries in general, and southern Africa in particular, UNHCR's suggested solution for integrated refugees is to seek a permanent residence permit. However, this suggestion presupposes that refugees can approach the authorities in Kigali, as a Rwandan passport is necessary to obtain such a permit.

UNHCR representatives further explained that responsibility does not fall to UNHCR to declare the cessation of refugee status. Instead, its role is to offer countries of asylum technical advice on the question, and states are free to apply its recommendations. Nevertheless they cited the case of Zambia, which has already applied the cessation clause for Rwandan refugees without waiting for UNHCR's recommendations. The Inter-Ministerial meeting of 7–8 December 2011 will not, in their opinion, talk about the cessation of refugee status for Rwandans but will turn its attention to the problem of uprooted and stateless persons. On the other hand it was anticipated that on 9 December there would be a session for countries hosting Rwandan refugees where their specific problems would be discussed, most likely including the cessation of their refugee status, but without any formal decision being taken.

The UNHCR representatives stated that it is not presently possible to indicate when cessation will be decreed. And even once it is declared, a long period will be required before the cessation is implemented. When the delegation pointed out that the Rwandan government was presenting this dossier as if the cessation had been decided, the UNHCR representatives admitted that they were aware of this fact but they had made an official request to the Rwandan authorities to remove this false information from their website.

In the discussion the delegation indicated its concern that, considering the current political climate, repatriating certain categories of refugees after cessation would risk exposing them to ill-treatment. They cited as an example the [assassination of the journalist Charles Ingabire in Kampala](#) on the night of 30 November/1 December 2011. The UNHCR representatives announced that as part of the cessation procedure they expected it would be possible to request an exemption for persons, who, due to their political engagement or exercise of their profession, could not objectively return to Rwanda. They gave the example of members of opposition political parties, journalists and human rights militants. The UNHCR representatives assured the delegation that representatives of political parties and other refugee communities will be consulted before the cessation clause is applied. ●

News on Rwanda and the cessation clause

Contributed by [Leila Muriithia-Simivu](#), a legal officer at the [Refugee Consortium of Kenya](#), based upon a meeting organised by UNHCR with its partners to discuss the cessation clause.

There is no clear position on whether or not the cessation clause will take effect from 31 December 2011. The Rwandan and Kenyan governments are non-committal on its invocation. Though it is assumed that the invocation date may be pushed forward, this remains unclear. Meeting participants agreed to conduct a study in early 2012 to gather the views of the Rwandans on the matter, to gauge the level of understanding of the clause and to compile statistics on the Rwandan population in Kenya, including the number of refugees interested in return and the extent of local integration. ●

Police in Uganda 'block demonstration by friends, family member of slain journalist'

Mourners afraid to pay last respects to assassinated journalist for security reasons

'Rwandan journalist's killing raises safety concerns for other exiled journalists'

Human Rights Watch calls on Uganda/Rwanda to investigate journalist's murder

Press release: 'Save Earth, Save the People of Rwanda, Against President Kagame's Cruelty'

Testimonies of Rwandan refugees on the Cessation Clause

The [Fahamu Refugee Programme](#) recently received the following testimonies from Rwandan refugees concerned about the implications of the Cessation Clause, summarised below by Jackie Cartwright, programme intern.

Many Rwandan refugees and asylum seekers do not feel safe going back to Rwanda — they are seriously concerned and frightened about the impact of the enacting of the Cessation Clause. The following summaries of testimonies, extracted from unsolicited emails and documents sent to the Fahamu Refugee Programme, explain why they left and their experiences in exile.

Rwandan Hutu father of four

Following arbitrary detention for 19 months — first in a police station then in prison — without knowing what charges had been raised, in late 2008 X was finally informed that he had been detained for failure to contribute to the Rwandan Patriotic Front (RPF). He was forced to donate 5,000,000 Rwandan Francs (approx. GBP5,400). This extortion continued until in July 2009 he was informed that the RPF wanted a share of his business. He and his partner refused. At this point, intimidation included blocking his bank accounts and confiscating goods. On trying to lodge his case with the ombudsman he reports that 'one of the officials told me that Hutus should not flourish under the RPF Regime'. After hearing of a ploy to charge him with possessing explosives, he decided the situation was now so dangerous he had to flee, crossing illegally to Uganda in January 2010.

In Uganda, his asylum application was rejected in March 2010, as was his appeal. His visits to UNHCR's Protection Officer have gone unheeded. In the bus park he was arrested by a plainclothes army major, accused of criminal activities and taken to a police station where he was asked: 'How many people did you kill in Rwanda?', to which he replied that he never killed. He was then asked, 'If we took you back to Rwanda, could you confirm that you never killed?', and answered: 'I am a Christian and I cannot kill'. A photograph was taken to send back to Rwanda to ascertain whether he was guilty. The officers then took X to his home, which was searched; finding no gun, they confiscated various documents including his asylum seeker certificate and his expired Rwandan passport. He was asked how much he could pay in order not to be deported. Forced to hand over 1,000,000 Ugandan Shillings (approx. GBP260), he was then registered 'detained', required to report weekly to the police, and threatened with further confiscation (this time of his release bond) unless another payment was made. Having no money, he left without it. He managed to obtain another release bond the following day from another police officer.

X was advised to send an SMS to his main tormentor, a senior officer, to provide proof of the extortion and threats. Following this action the particular officer has stopped calling with threats. X says of his situation: 'Until now, I am languishing in limbo without knowing what will follow'. In mid-December 2011, having refused to be coerced into paying money to the police, X narrowly survived deportation back to Rwanda, following intervention by international agency persons.

Single Hutu woman

X fled with her family to the Democratic Republic of Congo in 1994 but returned to Rwanda alone in August of that same year, with the others following four months later. She found that the family house had been seized by a Tutsi RPF officer. The family tried to reclaim the house through the courts but failed: 'Unfortunately, the courts ignored our claims only because we are Hutus who were complaining against a Tutsi'.

Two of her brothers were arrested arbitrarily and their current whereabouts are unknown; two others escaped back into exile. Her father was imprisoned in 1997 and only released and acquitted 12 years later. During this time his wife was subjected to harassment and interrogation. X was required to report weekly to the police — having been accused in 2003 of links with a rebel group, she had her ID confiscated.

In March 2009, two months after his release, her father was detained again. When X went to the barracks to find him, she too was detained. They were held for two months.

X was required to appear before a Gacaca Court in August 2009 and accused of planning and monitoring genocide. She was acquitted, but was later visited in her internet café by agents who took away computer equipment allegedly as evidence of her rebel affiliations.

On receiving a summons for her father and her to appear at the barracks, she fled early one morning to cross the border into Uganda and seek asylum.

X applied for asylum in March 2010 but was refused. She appealed and obtained refugee status in September 2010.

In November 2011 some police officers and plainclothes Rwandan speakers stormed into her home in Kampala, waving a document, which she was unable to read, and asking whether she would rather answer questions at home or outside. Choosing outside, she was interrogated in a car, where she was told that she was wanted by the Rwandan not the Ugandan government and for this reason she would be taken back to Rwanda. X told the officers she was known in Uganda including to the Local Council One (LCI) chairman and asked for the authorities to deal with her case.

The officers then left her in a restaurant saying they were going to look for a car to take her to Rwanda. After waiting two hours she was told that the restaurant owner did not know who they were. She then got a motorcycle taxi home and reported the incident both to the LCI chairman and the police.

Rwandan student in China

X went to China in 2007 on scholarships from both China and Rwanda. His support (now only from China) will come to an end in July 2012.

His Rwandan passport expired in June 2010 but the Rwandan government has been unable to renew it. He says this is in response to his refusal to cooperate in a conspiracy and as a result:

[O]ne of the stealthy strategies adopted by the Rwandan government is to refuse Rwandans living abroad new passports when their old ones expires, especially when they refused to obey blindly to the Rwandan governments's operatives, and that's my case.

He is very afraid of the consequences:

[S]o, considering the regulations and laws governing the country in which I live, at the end of my study, I (and family) ... have only one choice which is to register as refugees because our government doesn't want us any more. So, if the cessation clause is declared

then we will be dead as we no longer have the protection of our government.

X wrote to the UN High Commissioner for Refugees in June 2011, saying: '[G]enerally, Rwandans flee the current regime because of numerous human rights violations notably extrajudicial killings and new repressive measures since coming to power in 1994 up to date'. He provides many examples, referencing Amnesty International, Human Rights Watch and Reporters without Borders reports, including the murder of Jean-Leonard Rugabage (deputy editor of Umuvugizi) in Kigali, asking how this could comply with the conditions required for the cessation clause to be invoked.

He ends his plea to António Guterres by saying:

I believe that the cessation clause for refugee status shouldn't be based on the frustration with protracted refugee emergencies or dilemma posed by return to situation of conflicts. The Rwandan refugees as well as Rwandan opposition members are all tired of conflicts and are now resolved to finding only peaceful solutions to their claims. Good examples are new births of Rwandan political formations though the current regime couldn't tolerate any critical voice to register and operate on its territory. That was also evidenced by the fact that the key critics heading the newly formed political formations are either inside the maximum security prisons or exiled if not killed. Also the journalists perceived critical to the President Paul Kagame's government are good examples. Excellency Mr. António Guterres, never let your organisation be transformed into a repressive tool that any government can use to make premature decisions.

Rwandan Hutu man

Deputy mayor of a commune, X fled to Tanzania in 1994 but was forced to return in 1996 and was arrested by an intelligence officer under suspicion of genocide: 'He put me in detention there in [commune] where I faced all kind of torture. But I was hoping that the justice would do his job and release me'.

After being moved from one prison to another X was finally tried and acquitted, being released in January 2001. He returned to his home area and lived there peaceably until October 2001, when he was arrested again and detained for two months.

He, and others, managed to contact the National Commission for Human Rights with their stories but he was then moved to other places of detention, finally to a prison where he was able to speak to an International Committee of the Red Cross officer.

Having spent 11 months without charge, he was finally released in October 2002 but when he got home he could not find his wife and family. In the meantime his wife was assumed to be complicit in his clandestine communications with human rights agencies and had been listed as a supporter of a forbidden political party, causing her to flee to Uganda. X followed her there.

His reasons for not wishing to return to Rwanda are as follows:

1. He reported torture to human rights agencies;
2. He refuses to respect the orders of the prosecutor because he is not respected as a Rwandan citizen who has been acquitted;
3. He fears a repeat of arrest and torture — in his capacity of having been a deputy mayor 'in other regime';
4. Having testified (twice) as a witness at the International Criminal Tribunal for Rwanda (ICTR) in Arusha, Tanzania, he risks being attacked or even killed by unidentified persons.

He is looking for a durable solution to his exile, having been granted refugee status in Uganda in 2009.

In July 2011, a claim of insecurity was prepared on X's behalf by Kampala police and addressed to the senior protection officer documenting incidents since 2008.

In an email sent in September 2011, he stated:

So, I am feeling an enemy of my country when I remember everything they did for me and my family. Every time the UNHCR support such operations and force so many refugees from Rwanda to return back to Rwanda under pretext that there is no problem, but when they reach there, some face imprisonment for long time and for nothing like me, others face death without even being tried... Even the Tutsi, today, they are fleeing because of problems which exist in Rwanda.

He reports in November 2011 that in the view of the Refugee Law Project his is a case of security resettlement but that this may take more than nine months to advance and he should go to UNHCR. As he points out this would be **after** the date of the cessation clause if it is to be enacted at the end of June 2012.

Rwandan refugee in Ivory Coast

Equally worried about the cessation clause, X emailed about the concerns of Rwandan refugees currently in Ivory Coast, including a copy of a document, of which he says:

... I hope [this] will shed more light on our predicament. This is the 'communiqué final' of a seminar that was organised for refugees and held in Abidjan in August 2011 under the theme: 'Is refugee integration in Ivory Coast a myth or a reality?' The seminar was co-hosted by the UNHCR and its two main partners, [Service d'Aide aux Réfugiés et Apatrides] (SAARA) and [Association de Soutien à l'Autopromotion Sanitaire Urbaine] (ASAPSU). These two bodies deal with refugee issues. I was personally comforted by the fact that they arrived at the same conclusion that I came up with in 2004–2005 that refugee integration in Ivory Coast is indeed a myth.

The report states that the urban refugees, mainly those in Abidjan, are not gathered in camps as in other countries which in principle should favour the beginnings of integration; however, in practice there are many problems besetting this integration:

Education: access to education and training at all levels is difficult for refugees;

Economy: the low level of microfinance does not allow refugees to assume responsibility for themselves. Despite the willingness of the refugees, the politico-economic environment of the host country does not favour the development of activities;

A c c o m m o d a t i o n : r e f u g e e accommodation is poor due to the lack of an adequate housing policy. Recent events have made the situation even more precarious for more or less all refugees;

Naturalisation: it is for those aspiring to naturalisation to analyse and evaluate the advantages and disadvantages of such a decision;

Work: work is a veritable headache as much for nationals as for refugees. This has become worse since the post-electoral crisis which has added to the restrictions encountered by foreigners in the job market due to the 'Ivoirisation' of jobs.

The report closes with the conclusion: 'The delegates ...have arrived at the conclusion that integration, as a durable solution, is a myth'.

In November 2011, X writes of suffering anonymous harassment similar to that experienced by exiles in other countries:

Of late while Ivory Coast is expecting the visit of the Rwandan president, Paul Kagame, rumors abound about infiltrated elements from Rwanda who are here to identify where Rwandan refugees live. For instance, at home we've been receiving anonymous calls from individuals speaking Kinyarwanda, and when we answered in French, they just hang up. I personally received anonymous text messages on my cell phone which I didn't answer. The caller's numbers look unfamiliar to me and the messages appear suspicious. This is almost an everyday occurrence among the Rwandan refugees in Ivory Coast.

Despite these difficulties there is also no desire to return to Rwanda at present.

As X says:

My take in this is that among the three major pillars of refugeehood, i.e. local integration, repatriation and resettlement, the only remaining and viable option is resettlement as far as Ivory Coast is concerned. It is never pleasurable to remain a refugee forever!

Rwandan asylum seeker in France

X writes:

I am Rwandan and I recently fled the country *and this is the second time that I fled my country*. Although the country seems peaceful and secured according to the government and UNHCR, the so-called peace is a negative peace and profitable for some Rwandans and not for everyone. The country is like a prison, many people poor as rich, Hutu and Tutsi would be ready to flee at any slightest opportunity. That dictatorship and discrimination power is becoming more unbearable especially for people like me who do not agree with how the country is managed.

His father was Hutu and his mother Tutsi, leaving him with the feeling of belonging to neither one of the two groups. His mother was killed in the genocide and he fled to the DRC, later being forced to return.

His father was jailed when X refused to incriminate him in his mother's murder, and so X fled, first living on the street, then spending years in an orphanage. Following his political activities and his work with a humanitarian organisation he was arrested and tortured in 2010.

As a person of mixed ethnicity, he writes:

In fact this kind of shame, guilt and prejudice against Hutu population is felt everywhere, even in the street, at school, at work, especially during the time of commemoration of the genocide against Tutsi. I feel deeply offended by speeches of some Rwandan leaders and Tutsi genocide survivors associations.

He is currently applying for asylum:

Meanwhile, I am homeless, because here there are too many refugees from Somalia, Libya, Ethiopia, Congo. But the authorities here are trying to help me as they can. In this moment I feel depressed due to the uncertain situation that I live today, sleeping in the street, all difficult moments that I passed through and also the fear of being forced to return in case my application is rejected.

Despite his difficult situation, he does not wish to return to Rwanda: 'You can imagine what can happen to unknown people like me once forced to go back home....to me it would be easier to live treated as foreign in a foreign country than to be a foreign and enemy in my own country.' ●

P U B L I C A T I O N S & R E S O U R C E S

'Review of [LGBTI asylum] applications is sometimes arbitrary and inconsistent.... Refugees are sometimes subjected to violence and discrimination while in detention facilities and, when resettled, may be housed within communities where they experience additional sexuality and gender-related risks' — *Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity: Report of the United Nations High Commissioner for Human Rights*. 17 November 2011.

'In the light of the concerns set out in this memorandum, Amnesty International urges the government of Uganda to: respect the fundamental prohibition on refoulement by ensuring the voluntary character of any repatriation' — *Memorandum to the Government of Uganda about the cessation of refugee protection for Rwandans*. Amnesty International. December 2011.

'This packet contains information on how you can ask immigration officials to release you from detention and not deport you to Haiti at this time, based upon sympathetic facts' — *Guide for Haitian nationals seeking prosecutorial discretion: How to ask ICE to release you from detention and allow you to stay in the US until post-earthquake conditions in Haiti improve*. Eric Baum, Morgan France-Ramirez and Kathleen Schulman. University of Miami School of Law, Immigration Clinic. December 2011.

'Data on gender and security sector institutions in West Africa are both hard to come by and dispersed. This survey represents an attempt to systematically document the status of gender integration within the security sectors in member countries of the Economic Community of West African States. Much of the information in this survey report has never before been published or compared with data from other countries in the region' — *The security sector and gender in West Africa: A survey of police, defence, justice and penal services in ECOWAS states*, Geneva Centre for the Democratic Control of Armed Forces. 16 December 2011.

'Members of a Congolese NGO stated in 2011 that those who are refouled are imprisoned because it is assumed they have criticised the Government and betrayed the President. Elements of the returnees' accounts were corroborated in an interview with a Congolese Immigration official' — *Unsafe return: Refoulement of Congolese asylum seekers*. Catherine Ramos. Justice First. 26 November 2011.

'The issue of whether refugees in Africa enjoy the right to work under the regional legal framework established by the 1969 Organization of African Unity Convention governing the Specific Aspects of Refugee Problems in Africa has been the subject of some confusion — primarily because the African Convention does not explicitly provide for employment rights' — *The Employment Rights of Refugees in Africa under the 1969 African Refugee Convention*. Marina Sharpe. Asylum Access. December 2011.

'Evaluations of the extent and efficacy of Organization of African Unity (OAU) and African Union (AU) engagement with refugee protection seem to depend on who stands in judgment.' — ['Engaging with refugee protection: The Organization of African Unity and the African Union since 1963'](#), *New Issues in Refugee Research* No. 226. Marina Sharpe. UNHCR. December 2011.

'The European Committee of Social Rights has found the French zero tolerance policy towards East European Roma living in illegal camps to be in violation of the European Social Charter' — ['French Roma policy violates European Social Charter'](#). Laurens Lavrysen. Strasbourg Observers. December 2011.

'It is possible that one country will consider certain information as drawn up in a country report as sufficient to declare a person a war criminal while another will not.' — ['Court of Justice's Judgment on the Exclusion Clauses: Hope for Ex-KhAD/WAD Members in the Netherlands?'](#) Zarif Bahtiyar. 6 December 2011.

'The two most important variables affecting the ability to secure a successful outcome in a case (defined as relief or termination) are having legal representation and being free from detention' — ['Assessing justice: The availability and adequacy of counsel in immigration proceedings'](#). Steering Committee, New York Immigrant Representation Study. December 2011

The [Forced Migration Current Awareness Blog](#) has added nine new resources related to [employment and the right to work](#) to its online compendium of recent forced migration-related resources.

'Witnesses reported that Burma Army soldiers entered Nam Lim Pa village on 8 October 2011...The results from this fact-finding mission to Kachin State reveal evidence of crimes that potentially amount to war crimes, perpetrated by the Burma Army against ethnic Kachin civilians and their properties in October 2011' — ['Crimes in Northern Burma: Results from a fact-finding mission to Kachin state'](#). Partners Relief & Development. November 2011.

'Recently a Sydney people smuggling trial was aborted because an Indonesian speaking juror noticed that the interpreter was getting it wrong. And a new report finds that judges and interpreters do not see eye to eye. Interpreters complain about lousy pay and poor work conditions. Meanwhile judicial officers moan about poor quality interpreting' — ['Courtroom interpreters'](#). Law Report, ABC Radio National. 6 December 2011.

The International Rehabilitation Council for Torture Victims (IRCT) has released ['World Without Torture: A film by the IRCT'](#), highlighting the importance of documenting torture, as well as providing rehabilitation for torture survivors and working to ensure that torture doesn't take place to begin with. The film features the case of [Khaled Said](#), 'whose death at the hands of state police — and the attempt to cover it up through the official autopsy report — [sparked massive protests](#) in Egypt in the run-up to the revolution that led to the toppling of Hosni Mubarak's oppressive regime'.

'[T]he overall perception of migrants in many societies tends to be negative. Part of the reason for such negative perceptions is that migratory flows are more visible and more diverse than ever before, generating questions about the value of migration that, if left unanswered, result in misinformation and misperception' — ['World Migration Report 2011: Communicating effectively about migration'](#). International Organization for Migration.

'Many of the assumptions about who wrote the Universal Declaration of Human Rights are wrong. [This is] the less known story of the men and women who wrote this foundational, emancipatory and anti-colonial document' — ['Who wrote the Universal Declaration of Human Rights?'](#). Gita Sahgal. openDemocracy. 9 December 2011.

'By restricting entry, settlement and family reunification in the UK now, the UK risks putting off those that it will be seeking to attract in the future, as well as making the process of migration more precarious for all' — ['Migration in Britain: the truth behind the headlines'](#). Ruth Grove-White. openDemocracy. 22 December 2011.

'Hungary currently does not provide appropriate reception conditions and access to protection to asylum-seekers returned under the Dublin procedure' — ['Access to Protection Jeopardised: Information note on the treatment of Dublin returnees in Hungary'](#). Hungarian Helsinki Committee. December 2011.

STOP PRESS: Refugee Act passes in Korea, giving asylum applicants legal status and rights

This news was submitted by [HoTaeg Lee](#), head of [Refugee pNan](#) in Korea.

I just want to inform you all that the new Refugee Act, apart from Immigration Control Act, finally passed the National Assembly in Korea on 29 December 2011.

[Asia Pacific Refugee Rights Network](#) president PhilKyu Hwang, along with attorney JongChul Kim, WonGuen Choi of [Nancen](#), HoTaeg Lee of the [Refugee pNan](#), National Human Rights Commission and UNHCR provided excellent leadership and devotion in making this new law. Lawmaker Woo Yer Hwang played the key role in passing the Act.

The main victory of our legislative activities is that during all refugee application processes, including judicial procedures, refugee applicants will now have legal status to stay in Korea and will be protected by a work permit, subsistence allowances, housing, medical care, and education.

The Act also stipulates detailed RSD procedures, including the procedure at ports of entry, an information guide, interpretation, legal assistance, NGO presences, video and audio recording, confirmation and copy of the interview records, confidentiality, detention for identification, and an appeals committee, amongst other details.

Under the Act, a first instance decision should be made within six months of the application, but if necessary it can be extended for six months with seven days prior notice. The appeal process is the same. Applications submitted with false and fraudulent documents, re-applications submitted without a basic situation change or applications submitted in order to avoid or delay imminent removal after a stay in Korea of more than one year can be handled by simplified or accelerated process.

The Act also adds clauses for recognized refugees beyond the protection of the refugee convention, related to family unity and recognition of academic diplomas and qualification licence.

The new Refugee Act will come into effect on 1 July 2013 for cases filed thereafter. ●

Unless stated otherwise, opinions expressed in this newsletter are those of the authors, and do not reflect the position of the organisations that they are or have been formerly affiliated with, the Fahamu Refugee Programme, or the Fahamu Refugee Legal Aid Newsletter.

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