

# FAHAMU

= Refugee Legal Aid =  
NEWSLETTER

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*Welcome to the  
Fahamu Refugee  
Legal Aid Newsletter*

*a monthly forum for relevant  
news and wider reflection on the  
provision of refugee legal aid.*

<b>Africa</b> <a href="#"><i>Botswana steps up migration control; recent failures in refugee protection in Tanzania; new reports on Kenya, Somalia and Sudan released</i></a>	<b>Americas</b> <a href="#"><i>US judge grants asylum to German home schoolers</i></a>	<b>Asia</b> <a href="#"><i>Thailand detains boat people; Bangladesh camps in dire state</i></a>	<b>Europe</b> <a href="#"><i>Discrimination protections set into law in Albania</i></a>	<b>Middle East</b> <a href="#"><i>Refugees in Lebanon indefinitely detained; Egypt-Israel border deaths continue despite promises and pressure.</i></a>
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## Early warning of Cessation Clause?

Considering the [reluctance of Rwandan refugees](#) to [repatriate](#) from Uganda, pre-election tensions in Rwanda (including [grenade attacks](#) and a [failed assassination attempt](#) on its president Paul Kagame last January), it seems like a very inappropriate time for Uganda to be talking about working on a [tri-partite agreement](#) with UNHCR and Rwanda to [evoke the Cessation Clause](#), and for UNHCR to announce to the Refugee Law Project that it would no longer consider a refugee rejected by the State's Refugee Eligibility Committee for Mandate Status. Thus far, we have heard of such a decision by UNHCR regarding its Mandate Status in two countries, Japan and Uganda.

A 'roadmap' towards the evocation of the cessation clause is already being drafted. According to the [New Times](#), "The [Rwandan] State Minister for Local government, Christine Nyatanyi, told a press conference yesterday, that the roadmap, which will include specific actions and benchmarks, is part of an initiative by UNHCR to push for the closure of the refugee chapter in Rwanda, Burundi, Angola, Sierra Leone and Liberia."

## Refugee legal aid at Canadian embassies

*Too often refugees who have been offered sponsorship by organizations in Canada fail their refugee status determination interviews at Canadian Embassies around the world. ANDREW BROUWER offers some advice to the refugees applying and to those sponsoring them. He is a lawyer working in Toronto, Ontario, Canada who can be reached at [abrouwer\[at\]sympatico.ca](mailto:abrouwer[at]sympatico.ca).*

**The problem:** The biggest problem that we are seeing in Canadian embassies is serious but not very specific: it's just plain bad decision making. Some (not all) Canadian visa officers appear to have had little or no training in refugee law. Some are utterly ignorant about country conditions; some are unaware of proper interview techniques. Sometimes they are also very clearly biased. Refugees therefore cannot take anything for granted when making applications for refugee resettlement to Canada. They should not assume they will have a proper opportunity to explain their story during the interview or that the visa officer will know the basics of what is happening in their country [of origin] or how they are treated in the current host country. As a result, refugees seeking resettlement and their advocates should be encouraged to put their best foot forward, and plan for contingencies. *CONTINUED on page 3.*

## UNHCR country of origin briefing papers available online

UNHCR has made folders that give overviews of the legal context, human rights and treatment of particular groups of major countries of origin publically accessible on the website <http://www.refworld.org>.

## International Detention Monitor e-Newsletter and Toolkit

The International Detention Coalition has published a new issue of the International Detention Monitor e-newsletter. All issues are available at <http://idc.rbf.com.au/category/tools-for-action/idc-resources/newsletter/>The IDC has also released a toolkit for Legal Providers Working with Refugees and Asylum Seekers in Places of Detention. The toolkit is available for download as a Microsoft Word document at <http://idc.rbf.com.au/idc-toolkit-for-legal-providers-working-with-refugees-and-asylum-seekers-in-places-of-detention/>

The Fahamu Refugee Legal Aid Newsletter seeks your input, feedback and submissions.  
Contact editors Themba Lewis & Nora Danielson by email: [refugeenewseditor\[at\]fahamu.org](mailto:refugeenewseditor[at]fahamu.org)

## New refugee legislation in Chile

Chile has passed a comprehensive legal framework of procedures and guidelines for refugee protection in the country. Full report: <http://www.unhcr.org/4b991ac06.html>

## Asylum in Mexico

A new Migration Information Source report provides an overview of refugee policy in Mexico. The government has processed asylum claims, most of which are filed from detention centres in the country, and since 2002, have taken over the responsibility of refugee status determination adjudication from UNHCR. Full report: <http://www.migrationinformation.org/Profiles/display.cfm?ID=211>

## Assessing credibility in religious-based refugee claims: the case of Pentecostals in Egypt

A new working paper from the American University in Cairo examines how religious faith claims are assessed in refugee status determination (RSD). In "Refugee credibility assessment and the "religious imposter" problem," Michael Kagan examines the RSD interviews of Eritreans seeking asylum in Egypt on the basis of their Pentecostal faith. Based on risks and questionable justifications in these faith assessments, and a review of alternative approaches, Kagan builds the case for the development of a "more systematic framework" for religious-based RSD interviews, based on observable triggers of persecution rather than tests of claimants' religious sincerity. Kagan collected the data for the article while working as director of AMERA Egypt. Online at <http://www.aucegypt.edu/ResearchatAUC/rc/cmrs/reports/Documents/KaganReligiousImposters.pdf>

## Refugee law training held in Malaysia

Thirty Malaysian lawyers, NGO staff members and activists from all over Malaysia met in Kuala Lumpur and received an intensive introduction to the law and practicalities involved in representing asylum seekers during refugee status determination (RSD). The workshop was led by Fahamu's Director of Research and Training, Martin Jones, also a lecturer at the University of York's Centre for Applied Human Rights. Other sessions were led by staff and lawyers from Suaram, Health Equity Initiatives, Tenaganita, the Penang Office for Human Development, JUMP, Hakam, the Migration Working Group, and the National Legal Aid Centre of the Bar Council. The workshop formed part of a larger training initiative organised by Suaram, one of Malaysia's leading human rights organisations, and the Bar Council of Malaysia, the national governing body for the legal profession in Malaysia. This initiative aims to encourage NGOs and lawyers in Malaysia to become more active in the provision of legal aid for asylum seekers. UNHCR's office in Malaysia is its busiest office in the world, rendering more than 17,000 decisions last year. And yet, there currently are no organisations in Malaysia which systematically provide legal aid to refugees undergoing RSD. Nor is refugee law part of the curricula of any of the law school in the country. The interest in the training has led to plans for follow-up training in June and the end of the year. The training is linked to Fahamu's Refugee Programme's work as part of its ongoing Asia Refugee Legal Aid Network project (funded by the US Institute of Peace) and its work in the Legal Aid Working Group of the Asia Pacific Refugee Rights Network. The training and broader initiative to provide legal aid for RSD in Malaysia have been supported by other refugee legal aid organisations in the region, including Asylum Access Thailand and Hong Kong Refugee Advice Centre.

*Examples of the prosecution of asylum seekers for use of fraudulent documents are sought by Human Rights First. If you have a case example of this practice from recent months, please send details including date(s) and location(s) to Alexandra L. Wisotsky, Managing Attorney, Refugee Protection Program, Human Rights First, Washington, D. C. [a t wisotskya\[at\]humanrightsfirst.org](mailto:wisotskya[at]humanrightsfirst.org) as soon as possible.*

*The World Social Forum on Migration registration is now open. This year's forum will be held in October in Quito, Ecuador. Registration and full details are online at <http://www.fsmm2010.ec/>*

*Short courses on refugee law, participation and psychosocial needs offered in Cairo, June 2010. The Center for Migration and Refugee Studies (CMRS) at the American University in Cairo AUC offers the following courses: "Meeting the Psychosocial Needs of Refugees," June 6- 10, with Dr. Nancy Baron. "Refugee Participation: Where is the Voice of Refugees'," June 13-17, with Dr. Barbara Harrell-Bond, Themba Lewis and Nora Danielson; and "Introduction to International Refugee Law," June 20-24 & 26, with Martin Jones. Full details at <http://www.aucegypt.edu/ResearchatAUC/rc/cmrs/>*

### Pambazuka News

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## Refugee legal aid at Canadian embassies

*CONTINUED from page 1.*

**Solid paper application:** It is important not to trust everything to the interview. A well-prepared and documented paper application is a crucial factor that I think can significantly improve the chances of acceptance (it also significantly improves the chances of success on judicial review in the event of a first instance refusal). This would ideally include a written statement setting out the refugee's background, circumstances and events leading to flight, method and route of travel, basis for continuing fear in the country of origin, the refugee's current circumstances (to demonstrate that local integration is not a durable solution), and their skills and education that would help them to establish a life in Canada; some corroborating evidence if available (identity and travel documents, police or medical reports if relevant to the case, employment letters or letters from religious institutions – anything that can help prove elements of the case); and at least some recent country of origin information from reputable sources supporting the objective risk (don't assume the visa officer knows anything or will do any research).

**The interview:** Some interview preparation would be helpful. If the refugee brings any documentation to the interview to support her case, she should give it to the officer right at the outset of the interview. Refugees should be encouraged to report to the interviewer immediately – i.e. during the interview - any concerns they may have about the interpretation or the interpreter. If the officer expresses concerns about the credibility of something the refugee can prove with a document, she should ask the officer to hold off on making a decision for a couple of weeks so the refugee can send in the document for consideration (the officer may refuse, but it gives us an additional issue on judicial review).

**Post-interview:** As soon after the interview as possible, the refugee should write down, or have someone interview her and write down, in as much detail as possible exactly what happened at the interview. This is not just the questions and answers but also how long the interview lasted, the tenor of the questions and manner of the interviewer, any interruptions during the interview, whether the interviewer appeared not to be paying attention or appeared impatient or irritated at any particular answer given by the refugee, whether the interviewer cut her off before she was able to finish an explanation, whether there were any specific areas where the interpreter appeared to have difficulty with interpretation, whether the interviewer accepted documents offered by the refugee, and if the officer reviewed them during the interview, how long did s/he spend reviewing them. These post-interview notes are very, very useful for judicial review applications.

**Remedy for refusal:** Failed applicants can seek leave for judicial review in the federal court as long as they initiate the case within 60 days of receiving the refusal letter from the embassy. If the resettlement application was reasonably solid, judicial review applications tend to have a high success rate because so many of the decisions are just so badly reasoned (indeed, the majority of our cases have been settled before going to a hearing). In theory, refugees can also ask for reconsideration at the embassy or from immigration headquarters in Ottawa. In my experience, however, reconsideration very seldom results in a reversal, and may result in missing the 60-day deadline for judicial review. Better to take the case directly to court, in my opinion.

For Canadian resettlement cases, there is normally a sponsoring family member or church in Canada. They are sometimes in a position to pay some money for this, so long as they can be persuaded of the importance. They also sometimes are prepared to pay for judicial review. A

### NEWS & INFORMATION RESOURCES

#### southern refugee legal aid website & email list

<http://www.srlan.org/beta/>  
<http://lists.fahamu.org/cgi-bin/mailman/listinfo/srlan-list>

#### refugee status determination watch

<http://www.rsdwatch.org>

#### reports and documents on refugee status

<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain>

#### helping lawyers prepare asylum cases

<http://www.asylumlaw.org>

#### forced migration current awareness blog

<http://fm-cab.blogspot.com>

#### KANERE: kakuma news reflector - refugee free press

<http://kakuma.wordpress.com>

#### information on human displacement

<http://www.forcedmigration.org>

task that we have in Canada is convincing sponsoring organizations (mostly churches) that proper preparation of applications is crucial. Many still seem to rely on providential intervention and the goodheartedness of visa officers, and do not want to complicate or formalize the process. We are working to change that culture among sponsoring groups here.

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