

**“THERE ARE NO REFUGEES IN THIS AREA”:
SELF-SETTLED REFUGEES IN KOBOKO**



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The Refugee Law Project (RLP) was established in November 1999 with the aim of protecting and promoting the rights of forced migrants in Uganda. The RLP operates as an autonomous project within the Faculty of Law of Makerere University, and focuses on three main areas: legal assistance, training, and research and advocacy. The Refugee Law Project works towards ensuring that asylum seekers and refugees are, as specified under national and international law, treated with the fairness and consideration due fellow human beings.

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The following study focuses on self-settled refugees who were once living in camps, but are presently self-settled and living in Koboko. Most of these refugees fled the settlements due to insecurity, others left in search of economic opportunities in town, yet others were used to an urban lifestyle in their home countries and are altogether ill-equipped for life as subsistence farmers in refugee settlements.

The report examines the factors that have led many refugees to self-settle and the obstacles they face in their current circumstances with regard to their livelihoods and physical security. It documents the impact—in both positive and negative terms—that the presence of self-settled refugees has on Ugandan residents of Koboko. It also explores the response from various district and local government authorities to the presence of self-settled refugees in Koboko, and recommends that the Office of the Prime Minister (OPM) and the United Nations High Commissioner for Refugees (UNHCR) formalise their relationship with self-settled refugees. Specifically, the report analyses the consequence of denial of assistance to refugees on the basis of their decision to self-settle and provides a means of comparing the situation of self-settled refugees to those in settlements. Against this background, the report recommends that the OPM/UNHCR should recognise the existence of self-settled refugees and extend protection and assistance to them.

This report is based on field research carried out in Koboko between 10th and 25th February 2005. It also draws on a one-day workshop held at the Catholic Centre in Arua, and interviews and informal conversations held with stakeholders in Kampala during the course of writing the report. The research team consisted of Moses Chrispus Okello (team leader), Elias Lubega, Joan Aliobe, all of the Refugee Law Project, and Peter Iranya of the Makerere University Institute for Social Research (MISR). The work was undertaken as part of a larger study funded by the John D. and Catherine T. MacArthur Foundation entitled *Questioning the Settlement Policy for Refugees in Uganda: A Socio-Legal Analysis*. The report was written by Moses Chrispus Okello, Noah Gottschalk, and Katinka Ridderbos with valuable input from Lucy Hovil and Zachary Lomo. The authors are grateful to the National Council for Science and Technology and the Office of the Prime Minister for permission to conduct the study.

COVER: “There are no refugees in this area.” Interview with government official working closely on refugee issues, Koboko County, 16 February 2005.

GLOSSARY OF ABBREVIATIONS

CARA	Control of Alien Refugees Act
DAR	Development Assistance for Refugees
DED	Acronym for the German development agency
DRC	Democratic Republic of Congo
ExCom	Executive Committee of UNHCR
GoU	Government of Uganda
ICCPR	International Covenant on Civil and Political Rights
LC	Local Council/Councillor
LRA	Lord's Resistance Army
OAU	Organisation of African Unity
OPM	Office of the Prime Minister
RLP	Refugee Law Project
RDC	Resident District Commissioner
RWC	Refugee Welfare Council
SPLM/A	Sudan Peoples' Liberation Movement/Army
SRS	Self-Reliance Strategy
UNHCR	United Nations High Commission for Refugees
UNOCHA	United Nations Office for the Coordination of Humanitarian Affairs
UNRF (I&II)	Uganda National Rescue Front (I & II)
WFP	World Food Programme
WNBF	West Nile Bank Front

1 INTRODUCTION

Uganda's refugee policy is frequently hailed as one of the best in the world.¹ In reality, however, this policy is premised on the confinement of refugees to settlements² in accordance with the antiquated Control of Alien Refugees Act (CARA).³ This law, which was enacted just 2 years after Uganda's independence and 10 years before its accession to the 1951 Convention Relating to the Status of Refugees,⁴ is based on the fundamentally incorrect assumption that refugees are a temporary phenomenon. Although the Government of Uganda is currently in the process of enacting a new refugee law⁵ that is expected to eliminate some of the defects of the CARA, it is based on the same misconception. The received wisdom upon which both the CARA and the new Bill—and indeed the whole of Uganda's refugee policy—is based is that refugees pose an economic burden and a security threat, and therefore that the most economical way of managing this “threat” and the best way to prepare refugees for an orderly repatriation is to keep them in settlements.⁶

In fact, the settlements that currently house nearly a quarter of a million girls, boys, men, and women in Uganda are increasingly being shown to violate the rights of refugees. The CARA's provisions on settlements are not only inconsistent with international refugee law—particularly insofar as the Refugee Convention provides for the right of refugees to choose their place of residence and to move freely within their host country⁷—but they are also in direct conflict with Uganda's obligations under human rights treaties with respect to the rights of aliens.

A significant but unknown number of refugees in Uganda have, for various reasons, opted out of the settlement system. Unlike refugees who reside in settlements, self-settled refugees—whether they are registered or not with the Ministry of Disaster Preparedness and Refugees within the Office of the Prime Minister (OPM) and the United Nations High Commissioner for Refugees (UNHCR)—are not in receipt of any official refugee assistance

¹ The new UN High Commissioner Antonio Guterres chose Uganda as the site of his first mission abroad on World Refugee Day 2005. He lauded the country's treatment of refugees, calling it “an extraordinary example of generosity towards refugees.” See ‘Uganda Hailed on Refugees,’ *The New Vision*, 21 June 2005.

² This report deliberately uses the word “settlement” as opposed to “camp”, as the latter generally refers to temporary facilities that are created on an ad hoc basis, while former is more relevant to the protracted nature of refugee “warehousing” in Uganda. For more on warehousing, see Merrill Smith, “Warehousing Refugees: A Denial of Rights, a Waste of Humanity,” US Committee for Refugees, *World Refugee Survey 2004*, p. 38.

³ The Control of Alien Refugees Act, 1960, Laws of Uganda, Cap. 62.

⁴ Convention Relating to the Status of Refugees, 189 UNTS 150, entered into force 22 April 1954. [Hereinafter 1951 Convention]. Uganda acceded on 27 September 1976.

⁵ The Refugees Bill 2003 (Bill No. 20), s. 44. Both this document and the CARA can be accessed on the RLP website at www.refugeelawproject.org/resource.htm.

⁶ See CARA Section 7: “Refugee may be ordered to reside in any place in Uganda” and the Refugee Bill paragraph 30: “The free movement of a recognised refugees [sic] in Uganda is subject to reasonable restrictions [...] especially on grounds of national security, public order, public health, public morals or the protection of the rights and freedoms of others.”

⁷ Refugee Convention, Article 26.

and do not have a legal or practical presence within the system of refugee protection in Uganda. As a result, very little is known about them and the circumstances under which they live. Indeed, when we approached government officials to discuss self-settled refugees in Koboko, we were told that these people did not exist, and that the only “real” refugees in the country were those that lived in settlements and the small number on the so-called urban caseload, and more recently, those who could prove “self-sufficiency.”⁸

This official belief highlights the gap between national and local government officials. The tens of thousands, perhaps even hundreds of thousands, of refugees who are not on the urban caseload and who have not officially proven self-sufficiency have created a *de facto* alternative to the settlement policy, raising questions as to whether the settlement policy is the most appropriate response, legally and practically, to the protracted refugee situations that Uganda faces.

The present report focuses on self-settlement, an issue that presents a unique example of the gaps in the government’s refugee policy with the potential for reform. It explores the situation of self-settled refugees in Koboko and suggests that self-settlement could be adopted as a viable policy alternative to the current policy. This report is the third in a series of Working Papers—the first a comparison of the situation of self-settled refugees and refugees in settlements in Arua and Moyo districts,⁹ and the second an examination of urban refugees in Kampala¹⁰—that are part of a broader study on the livelihood strategies and physical security of refugees in Uganda. Conducted with generous funding from the John D. and Catherine T. MacArthur Foundation, this wider study questions the assumption that the settlement policy is the best approach to providing assistance and protection to refugees and is in the best interest of the Ugandan refugee hosting communities.

This report begins with a brief background of the situation in Koboko and an explanation of methodology. Section 2 examines the experiences, both negative and positive, of refugees inside and outside of settlements. It explores the reasons that led refugees to leave settlements and their livelihoods as self-settled refugees in Koboko, including their relations with Ugandan hosts and the role of the government’s Self-Reliance Strategy. Section 3 analyses the status of self-settled refugees by examining official attitudes and practice towards self-settled refugees and contrasting this with their legal status under Ugandan and

⁸ Interview with OPM official, 22 February 2005. Refugees on the urban caseload include those who need access to medical services in Kampala, who have security concerns, and refugees awaiting resettlement to third countries. At the end of February 2005, there were 210 officially registered refugees on the urban caseload, a number which reflects only a small percentage of the refugees actually living in the capital. See United Nations Office for the Coordination of Humanitarian Affairs (UN-OCHA), *Humanitarian Update: Uganda*, Vol. VII, Issue IV, April 2005 and See Jesse Bernstein, “A Drop in the Ocean”: Assistance and Protection for Forced Migrants in Kampala, Refugee Law Project Working Paper No. 16, May 2005.

⁹ Tania Kaiser, Lucy Hovil and Zachary Lomo, “We Are All Stranded Here Together”: The Local Settlement System, Freedom of Movement, and Livelihood Opportunities in Arua and Moyo Districts, Refugee Law Project Working Paper No. 14, February 2005.

¹⁰ RLP Working Paper No. 16.

international law, with a view to challenging the common but erroneous belief that they are aliens who are essentially economic migrants. The Conclusion draws the analysis together.

1.1 Background: Koboko

Koboko is part of the West Nile region of Uganda and is located in the northwestern-most corner of the country, bordering two of Africa's largest and most unstable countries: Sudan and the Democratic Republic of Congo (DRC). When the research for this report was conducted, Koboko was one of the seven counties of Arua District,¹¹ but it has since acquired district status.¹² The Kakwa ethnic group is indigenous to the area in and around Koboko, and many of its members also live across the borders in adjoining areas in Sudan and the DRC.¹³ Many Ugandans in Koboko have first-hand experience of displacement; large numbers went into exile after the fall of Idi Amin. Indeed, many of them returned to Uganda at around the same time that the refugee influx into Uganda peaked. As one LC explained:

We have lived with these people [Sudanese] for twenty-one years.... When there was war here in 1979 we fled to Sudan. When war broke out in Sudan we returned back to Uganda together.¹⁴

More recently, Koboko has seen a large influx of non-Ugandans¹⁵ and Ugandans from other parts of the country, including traders and other business people, national and expatriate professionals working with local and international NGOs, and students from the DRC and Sudan. Within this mosaic are large numbers of asylum seekers and refugees, as well as undocumented and partially documented migrants. Overall, Sudanese overwhelmingly form the largest group of foreigners and belong to a variety of ethnic groups, including the Abukaya, Bakka, Bari, Dinka, Kakwa, Kuku, Mundari, Mundukuru, Nyambara, Pojulu, Zande, and others.¹⁶

In some cases, these foreign nationals have come directly to Koboko to seek refuge from the conflicts in southern Sudan and the DRC. In other cases, they arrived in Koboko after fleeing refugee settlements in and around Arua for a variety of reasons, including insecurity.¹⁷ Some of these refugees, particularly those who have stayed in Uganda for the

¹¹ The others are Ayivu, Maracha, Madi-Okollo, Terego and Vura.

¹² Koboko was given district status with effect from 1 July 2005. See 'MPs Approve Twenty New Districts', *The New Vision*, Thursday 21 July 2005, p. 1.

¹³ Like so many other ethnic groups along the Ugandan border, the Kakwa found themselves on different sides of the often-arbitrary national boundaries created by colonial administrators. As a result, most people in Koboko have relatives who live across the border in Sudan or the DRC.

¹⁴ Interview with LC, Kuluba Sub-County, 20 February 2005.

¹⁵ These include Sudanese, Congolese, Kenyans, Tanzanians, Rwandans and Somalis, as well as a small number of West and Central Africans.

¹⁶ Interview with LC, Koboko Town Council, 21 February 2005.

¹⁷ Group discussion with Sudanese refugees, Koboko Town Council, 15 February 2005.

longest time, are settled in the rural sub-counties of Koboko. Most of the refugees, however, reside in Koboko Town Council. Due to its unique position and its highly mobile population, government officials in both Koboko and Arua refer to Koboko town as a cosmopolitan place.

The precise number of non-Ugandans in Koboko is unknown. Ugandan nationals interviewed by the RLP claimed that the Sudanese outnumbered them in Koboko. While this is an overstatement,¹⁸ it is indicative of a common perception in Koboko. Nonetheless, in Alimakodra Village, Malenga Ward, it is estimated that 80-90 percent of the population are refugees and asylum seekers.¹⁹ Similarly, in Dikasinga Village, also in Malenga Ward, only 50 households out of 208 are Ugandan.²⁰ While these extremely high ratios of foreign nationals to Ugandans might not be representative of the overall statistics for Koboko County, it is indicative of the large numbers of non-Ugandans residing in Koboko.

The uncertainty about numbers—which is also partly due to the fact that foreign nationals in Koboko often do not want to be identified—can be viewed as an indication of the extent to which foreigners have integrated into their host communities.²¹ According to one government official, the last national census conducted in September 2002 estimated the general population to number 129,141.²² Koboko Town alone had a population of 29,803, a third of whom were aliens.²³ While some of the refugees who arrived in Koboko after 2002 have been taken to Invepi and other settlements in and around Arua, a rough estimate of refugees who had remained in Koboko by February 2005 was approximately 12,000.²⁴

In general, the population of Koboko has grown rapidly and continues to do so. While this is partly because of natural population growth, a significant part of the population increase is attributable to the influx of people attracted by the rapid expansion of the local economy. This in turn is a result of an increase in economic activity following the arrival of peace in West Nile, after having been plagued for years by violent insurgencies. However, the presence of refugees and asylum seekers is also a noticeable factor in fuelling economic activity in the area, particularly as a result of the trickle-down effect of the money that many receive through the Western Union branch in Koboko town.²⁵

¹⁸ Interview with local government official, Koboko Town Council, 18 February 2005.

¹⁹ Ibid.

²⁰ Interview with LC, Koboko Town Council, 17 February 2005.

²¹ Some self-settled refugees, although not required to, chose to pay the (now abolished) graduated tax in order to use their receipts as a form of identification confirming their legal status in Uganda and thereby obscuring their immigration status.

²² Interview with local government official, Koboko Town Council, 18 February 2005

²³ Ibid.

²⁴ Ibid.

²⁵ Many informants referred to people receiving remittances from Koboko's only Western Union branch as refugees.

The fast-growing population exerts tremendous pressure on social services including health and education. This competition for scarce local resources, compounded by the perception that many refugees are wealthier than locals, has led to increased social tensions between nationals and non-nationals. Informants were nevertheless of the opinion that relations between both groups were generally cordial.

1.2 Methodology

This report is based on field research carried out in what was then Koboko County in Arua District between 10th and 25th February 2005. Interviews were conducted in the different sub-counties in Koboko including Keri, Koboko, Kuluba, Lodonga and Midia. Interview maps were employed to direct the collection of data while allowing for open-ended conversations between the interviewer and the respondent. A number of focus group discussions were also conducted among self-settled refugees in Koboko County and Arua town. Additional information was gathered through participatory observation and from a number of reports and documents.

A deliberate effort was made to interview refugees who form part of a distinct group—self-settled refugees with previous experience of living in refugee settlements. A number of respondents had, however, never set foot in a refugee settlement. Most of the individuals who fell in this latter category were Sudanese nationals who had crossed the border into Uganda during periods of intense violence in Sudan, most notably 2003, without ever officially having claimed asylum in Uganda. Finally, a number of Ugandan nationals were also interviewed, mainly about their perception of the impact of self-settled refugees on refugee hosting communities.

The research also drew from two public presentations—one at Arua Catholic Centre and the other in Rhino Camp refugee settlement—aimed at presenting the results of a previous RLP study entitled “*We are all Stranded Here Together*”: *The Local Settlement System, Freedom of Movement, and Livelihood Opportunities in Arua and Moyo Districts*²⁶ to the communities and individuals who contributed to it. This study examined the impact of the settlement policy on refugees’ livelihoods and the enjoyment of their rights. The presentations were held to generate public discussion of the key findings of the study, and to follow up on certain issues that had emerged from the research. In the course of the discussion following the presentation at Arua Catholic Centre, an OPM official stated that there were no self-settled refugees in Koboko. Instead, he stated, all foreigners residing in Koboko were aliens.²⁷ This statement helped to shape the research that was conducted for this current report, in that it prompted the RLP to focus on self-settled refugees in Koboko

²⁶ RLP Working Paper No. 14.

²⁷ Statement by OPM official, made in the course of a discussion following a public presentation by the RLP in Arua Town Council, 11 February 2005.

who had previously resided in refugee settlements, and who thus had some evidence of their status as refugees in Uganda, as opposed to being aliens generally.

Due to time and capacity constraints, the research team conducted 106 interviews. The findings in this report are therefore only preliminary indicators of the situation of self-settled refugees in Koboko and the methods employed provide only a limited representation of the entire population of self-settled refugees in Koboko. The findings are nonetheless consistent with previous research findings and raise several important issues that affect self-settled refugees and their host communities.²⁸ The researchers attempted to interview refugees belonging to as many different groups as possible, in order to cover different perspectives on the situation of self-settled refugees. Interviews were conducted with refugees from different nationalities, with women as well as men, the elderly, youths, and cultural leaders. With regard to the Sudanese refugees, an attempt was made to speak to refugees from as many different ethnic groups as possible.

During the course of field research, the team encountered some specific difficulties. With respect to the Dinka, it proved almost impossible to conduct one-on-one interviews, since invariably others would join in the interview and would then decline to respond to requests to leave the researcher to speak to one individual. Whenever such a scenario arose, one-on-one interviews were turned into informal focus group discussions.

It also became apparent to the research team that refugees in Koboko have seen so many research teams come and go that a certain level of “interview fatigue” is noticeable.²⁹ Sometimes this presented itself as a reluctance to participate in interviews, while in other cases refugees set their own agenda for the interview. Indeed, some refugees are now so familiar with the interview process that they take complete control of it. For example, one refugee cultural leader, upon receiving an interview request, not only provided an interpreter but also arranged a venue. In another instance, a group of Congolese women were not amenable to answering the research team’s questions, and instead mostly talked about issues that were of concern to them. As soon as they had exhausted their concerns, these women chose to end the focus group discussion. The type of information generated by this informant-managed style of interview has been taken into account in data analysis.

A final difficulty faced by the research team was the resistance on the part of many refugee women to being interviewed on their own, even by a female interviewer. In all likelihood, this is a reflection of the deeply embedded patriarchal structures of the societies from which these women have come. Thus refugee women would decline to answer some of the questions put to them, insisting that their husbands were better placed to answer these questions, even after the researcher had gone to great lengths to clarify that it was the

²⁸ See, for example, RLP Working Paper No. 14

²⁹ It is interesting to note that such “interview fatigue” and its consequences have not been experienced in other field research locations.

women's opinions that were sought for the research. Other refugee women were hesitant to be drawn into any discussions whatsoever with the research team in the absence of their husbands, some of whom had travelled back to the Sudan for business or were away for reasons of employment in other locations in Uganda. Whenever such a situation presented itself, such preferences were respected.

2 REFUGEES IN KOBOKO: EXPERIENCES INSIDE AND OUTSIDE OF SETTLEMENTS

This section examines the factors that led self-settled refugees in Koboko to leave the settlements and how refugees live outside of this system. The findings demonstrate the extent to which refugees continue to move from place to place, or even from one country of refuge to another, after they have fled their own country. Indeed, many of the Sudanese refugees we talked to stated that when they had had to flee their homes, they had first attempted to seek safety by relocating within Sudan. Only when that proved to be an inadequate solution to their plight, because of continued exposure to high levels of violence and insecurity, had they decided to leave their country of nationality to seek refuge in one of the neighbouring countries. Some refugees then came straight to Uganda; others first went to Ethiopia³⁰ or the DRC, before uprooting themselves once more to come to Uganda. Sudanese refugees who had lived in the DRC before coming to Uganda had generally been registered by UNHCR in the DRC. Some stated that they had been forced to leave the DRC due to rebel attacks by the West Nile Bank Front (WNBF),³¹ while others stated that they had had to leave due to tense relations with the Congolese:

I come from Morobo and I am a Kakwa from Sudan. My parents ran from Sudan to Congo, then to Uganda ... Things were bad in Congo, we lost all our animals and we were harassed. But we found peace in Uganda and we were not harassed or our property taken.³²

Some of the younger Sudanese refugees stated that their inability to understand French, the language of instruction in Congolese Schools, had contributed to their decision to come to Uganda.³³

Upon their arrival in Uganda, for many refugees the state of continual displacement did not end. Most of the Sudanese refugees were first taken to one of the transit camps in Koboko County, most notably Gbeng. From there they were transferred to refugee settlements such as Bidi Bidi, Ikafe, Imvepi and Rhino Camp. There they were registered by relief agencies such as the Uganda Red Cross Society and some given identity cards.

³⁰ Interview with Sudanese refugee (man), Koboko Town Council, 14 February 2005.

³¹ Interview with Sudanese refugee (man), Koboko Town Council, 13 February 2005. For more on the WNBF, see Zachary Lomo and Lucy Hovil, *Negotiating Peace: Resolution of Conflict in Uganda's West Nile Region*, Refugee Law Project Working Paper No. 12, June 2004.

³² Interview with Sudanese refugee (man), Koboko Town Council, 17 February 2005.

³³ Interview with Sudanese refugee (woman), Koboko Town Council, 13 February 2005.

2.1 Reasons for Leaving Refugee Settlements

The self-settled refugees in Koboko who abandoned refugee settlements cited various reasons for doing so. Most frequently, refugees had left the settlements either because they had felt unsafe, or because they had come to the conclusion that the material hardships they experienced there were worse than the hardships they would face if they left the settlements.

2.1.1 Security

As noted in the Introduction, security is one of the main justifications for the settlement policy. Refugees, it is argued, are required to stay in settlements first for their own security, and second to protect the security interests of the host state. However, on the regional level, it is feared that refugees might use settlements to mobilise for attacks on their countries of origin, a threat that—as the argument goes—can be minimised by restricting the movement of refugees in and out of settlements. As one local government official explained:

The host countries have to balance their sovereignty and security versus refugees. The numbers of refugees alone is a threat. At one time there were more refugees in Adjumani than the locals and the SPLA were recruiting from the camps. Ugandans were in Congo at one time but when they began organising themselves to fight Obote II, they were a threat to Congo and had to be relocated.³⁴

States have an obligation under international law to maintain the civilian character of settlements in order to safeguard the security of refugees. For example, the OAU Convention Governing Specific Aspects of Refugees in Africa specifies that “[f]or reasons of security, countries of asylum shall, as far as possible, settle refugees at a reasonable distance from the frontier of their country of origin.”³⁵ The UNHCR has also been instructed by the Executive Committee (ExCom) to make “appropriate arrangements with States of refuge on methods of protecting such refugee camps and settlements including, whenever possible, their location at a reasonable distance from the frontier of the country of origin.”³⁶ Furthermore, the UN Security Council, in its Resolution 1325, stresses the need for state and non-state combatants to “respect the civilian and humanitarian character of refugee camps and settlements, and to take into account the particular needs of women and girls, including in their design.”³⁷

³⁴ Interview with district official, Arua Town Council, 24 February 2005.

³⁵ Convention Governing the Specific Aspects of Refugee Problems in Africa, 1001 UNTS 45, entered into force 20 June 1974, Article 2(6).

³⁶ ExCom Conclusion No. 48(XXXVIII) – 1987, at paragraph c.

³⁷ UN Security Council, Resolution 1325 (2000): Women, Peace, and Security, (S/RES/1325). Some of these particular needs might be met by providing proper lighting and security, as well as by designing camps so as to ensure that women and girls have free and safe access to vital resources and facilities including food, water, health services latrines, and fuel.

These obligations to prevent the militarisation of settlements and to reduce the vulnerability of refugees to threats both from within the camps as well as from outside—including cross-border incursions—is often ignored in the debate about Uganda’s settlement policy. Indeed, previous RLP research has shown that the government of Uganda (GoU) has failed to meet its obligation³⁸ to protect settlements and to preserve their civilian character.³⁹ In fact, many self-settled refugees cited repeated rebel attacks as the reason why they had abandoned settlements. As one refugee alleged:

When we arrived in the camp we were registered and given food until 1995, when we were transferred to North Ikafe zone where we stayed for two years. So in 1997 rebels disturbed us. We then on our own decided to go to Koboko where we settled with Ugandans and we rented houses at a cost of 3000 – 5000 [Ugandan] shillings. After that we completed a year in Koboko and we were then taken to Imvepi. ... The rebel activities still continued. Life was so hard, we only stayed for two years and then we came back to Koboko where most refugees are still living.⁴⁰

Another refugee who had lived in Imvepi said that he and his fellow refugees had left the settlement and come to Koboko because of what he called “mistreatment.” In the settlement, he said, “The LRA⁴¹ rebels cut our ears, [and] locked our mouth with padlocks. I ran from Sudan because of war and when I am killed in Uganda what does that mean? That’s why I ran away from the camp.”⁴² A Sudanese woman stated, “We went to the camp in Imvepi, but because of attacks by rebel groups I fled with my children to Koboko.”⁴³

Imvepi refugee settlement was by no means the only settlement in which refugees experienced insecurity. A refugee who had stayed in Ikafe refugee settlement said, “I left Ikafe because of a heavy burden on me and my children. When the *gorogoro*⁴⁴ attacked we usually slept in the bush, it rained on us, the sun at times was hot and it was also cold.”⁴⁵

³⁸ ExCom Conclusion No. 77 (XLVI) – 1995, at paragraph q, “calls on States of refuge to take all necessary measures to ensure that the civilian and humanitarian character of refugee camps and settlements is maintained and, in this regard, calls on all other States to assist them; and further calls on States of refuge to take effective measures to prevent the infiltration of armed elements, to provide effective physical protection to refugees and asylum-seekers, and to afford UNHCR and other appropriate organizations prompt and unhindered access to them.”

³⁹ See, Lucy Hovil *Refugees and the Security Situation in Adjumani District*, Refugee Law Project Working Paper No. 2, June 2001, especially p.11, and Lucy Hovil and Eric Werker, *Refugees in Arua District: A Human Security Analysis*, Refugee Law Project Working Paper No. 3, September 2001.

⁴⁰ Interview with Sudanese refugee (man), Kuluba Sub-County, 16 February 2005.

⁴¹ In most cases refugees could not distinguish between the different rebel groups that operated in West Nile. See footnote 44 below.

⁴² Interview with Sudanese refugee (man), Koboko Town Council, 14 February 2005.

⁴³ Interview with Sudanese refugee (woman), Koboko Town Council, 19 February 2005.

⁴⁴ The term *gorogoro* was used by refugees to refer to rebel groups that operated in Arua and Yumbe district, rather than a particular one.

⁴⁵ Interview with Sudanese refugee (man), Koboko Town Council, 13 February 2005.

In many cases, refugee settlements and transit camps came under repeated attack by the rebels. During such attacks, the rebels warned the refugees to leave the settlements and not to return. Thus the refugee from Ikafe who was quoted above described the rebel attack that had finally forced him to permanently leave the settlement in the following terms:

My property was also looted while I was being questioned. Outside my things were being ferried out. My wife was put on gun point and told for any noise she made it would cost her her life. I was asked why I chose to come to Uganda. Why I don't go back and I told them I didn't choose to come here. When you say it's the government that gave you land, it would [annoy] them so I had to say it was UNHCR. I had no decision to make and when asked about wasting land of Uganda I told them that it was UNHCR. They even threatened that if they came back and found me still in Ikafe it would be the end of my family and me.⁴⁶

Some refugees stated that when their settlements first came under attack, they decided to leave Uganda and go back to Sudan because they thought that it was safer there. However, as one refugee told us, when the SPLA captured Yei in 1997, many fled again to Uganda, where they were registered in Koboko and then transferred to Rhino Camp.⁴⁷

2.1.2 Socio-economic Conditions in the Settlements

Many self-settled refugees cited the harsh conditions in the settlements in terms of food security and the poor quality of services such as health and education as another reason for leaving the settlements. Thus the refugee mentioned in the previous paragraph went on to explain why, after having fled from Sudan for a second time, he had not stayed in Rhino Camp but had come to Koboko as a self-settled refugee. This move had not been prompted solely by security concerns, but by the harsh material conditions in the settlement. Indeed, the situation in the settlement was so desperate that ultimately this man and his brothers decided to take a chance and move out in an attempt to build a better life for themselves as self-settled refugees in Koboko:

In 2002 I was in P5 [the fifth year of primary education] and there was no proper school and no one to cook food, and no food. The chairman and block leaders were never concerned about our complaints. There were two health centres in Rhino Camp but it was not easy to get medicine there. You had to know someone in order to get the medicine. So my brothers and me decided to leave the camp and come to Koboko on foot with our property, some of which we sold to get some money to assist us in Koboko.⁴⁸

Other refugees advanced similar reasons for leaving the settlements. In the course of a focus group discussion with a number of self-settled Sudanese refugees, all of whom had lived in settlements prior to self-settling, the following observations were made:

⁴⁶ Interview with Sudanese refugee (man), Koboko Town Council, 13 February 2005.

⁴⁷ Interview with Sudanese refugee (man), Koboko Town Council, 14 February 2005.

⁴⁸ Interview with Sudanese refugee (man), Koboko Town Council, 14 February 2005.

Your question is good concerning the situation in the camp. It is exactly as though you are in prison. The first issue is the situation in the camp is really bad because some of the camps are situated in places which are not habitable. Even building shelter for my children was impossible. Education in the camp is not up to date, no nursery and even the distances are very long and parents just abandon the idea of taking children to school.

You can now see refugees have left the camp because of the conditions in the camp. When you see us here [self-settled in Arua] you cannot tell that we are refugees because we do leja-leja [causal work] to get money and we are able to eat good food and acquire better education. In the camp even getting 100 Ugandan Shillings [approximately 6 US cents] to buy soap is impossible. Also, the land [plots allocated to refugees for cultivation] is very small.⁴⁹

A health worker echoed the allegations of refugees regarding conditions in settlements:

Facilities in the camps are extremely poor, e.g. medical and education and this is why they ran away. I have stayed in the camp before but it was a short while. Movement in camps is restricted and security there, you must be conscious because enemies can come and attack.⁵⁰

A Local Councillor observed that those refugees who have a choice whether or not to stay in the settlements do in fact leave. Only those refugees who would not be able to survive outside the settlement structure remained:

There are so many people who have run away from the camps and they even have IDs of the camp. First, when UNHCR took people to the camp, they were very aware that they had left people behind. The camps are only for the old people. The strong people and the youths are all in towns.⁵¹

Two accounts of refugees confirmed this assessment:

In camps food was a problem. If you settle yourself, you live. If you are desperately poor, you go to camps. Those self-settled are those who have something.⁵²

People in camps are not there because the situation is okay. The people in town are people like me, young and energetic. People just sacrifice to stay in the camps because for example if you have seven children, where in town will you get food for these seven children in your old age?⁵³

Although refugees leave settlements for many reasons, security and socio-economic conditions are clearly among the most immediate concerns. This reality is in direct

⁴⁹ Focus group discussion with refugees of mixed nationalities, Arua Town Council, 21 February 2005.

⁵⁰ Interview with health worker, Koboko Town Council, 18 February 2005.

⁵¹ Group interview with LCs, Koboko Town Council, 15 February 2005.

⁵² Interview with school teacher, Koboko Town Council, 17 February 2005.

⁵³ Focus group discussion with Sudanese refugees, Arua Town Council, 23 February 2005.

contradiction with the supposed justification of settlements as a means of protecting refugees. Furthermore, it challenges official claims that the assistance provided to refugees is adequate and in some instances above national standards.⁵⁴ Although life outside the settlements can also be extremely difficult, many refugees prefer it to life in settlements.

2.2 Conditions in Koboko for Self-settled Refugees

This section examines the livelihoods of self-settled refugees in Koboko, focusing on their economic circumstances as well as their relations with their Ugandan hosts. Although refugees described their situation in both negative and positive terms, overall they expressed a preference for self-settlement as opposed to living in settlements. While refugees in Koboko share many of the same conditions as nationals living there, the former have particular constraints owing to their status and lack of formal recognition by and support from the OPM and the UNHCR.

2.2.1 Livelihoods and coping strategies

After leaving settlements, some refugees settled in Arua town, while others moved directly to Koboko. It was clear from talking to the self-settled refugees in Koboko that for many of them, living conditions there were far from easy. One refugee gave the following account of his survival strategies in Koboko:

From January to March in Koboko there is hunger, so when you go to Kaya, a basin of cassava is less compared to that in Koboko and you make a profit. I also at times cross in Congo to do the same. For a day's meal, we sometimes eat only one meal in the evening but not always, it's only when the situation is terrible. The young ones also adapt to the situation.⁵⁵

Another refugee stated:

This place is okay but we are suffering from poverty. There is no work to do, we are just distilling alcohol in order to get money to educate the children, my husband has no job and we live together. We are living in an area gazetted to be a market and when we are evicted we don't know where we shall go. There is no one who can talk for us.⁵⁶

As another refugee explained, UNHCR and its implementing partners do not provide assistance to self-settled refugees in Koboko:

⁵⁴ Interview with government official, Arua Town Council, 22 February 2005, "What I know is that by nature, a refugee will accept he or she is better than a national."

⁵⁵ Interview with Sudanese refugee (man), Koboko Town Council, 13 February 2005.

⁵⁶ Interview with Sudanese refugee (woman), Kuluba Sub-County, 20 February 2005.

I used to get some assistance from the UNHCR but when they realised that I had left the camp, they have cancelled my name and as a result have thrown away the card of refugees due to anger.⁵⁷

We don't get some assistance from the refugee camp since we refused to go back to other camp for settlement, then we were not considered as refugees.⁵⁸

However, despite the obvious difficulties they faced in Koboko, on the whole refugees were adamant that they preferred living in Koboko to life in the settlements. As one refugee said, "living in Koboko is an evil but it is a lesser evil than living in the settlements."⁵⁹ Other refugees agreed:

I prefer to live outside the camp because life in the camps is very difficult. For instance, we moved for miles in the camp to look for water. It is the same problem in Koboko, but with Koboko it is only during the dry season. This place is good; the market, schools and health centres are near and I am happy with that.⁶⁰

The land here is a bit bigger than the one given by the UNHCR in the camps, at least I am able to get enough food, though I cannot get enough food for sale. But the camp situation is worse.⁶¹

2.2.2 Relations between refugees and Ugandan hosts in Koboko

Generally speaking the refugees in Koboko appeared to enjoy good relations with their Ugandan hosts. Many Ugandans commented on the fact that they themselves had been refugees in Sudan or the DRC, where they had been received well and had benefited from their hosts' hospitality and assistance. Indeed, ethnic identities were identified as another important factor contributing towards the harmonious relations between refugees and Ugandans. As one Ugandan man told the RLP, "Our stay with refugees is normal. It is the artificial boundaries that separate us."⁶² A local councillor further explained:

When the colonialists came here they did not put into consideration the tribes. We Kakwas are in Congo, Sudan and Uganda. Those are our brothers.⁶³

People frequently pointed to the phenomenon of intermarriage as evidence of the good relations between Ugandan nationals and the refugees:

⁵⁷ Interview with Sudanese refugee (woman), Koboko Town Council, 14 February 2005.

⁵⁸ Interview with Sudanese refugee (woman), Koboko Town Council, 14 February 2005.

⁵⁹ Focus group discussion with self-settled refugees, Arua Town Council, 22 February 2005. Similar words were used by self-settled refugees in another focus group discussion in a different village in Arua Town Council, 23 February 2005.

⁶⁰ Interview with Sudanese refugee (woman), Koboko Town Council, 19 February 2005.

⁶¹ Interview with Sudanese refugee (man), Kuluba Sub-County, 16 February 2005.

⁶² Interview with Ugandan national (man), Koboko Town Council, 19 February 2005.

⁶³ Group interview with LCs, Koboko Town Council, 15 February 2005.

...[M]y wife is a Sudanese and I am not afraid she will go back [repatriate]. People from Yei South are good, when we fled there we also didn't go to the camp, we simply stayed with them. When I have a problem with her [wife] I just go to her home [in Sudan]. Dowry is not as expensive compared to Uganda. I paid dowry and that is why when I go there they receive me. My two sisters also married Sudanese men. This starts from school, if I identify a Sudanese girl in school and I feel I can marry her after, I do.⁶⁴

Reference was also made to specific efforts aimed at maintaining the good relations between refugees and their Ugandan hosts. For example, refugees and Ugandan nationals alike quoted refugee leaders who urged refugees to maintain a state of peaceful co-existence with their Ugandan hosts. Similarly, a radio programme on Radio Koboko, called "Salia Musala" was referred to as being aimed at promoting mutual understanding between the Kakwa of Uganda, Sudan and the DRC:

There is a programme on radio called "Salia Musala." It is about the Kakwa in Koboko. Kakwa Congo, Kakwa Sudan and Kakwa Uganda. The programme promotes unity among the people. So in Koboko, the relationship between refugees and nationals is okay. Outside Koboko, people don't like them. That is why in Yumbe, they are in camps. In Koboko, they are among the people. [...] It is on Radio Koboko. [...] People also share events [...] During the time of our grandparents, they used to go for feasts in Sudan. The grandparents were united. This sort of relationship is cemented by Salia Musala.⁶⁵

While it is true that in the course of the field research both refugees and Ugandans commented positively on their relations, care must be taken not to overstate the depth of these relations. In particular, it would appear that Ugandans' perceptions of the relations between themselves and the refugees are to some extent dependent on the context. For example, in contrast to the present study, field research conducted by the RLP in April 2005 in Yumbe and Koboko focused on traditional systems of justice and reconciliation. In the course of the interviews conducted for that study, Ugandan nationals described their relations with the refugees as more fraught with tensions, particularly in relation to the issue of security.⁶⁶

Competition for resources between Ugandans and non-Ugandans is another potential source of friction. Indeed, Koboko's geographic position adds to the strains under which its services operate. A health worker at Koboko Health Centre, for example, reported that the centre receives patients from as far away as Yumbe District, Maracha County, Sudan, and the DRC. As a result of the large population it has to serve, there is a constant shortage of drugs.⁶⁷ The same informant also commented upon the high incidence of HIV/AIDS in the

⁶⁴ Interview with LC, Koboko Town Council, 19 February 2005.

⁶⁵ Interview with Ugandan national, Koboko Town Council, 17 February 2005.

⁶⁶ Forthcoming RLP study on traditional methods of conflict resolution and reconciliation in West Nile, April 2005.

⁶⁷ Interview with health worker, Koboko Health Centre, 18 February 2005.

area, with HIV-related tuberculosis (TB) being a common medical problem, particularly among men. The high incidence of HIV/AIDS was attributed to the town's central position on the Uganda-Sudan and Uganda-DRC routes. As such, it attracts traders and truck drivers taking relief supplies to Sudan, as well as prostitutes of various nationalities.

Furthermore, some refugees complained of being taken advantage of, or being discriminated against, by Ugandan nationals:

I have heard that when someone wants to cultivate land, the landlord gives land to a Sudanese and he [the Sudanese national] clears a field to cultivate and plant. After planting your crops and harvesting them the landlord comes and tells you that he wants to cultivate his land. Also when you get grass from the field to thatch a *tukul*, at times the owner of the grass after allowing you to cut the grass waits until after you have cut the grass and then tells you that the grass is for sale. Also some of us have experience in some field and when we get a job we are underpaid because we are refugees. This happened when I was working with [an NGO] in Gbeng Camp. We were underpaid because we were refugees and yet Ugandans were paid a high salary. Yet we were doing the same job.⁶⁸

On the whole, RLP findings showed that relations between Ugandans and refugees were perceived to be positive by members of both groups. One Local Councillor stated that segregation of refugees and locals had led to tensions, and in fact that relations had therefore improved ever since the refugees left a since-closed transit camp and came to live in the community.⁶⁹

2.3 Bridging the Gap: The Self-Reliance Strategy (SRS) and Socio-Economic Integration

The OPM and UNHCR introduced the Self-Reliance Strategy (SRS) in 1999 as a developmental response to refugee management that promised benefits to both refugee populations and their hosts. The strategy of the SRS is “to find ways to integrate the services provided to refugees into regular government structures and policies.”⁷⁰ In theory, this addresses a major drawback of the settlement policy, namely that of parallel service delivery, whereby the infrastructure set up in settlements for the benefit of refugees is not accessible to Ugandan nationals. Therefore, the SRS aims to bring refugees “to a situation where they are able to manage their own lives and share services with the nationals.”⁷¹ Despite these commendable ambitions, the SRS does not provide for the social and economical integration of refugees into Ugandan society. In this sense, it merely represents a modification of the existing settlement policy. Accordingly, Koboko, which hosts only self-settled refugees, does not benefit from funding provided by the SRS. Nonetheless,

⁶⁸ Interview with Sudanese refugee (man), Kuluba Sub-County, 20 February 2005.

⁶⁹ Interview with LC, Koboko Town Council, 19 February 2005.

⁷⁰ Office of the Prime Minister and UNHCR Uganda, *Strategy Paper: Self-Reliance for Refugee Hosting Areas in Moyo, Arua and Adjumani Districts, 1999-2005*, Kampala, 1999, p. 2.

⁷¹ *Ibid*, Foreword.

refugees in Koboko have made significant progress in economic and social integration without the support of the UNHCR or the OPM, but with the assistance of the local government. This situation, however, is not sustainable, as local government budgets do not provide specific allocations for assistance to refugees.

RLP findings suggest that both refugees and Ugandan host communities would benefit enormously from a widening of the scope of the SRS so as to encompass self-settled refugees. Indeed, serious concerns were raised about the efficacy of the SRS as long as it remained restricted to refugees in settlements. As one NGO worker said:

SRS is meant to integrate the hosts and refugees into doing what can be helpful to them to generate income but it has not been effective and has not worked out. ... Primary schools that are set up in camps [refugee settlements] and that have a student population of 100% refugees will become wasted and remain in the bushes. Because even 10 children from the villages [i.e. Ugandan nationals] cannot be found to study here. The settlements are far away because these areas are in semi-arid areas and the soil is exhausted. UNHCR and Government will have to come and think of what to do. Planning is needed or else it will be a waste of resources.⁷²

There was significant frustration with OPM/UNHCR's refusal to accept responsibility for the self-settled refugees, as evidenced by the following observation by a local councillor:

Assistance to [self-settled] refugees is very necessary. They came to the district after the census and the services for the district became very small and were not enough, so this became a problem. UNHCR has to put in a helping hand in service delivery. ... UNHCR should come up and help the self-settled refugees. Our children go to the same school with the refugees, and the classrooms are not enough, drugs are not enough. ... We have lived with these people and we shall live with them for as long as they want, but UNHCR should come and make up for the refugee population. We lack teachers in schools were refugees have influxed [sic] and government can't send us teachers. UNHCR should fill the gap. If OPM says there are no refugees they ... should send people to the ground. UNHCR should also put into consideration the disabled and find a way of assisting them. ... UNHCR should at least build more schools to accommodate the increased population, sink more boreholes and stock health centres. ... It was the decision of the refugees to remain in Koboko and not go to Rhino Camp or Imvepi, so they should equally be given assistance. It is us as a district who suffer because resources are squeezed.⁷³

Arguably, by limiting the Self-Reliance Strategy to refugees in settlements, the OPM and the UNHCR are foregoing an opportunity to implement the SRS in a situation where its benefits would be felt most. As was pointed out above, the presence of self-settled refugees places a tremendous strain on local government's ability to provide for the needs of Ugandan nationals and refugees alike. This in turn jeopardises the good relations between

⁷² Interview with NGO worker, Arua Town Council, 22 February 2005.

⁷³ Group interview with LCs, Koboko Town Council, 15 February 2005.

refugees and their Ugandan hosts. Professionals in both the health and education sectors shared these views. As a teacher stated:

The only problem about refugees is that the few resources are strained. ... UNHCR has a policy that they cater for only people in the camps but UNHCR should realise they need to support the people in self-settlement.⁷⁴

3 REFUGEES OR ECONOMIC IMMIGRANTS?

In the course of research, several people, particularly government officials, referred collectively to Sudanese and other non-Ugandans living in Koboko as “aliens” without making distinctions between refugees and other categories of aliens, such as economic migrants. This section examines the official attitudes towards self-settled refugees in Koboko and clarifies their legal status under Ugandan and international law, with a view to challenging the perception that only those who are living in settlements are genuine refugees. This false assessment has influenced some officials of the GoU and the UNHCR and its implementing partners. For example, a district official, when asked whether her department worked in Koboko, said:

We don't work around Koboko [because] Koboko is not a refugee settlement. According to UN, those in Koboko are called aliens, not registered refugees.⁷⁵

Statements such as these indicate the extent to which some local officials and other staff on the ground have been influenced by the government's attitude described in the Introduction that—with few exceptions—those living in settlements are the only “true” refugees. This position was echoed by officials at all levels, including Immigration Officers and Special Branch Officers⁷⁶ of the police and OPM officials, evidencing a serious lack of knowledge of refugee law. For example, a government official working closely on refugee issues told us “there are no refugees in this area. They are in Rhino Camp and Imvepi, which are here in Arua District.”⁷⁷ When the same question was put to another man working in the Koboko Town Council immigration office, he explained that the people who cross the border at Oraba were just local Sudanese coming to Uganda to trade.⁷⁸

⁷⁴ Interview with NGO worker, Koboko Town Council, 20 February 2005.

⁷⁵ Interview with district official, Arua Town Council, 22 February 2005.

⁷⁶ This department of the police is an important actor in the Status Determination process and is the focal point for refugees' dealings with police.

⁷⁷ Interview with government official working closely on refugee issues, Koboko County, 16 February 2005. The official made this statement after the research team had explained the objectives of the research. The same statement was then repeated by a Security Officer who was present during part of the interview.

⁷⁸ Interview with Ugandan man, Koboko Town Council, 15 February 2005. The exact status of this man is unclear, because although he was working in the office, he claimed not to be an Immigration Official. This casts doubt on the procedures implemented by the Immigration Office in Koboko Town Council.

These attitudes, however, are in sharp contrast with the perception of many local government officials. As one Councillor said, “Saying that there are no refugees in Koboko is a complete lie. OPM and UNHCR believe that for someone to be called a refugee he has to be in a camp. Those who are outside the camp can look after themselves and so they don’t consider them.”⁷⁹ Another local government official made a similar statement:

I am so disappointed to learn that politicians and government officials deny the presence of refugees. [...] I am just wondering what OPM/UNHCR are going to do for the self-settled refugees.⁸⁰

Another official echoed this sentiment:

Aliens are people who have come but they don’t have any problems but feel they want to be with us. Refugees are people who run a way from their country because of a problem. [Some] are in the camps and others back to the town are aliens. Even UNHCR, when we told them about the refugees, the aliens in Koboko, they denied them and said those are aliens and they have nothing to do with them.⁸¹

Although the presence of self-settled refugees in Koboko places a significant burden on local government and service providers because no budgetary provisions are made for these refugees, our findings show that some local government officials do not find it difficult to understand why refugees would leave the settlements. Some officials referred to the material conditions in the settlements themselves as a reason for why refugees had come to live in Ugandan communities. As one Local Councillor said, “They [refugees] came here because there is a drought and poor soil in Rhino Camp.”⁸²

Other officials acknowledged that the lack of income-generating opportunities in the settlements was an important reason for refugees to leave the settlements. Thus one Local Councillor stated, “Business is a problem in the camps and the majority leave the camp to come and do business.”⁸³ Similarly, a local government official observed:

We expect refugees in the settlements but ordinarily, we don’t expect them all to be in the camps because some are professionals. ... The refugees running away from the camps, it is inevitable. Some are urban people and we allow them to go to town and pay tax, have businesses and be part of the community.⁸⁴

Some of those officials with first-hand experience of the conditions in refugee settlements were equally understanding of the difficulties faced by refugees in the settlements. A former

⁷⁹ Interview with LC, Midia Sub-County, 21 February 2005.

⁸⁰ Interview with district official, Midia Sub-County, 21 February 2005.

⁸¹ Interview with LC, Koboko Town Council, 21 February 2005.

⁸² Interview with LC, Kuluba Sub-County, 20 February 2005.

⁸³ Interview with LC, Koboko Town Council, 21 February 2005.

⁸⁴ Interview with district official, Arua Town Council, 24 February 2005.

settlement official, for example, stated, “The refugee life is hard, you find someone is sick, the information reaches the health unit, but the assistance is given late, the health centre is very far. Also, people would lack food.”⁸⁵

The divergence between the official stance on refugees and the reality on the ground leaves many people in positions of authority confused about who a refugee is. Nevertheless, the majority of local government officials and local people the RLP spoke with were sympathetic to the situation of refugees and disappointed with the official policy. As a police officer told us, he and his colleagues were tolerant of self-settled refugees; even though the law stated that they had to be in settlements, the police chose not to enforce it because they considered it unfair.⁸⁶

3.1 Ugandan Law and Policy and International Standards

As demonstrated by the attitudes described above, the OPM stance on self-settlement—which has influenced many local officials—effectively limits who is considered a refugee and therefore who receives protection and assistance. In a discussion following the presentation of the findings of RLP Working Paper 14 in Arua Town, an OPM official claimed “there is no such term as self-settled refugees.”⁸⁷ The official elaborated on his claim by stating that under the 1951 Convention, refugees have not only rights but also duties, including the duty to respect the laws of their country of asylum. In Uganda, he argued, the applicable law requires that refugees reside in settlements, with the exception of those on the urban caseload. He asserted that the people who are often referred to as self-settled refugees in Koboko were in fact simply Sudanese nationals who crossed into Uganda at Oraba border post for the purposes of accessing services in Koboko. When asked why the government does not assess the legal status of asylum-seekers in Koboko he said, “We don’t shop for refugees.”⁸⁸

This statement is evidence of a fundamental lack of understanding of international refugee law and perhaps even Ugandan immigration and refugee legislation. It excludes two categories of refugees in Koboko: those who never formally claimed asylum in Uganda and those who were previously registered as refugees and who were living in settlements but who left the settlements in search of better conditions in Koboko.

3.1.1 Self-settled refugees who never claimed asylum

Those Sudanese in Koboko who decided to settle independently after fleeing from Sudan and have never officially applied for asylum in Uganda are not, strictly speaking, refugees

⁸⁵ Interview with a former refugee settlement official, Arua Town Council, 23 February 2005.

⁸⁶ Interview with Police Officer, Arua Town Council, 23 February 2005.

⁸⁷ Statement by OPM official, made in the course of a discussion following a public presentation by the RLP in Arua Town Council, 11 February 2005.

⁸⁸ *Ibid.*

under Ugandan law since they have never been formally registered as such by the OPM and the UNHCR, as required by the CARA.⁸⁹ The primary responsibility for claiming asylum lies with those who crossed the border into Uganda. Nevertheless, a person becomes a refugee “as soon as he fulfils the criteria contained in the definition” of the 1951 Convention; “Recognition of his refugee status does not therefore make him a refugee but declares him to be one.”⁹⁰ Furthermore, in light of the fact that Sudanese asylum seekers have been granted *prima facie* refugee status in Uganda, it is clear that had these Sudanese nationals officially presented themselves to the authorities as asylum seekers, they would have been granted refugee status.

Moreover, in the context of the OAU Convention, anyone who enters another African country fleeing “external aggression, occupation, foreign domination or events seriously disturbing public order”⁹¹ is a refugee. Therefore, the Sudanese who have self-settled in Koboko are indeed refugees because they fled events seriously disturbing public order in their country, as per that Convention’s refugee definition. While it cannot be ruled out that some Sudanese nationals who reside in Koboko initially crossed into Uganda to access services in Koboko, it is evident that this is not the case for all, or even the majority of Sudanese nationals in Koboko. This is borne out by the testimonies of Sudanese nationals in Koboko. As one Sudanese national stated:

When the war began our parents were having jobs, my mum was a midwife and my dad a teacher. We realised war began. People were torturing us, the government and SPLA soldiers tortured us and we suffered. We then realised people were being killed and many. At first our elders ... found out about the possibility of seeking refuge in Uganda. They came back and told us that refugees were being assisted and that’s when we came one by one. It’s not that we had no home in Sudan but we spent most time in the bush, especially when fighting was going on.⁹²

Other Sudanese nationals made statements to the same effect:

I left Sudan because of war. I came on foot up to Yei and then from Yei I came to Koboko on a vehicle. I never even stopped in a camp for any kind of registration and I never went to register anywhere as a refugee when I entered Uganda. [...] I think a lot about going back to

⁸⁹ The CARA identifies a refugee as “any person being one of a class of aliens declared by the Minister by statutory instrument to be refugees for the purpose of this Act.” CARA, s. 3(1).

⁹⁰ “A person is a refugee within the meaning of the 1951 Convention as soon as he fulfils the criteria contained in the definition. This would necessarily occur prior to the time at which his refugee status is formally determined. Recognition of his refugee status does not therefore make him a refugee but declares him to be one. He does not become a refugee because of recognition, but is recognized because he is a refugee” *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, UNHCR Geneva 1979, re-edited January 1992 (HCR/IP/4/Eng/REV.1), paragraph 28.

⁹¹ OAU Article 1(2).

⁹² Interview with Sudanese refugee (man), Koboko Town Council, 14 February 2005.

Sudan, because what brought me here is war and now that there is going to be peace, I want to go back home.⁹³

Therefore, under the applicable international law that the OPM claims to follow, those Sudanese who have fled generalised violence and persecution in Southern Sudan and self-settled in Koboko are in fact refugees even though they have not registered as such.

3.1.2 Self-settled refugees who left settlements

The second category of self-settled refugees in Koboko is the large number who formerly lived in settlements as refugees registered with OPM and UNHCR, but who left and now reside in Koboko. Their presence in Koboko contradicts OPM's claim that all the Sudanese there are merely aliens. The Uganda Citizenship and Immigration Control Act 1999 defines an alien as "any person who is not a citizen of Uganda."⁹⁴ Thus all refugees in Uganda are aliens.⁹⁵ However, not all aliens are refugees.⁹⁶ The Sudanese individuals in question clearly fulfil the definition of a refugee under the Uganda Citizenship and Immigration Control Act, since they have been recognised by OPM and UNHCR as such.

To the refugees themselves it is clear that the fact that they no longer reside in settlements does not mean that they have ceased to be refugees. As one refugee said, "The word refugee explains so many things. So many refugees are business people and some are farmers."⁹⁷

3.2 Questioning the Status of Settlements under International Law

The OPM has recently recognised that the CARA is obsolete; therefore the new Refugee Bill was drafted in an attempt to reconcile Uganda's domestic law with its international obligations, which OPM itself claims to follow "in handling refugees."⁹⁸ But the Refugee Bill itself retains elements of the CARA—particularly with respect to settlements—that are inconsistent with international refugee law. Although in legal terms the settlement policy is founded in national legislation, UNHCR cannot disavow its own responsibility for the

⁹³ Interview with Sudanese refugee (woman), Koboko Town Council, 15 February 2005.

⁹⁴ Uganda Citizenship and Immigration Control Act 1999, s. 3.

⁹⁵ Aliens who are refugees are excluded from the possibility of acquiring Ugandan citizenship, since s. 18(2) of the CARA stipulates that "for the purposes of the Immigration (Control) Act and the Uganda Citizenship Act no period of time spent in Uganda as a refugee shall be deemed to be residence in Uganda." [The Immigration (Control) Act and the Uganda Citizenship Act have been repealed by the Uganda Citizenship and Immigration Control Act 1999.]

⁹⁶ "'Refugee' means, subject to the Constitution, a person who is recognised as a refugee by the government and the United Nations High Commissioner for Refugees (UNHCR) under the relevant refugee instruments and the Control of Alien Refugees Act." Uganda Citizenship and Immigration Control Act 1999, s. 3

⁹⁷ Interview with Sudanese refugee (man), Koboko Town Council, 14 February 2005.

⁹⁸ In a letter to RLP, OPM stated that "the Government in handling refugees applies International Conventions relating to refugees specifically the 1951 and 1969 Conventions ratified by Uganda in 1976 and 1987 respectively." Letter from Permanent Secretary/Director for Refugees to RLP, dated 7 March 2005; on file with RLP.

policy. Not only did the agency play a significant role in the policy's establishment, but it continues to actively endorse it.⁹⁹

Neither the 1951 Refugee Convention nor the OAU Convention define a refugee based on where s/he resides; in fact, Article 26 of the 1951 Convention stipulates, in mandatory language, that contracting Parties to the Convention shall allow refugees lawfully in their territories the freedom to choose their places of residence and movement. The CARA, on the other hand, specifically and severely restricts refugees' freedom of movement in Uganda. Section 7(1) of the CARA provides:

The Minister, or any person appointed by the Minister for that purpose, may by order in writing to direct any refugee or any class of refugee to reside in a refugee settlement or in such other place in Uganda as may be specified in the order.

This provision forms the legal basis for the Government's settlement policy, under which refugees in Uganda are required to live in designated areas. Furthermore, Section 17 (3) of the CARA places restrictions on the movement of refugees from the settlements. The new Refugees Bill, while reflecting changes in Uganda's refugee policy in some other important aspects, retains the settlement structure in Article 44.¹⁰⁰

All of these provisions are inconsistent with the provisions of Article 26 of the Refugee Convention and effectively restrict choice of residence and freedom of movement, which are the gateway through which other rights, such as education health, and security can be enjoyed. Indeed, these provisions violate Article 2 of the International Covenant on Civil and Political Rights (ICCPR) which stipulates that contracting States parties shall guarantee the rights and freedoms of all people on their territories without discrimination on the basis of "race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."¹⁰¹ This reality casts serious doubt on the OPM's claim that GoU policy is consistent with international obligations.

⁹⁹ Following the success of the Algerian repatriation from camps managed by UNHCR in the 1960s, the organisation adopted the settlement policy to coordinate assistance and organise repatriation exercises throughout Africa. Gil Loescher, *The UNHCR and World Politics: A Perilous Path*, Oxford: Oxford University Press, 2001, pp. 106-108. Indeed, after the collapse of the Somali state in 1993, UNHCR made the encampment of Somali refugees a precondition for its provision of assistance to the Kenyan government. Guglielmo Verdirame and Barbara Harrell-Bond, *Rights in Exile: Janus-Faced Humanitarianism*, New York: Berghahn Books, 2005.

¹⁰⁰ The Bill empowers the Minister responsible for refugees to designate areas on public land to be used as transit centres or refugee settlements for purposes of temporarily accommodation of asylum applicants; and "local settlement and integration of refugees whose applications for refugee status have been granted." Clause 44 (1) a and b, The Refugee Bill, 2003.

¹⁰¹ International Covenant on Economic, Social and Cultural Rights, 993 UNTS 3, entered into force 3 January 1976, Article 2.

4 CONCLUSION

As this report has demonstrated, self-settled refugees in Koboko have created a viable alternative to living in settlements. Despite the many obstacles of self-settlement, and the lack of government or NGO support, the refugees interviewed overwhelmingly preferred self-settlement. The policy of limiting protection and assistance to those living in settlements is not only inconsistent with Ugandan and international refugee law, but also incompatible with refugees' full enjoyment of their human rights. Indeed, the self-settled refugees profiled in this study are legally entitled to be recognised as such under both Ugandan and international refugee law. Moreover, their presence and socio-economic integration benefits the refugees themselves as well as their Ugandan hosts.

At present, local governments in host communities do not take into account the presence of these extra people in their budgetary processes, and therefore local services including healthcare and education are placed under enormous pressure. This in turn endangers the good relations between refugees and hosts and undermines the SRS. In order to rectify this problem and to fulfil Uganda's obligations under international law, the GoU in cooperation with the UNHCR must widen the scope of the SRS to include self-settled refugees and provide assistance to local governments proportional to the number of self-settled refugees in their communities. This will unleash the productive and creative capacities of refugees as a means to promoting the achievement of sustainable development, stability, and the full enjoyment of the human rights of refugees and nationals alike.

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