

REFUGEE STATUS DETERMINATION PROCEDURE IN NIGERIA

The reception and handling of refugees and asylum seekers in Nigeria is governed by the provisions of the *National Commission for Refugees, etc. Act, 1989*, Chapter N21, Laws of the Federation of Nigeria, which, by its preamble, is:

An Act to establish the National Commission for Refugees for safeguarding the interest and treatment of persons who are seeking to become refugees in Nigeria or persons seeking political asylum in Nigeria and other matters incidental thereto.

The Act incorporates the 1951 United Nations Convention relating to the Status of Refugees, the 1967 Protocol and the 1969 Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa.

PROTECTION

The Act prohibits the refusal of entry, expulsion, extradition or return of persons seeking refuge, until the determination of their status and a reasonable period after the exhaustion of the determination of process. Indeed, section 1(3) stipulates that:

No person, claiming to be a refugee within the meaning of this Act who has illegally entered into or is illegally present in Nigeria, shall be expelled, extradited or returned merely by reason of his illegal entry or presence in Nigeria or any part of Nigeria pending the determination of his application for a refugee status.

FEDERAL COMMISSIONER FOR REFUGEES

The Federal Commissioner for Refugees, appointed by the President, is the official primarily charged with the care and protection of refugees. He is empowered by the Act to:

- (a) grant refugee status to applicants on the recommendations of the Eligibility Committee constituted pursuant to section 6 (1) of this Act;
- (b) preside over the committees on refugees, as may be appointed from time to time;
- (c) ensure the provision of adequate facilities and services for the reception and care of refugees in Nigeria;
- (d) take such steps as he considers necessary to ensure compliance with the provisions of section 1 (1) of this Act;
- (e) exercise such other powers and perform such other duties relating to refugees as may be assigned to him, from time to time, by the Commission or the Secretary to the Federal Government.

ELIGIBILITY COMMITTEE

The Eligibility Committee, which is under the supervision of the Federal Commissioner, consists of:

- (a) the Permanent Secretary, Ministry of Foreign Affairs or his representative, as chairman;
- (b) the director of the Immigration Department or his representative;
- (c) a representative of the Vice-President; and
- (d) the representative of the office of the United Nations High Commissioner for Refugees in Nigeria, who shall participate as an observer.

The functions of the Eligibility Committee are to—

- (a) process and consider applications for refugee status and recommend such applicants that qualify for that status to the Federal Commissioner;
- (b) register persons who have been granted refugee status under this Act; and

(c) exercise any other powers and perform any other duties that may be assigned to it, from time to time, by the Federal Commissioner for the Secretary to the Federal Government.

REFUGEE APPEAL BOARD

The Act entitles an unsuccessful applicant to appeal to the Appeal Board against the refusal of his application by the Eligibility Committee. The Act provides that the Board shall consist of:

three legal officers to be appointed by the Secretary to the Federal Government after consultation with the Attorney-General of the Federation and Minister of Justice, at least one of whom shall be a person with adequate knowledge in international and comparative law.

The Act provides for the Board to meet at the instance of the Federal Commissioner and the Secretary to the Federal Government. Furthermore, in practice, the Board and the Eligibility Committee sit at the instance of the office of the United Nations High Commissioner for Refugees too. Indeed, by section 7 (2):

The representative of the United Nations High Commissioner for Refugees in Nigeria may be invited to the proceedings of the Board and shall have the right to make oral or written representations on behalf of any person concerned in any appeal that is being heard by the Board.

The Board is approached through:

- Reference by the Secretary to the Federal Government
- Reference by the Federal Commissioner
- Appeal against refusal of an application by the Eligibility Committee
- Appeal against a decision to expel a refugee for reasons of national security or public order.

The Act enjoins the board to:

- ✓ give due consideration to any representations made on behalf of an appellant before coming to a final decision on the appeal and
- ✓ may invite the appellant for an oral interview and shall allow him to be represented by a legal practitioner, if he so desires.

THE APPLICATION FOR REFUGEE STATUS

Section 8 of the Act stipulates the procedure for seeking refugee status as follows:

(1) Application for the grant of a refugee's status shall be made to the Federal Commissioner through the nearest competent officer or through the office of the United Nations High Commissioner for Refugees in Nigeria.

(2) A competent officer to whom a person seeking asylum first presents himself shall, if he is not himself an immigration officer, as soon as possible notify an immigration officer that a person seeking refugee's status has entered into or is present in Nigeria.

(3) An application received by the office of the United Nations High Commissioner for Refugees shall be forwarded to the Eligibility Committee constituted under section 6 (1) of this Act.

(4) The Eligibility Committee may invite the applicant to appear before it.

(5) The decision of the Eligibility Committee shall be notified in writing to the applicant by the Federal Commissioner.

(6) If the Eligibility Committee recommends that the applicant shall not be granted refugee status, it shall give reasons for its decision.

(7) In the case of a refusal to grant refugee status, the applicant may appeal against the decision of the Eligibility Committee to the Board established by section 7 (1) of this Act within thirty days of his being notified of the refusal.

(8) While awaiting the final decision by the Board, the applicant shall be allowed to remain in the country in accordance with section 1 (3) of this Act.

(9) If the applicant is finally refused a refugee status, he shall be given reasonable time to seek admission as a refugee into another country.

FAMILY MEMBERS

Section 14 of the Act directs that:

The Federal Commissioner and all competent officers shall ensure that—

(a) the members of the family of a refugee benefit from the same treatment as provided in section 1 (3) of this Act;

(b) the members of the family of a refugee are permitted to enter Nigeria and to remain therein as long as the refugee concerned is permitted to remain in Nigeria under this Act.

RIGHTS AND DUTIES OF REFUGEES

The incorporation of the conventions stated at the beginning of this write-up is by section 15 of the Act:

Every person granted a refugee status in Nigeria shall be entitled to the rights and subject to the duties contained in—

(a) the articles of the United Nations Convention relating to the Status of Refugees set out in the First Schedule to this Act;

[First Schedule.]

(b) the Protocol Relating to the Status of Refugees of 31st January, 1967 set out in the Second Schedule to this Act; and

[Second Schedule.]

(c) the Organisation of African Unity Convention governing the Specific Aspects of Refugee Problems in Africa, set out in the Third Schedule to this Act; and

(d) any laws in force in Nigeria.

OBSERVATION

May we be permitted to express the view that the operation of the Act, through the National Commission for Refugees, has been fairly successful. Nigeria has had to manage quite a number of refugees from Liberia and Sierra Leone as a result of the Civil Wars that ravaged the two nations from the 1980's to the 1990's. The Commission's data base from the year 2004 to 2008 reveals that about 805 asylum seekers and 10,081 refugees were

handled in addition to the voluntary repatriation of 2,435 and return of 10,401 and the resettlement of 34 persons.

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