

**THE CENTER FOR POLICY ANALYSIS  
(CEPA)**

ECONOMIC RIGHTS OF UGANDANS AMIDST THE NEW WAVE OF IMMIGRATIONS

**POLICY SERIES PAPERS NUMBER 8-10 OF 2016**

**Published by CEPA**

P. O. Box 23276, Kampala

Email: [info@parliamentwatch.ug](mailto:info@parliamentwatch.ug)

Web site: <http://www.parliamentwatch.ug>

Okema Leonard

**Citation**

Okema L, (2016). Economic Rights of Ugandans Amidst the New Wave of Immigrations. CEPA Policy Series Papers Number 8-10 of 2016. Kampala

(c) CEPA 2016

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means – electronic, mechanical, photocopying, recording or otherwise without prior written permission of the publisher. CEPA Policy Series papers are developed and published with the generous grants from Open Society Institute for East Africa and National Endowment for Democracy. The reproduction or use of this publication for academic or charitable purpose or for purposes of informing public policy is exempted from the restriction.

The views expressed in this publication are not necessarily those of neither the Center for Policy Analysis nor its partners

## **Abstract**

The influx of aliens engaging in petty and retail trade and by implication infringing on the economic space and livelihoods of Ugandan citizens has lately precipitated debate on the economic rights of citizens versus that of aliens. Notable among those that have been in the thick of this debate has been the Legislature through its Committee of Equal Opportunities. The argument that has been that the state is duty bound to hedge its citizens and their livelihoods from infringement by the influx of aliens. The proponents of this postulation argue that petty and retail trade-which are considered ordinary and basic, should be a preserve of natives and citizens while aliens should be limited to profession-specific jobs whose skills base if limited among natives and citizens. The adherents of this view cite Article 40 (2) of the Constitution of the Republic of Uganda that states that every person in Uganda has the right to practice his or her profession and to carry on any lawful occupation, trade or business.

However a parallel school of thought believes that the intensification of globalization that has grossly spurred people and capital movement across borders warrants skills competitiveness and therefore the state should not deter skills and human capital movement through protectionist policies and laws that seek to shield natives from competition even at the expense of competitiveness. Besides increased people movement reshapes the cost of labour in a manner that may accrue dividends to investors. And for a country like Uganda where the attraction of foreign capital is a key economic driver, investors should have the latitude to determine the labour they employ regardless of the cradle of such labour. The proponents of this school of thought inter-alia cite the Investment Code Act which does not limit foreign investors from employing whoever they deem fit regardless of cradle. They also argue that there is no law or policy in Uganda that conditions the issuance of entry/work permits, investment and trade licenses to base on nationality or in a manner that deliberately protects citizens from aliens.

However in the wider scheme of affairs, some politicians have latched onto the appeal and the political expedience that a protectionist immigrations, trade and investment policy and legal regime that cushions natives from aliens brings with it. There are efforts to amend the Uganda Citizenship and Immigrations Control Act (Cap 66) to deliberately

protect citizens' economic space and livelihoods and a multi-sectoral inter- ministerial Technical Working Group has been set up to this end.

Considering the ramifications of this development on amongst other things reciprocity in international relations and the increase in the exportation of Ugandan workers, a critical appraisal of the protection of the economic rights and livelihoods of citizens versus aliens is timely; hence this paper.

## **Introduction**

As increased people and capital movement, mainly occasioned by globalization and increased regional integration, obliterates geographical borders and precipitates rapid change in demographic dynamics across the world, there is simmering conflict between citizens and aliens over the often limited economic space and livelihoods especially in developing countries like Uganda. The feeling among many citizens is that of entitlement over certain economic spheres like retail and petty trade and that government should ring-fence such spheres from interference or encroachment by aliens.<sup>1</sup>

In Uganda, porous borders, the influx of refugees<sup>2</sup> and lax post-entry monitoring of aliens amongst other factors, have increased the influx of both lawful and illegal immigrants and with it increased contestation for limited economic space including the sphere of petty and retail trade.<sup>3</sup> This has fueled debate on the economic rights of citizens versus aliens. Is there such a thing as economic rights of citizens especially in a developing country like Uganda? What are the economic entitlements of citizens? What is the locus of economic rights in the wider scheme of rights especially in a country where the general state of people rights is fragile? What enforcement mechanisms exist for the protection of any such entitlements? What is the future of economic rights of citizens?

While there is no single universally accepted definition of economic rights given its interchangeable use with property rights and entitlements, it generally denotes rights of access to resources and opportunities—such as land, labor, physical, and financial

---

<sup>1</sup> <http://www.theeastafrican.co.ke/news/Ugandan-traders-cry-foul-over-Chinese-/2558-2160308-o637ct/index.html>

<sup>2</sup> <https://www.theguardian.com/global-development-professionals-network/2016/aug/20/is-uganda-the-best-place-to-be-a-refugee>

<sup>3</sup> <http://www.theeastafrican.co.ke/news/Ugandan-traders-cry-foul-over-Chinese-/2558-2160308-o637ct/index.html>

capital—that are essential for the creation, legal appropriation, and market exchange of goods and services. (Carmine Gorga, 1999: 89).

Economic rights of citizens and aliens are a matter of prescription, recognition, protection and enforcement by the legal and policy regimes of host communities.

### **The ambiguity of Economic rights of citizens in Uganda**

Item XXIX of the *National Objectives and Directive Principles of State Policy* as contained in the 1995 Constitution of the Republic of Uganda enumerates the duties of a citizen one of which is to engage in gainful work for the good of that citizen, the family and the common good and to contribute to national development.

Article 40 of the same Constitution, on Economic rights, states that Parliament shall enact laws to inter-alia; provide for the right of persons to work under satisfactory, safe and healthy conditions and; to ensure equal payment for equal work without discrimination. Sub section (2) of the same article provides that every person in Uganda has the right to practice his or her profession and to carry on any lawful occupation, trade or business.

Parliament inter-alia enacted the Uganda Citizenship and Immigrations Control Act 1999 and the Investment Code Act 1991 to streamline the issuance of work/entry permits and preclude foreign investors from some economic activities respectively. However this hasn't been effective in stemming the continued proliferation of aliens in some economic spheres such as petty and retail trade much to the resentment of citizens.<sup>4</sup> This then ushers in the question of who a citizen is.

### **Who is a citizen of Uganda?**

Chapter 3 of the Constitution extensively deals with the issue of citizenship specifying the grounds for citizenship namely, birth, naturalization, descent, adoption and registration. In addition, Article 10 provides that; every person born in Uganda one of whose parents or grandparents is or was a member of any of the indigenous communities

---

<sup>4</sup>[http://webcache.googleusercontent.com/search?q=cache:OZ4v6tte2wAJ:www.mtic.go.ug/index.php%3Fdoc\\_download/132-press-release-on-registration-of-foreign-petty-traders/+&cd=1&hl=en&ct=clnk&gl=ug](http://webcache.googleusercontent.com/search?q=cache:OZ4v6tte2wAJ:www.mtic.go.ug/index.php%3Fdoc_download/132-press-release-on-registration-of-foreign-petty-traders/+&cd=1&hl=en&ct=clnk&gl=ug)

existing and residing within the borders of Uganda as at the first day of February, 1926, and set out in the Third Schedule to this Constitution; and every person born in or outside Uganda one of whose parents or grandparents was at the time of birth of that person a citizen of Uganda by birth.

Away from the legalities about citizenship, it is noteworthy that the porousness of Uganda's borders and the socio-cultural commonality of most border communities eases the influx aliens and their integration into neighbouring border communities.

Doubtlessly there are border communities from Uganda's neighbours; Rwanda, Kenya, Tanzania, Democratic Republic of Congo and South Sudan, such as Banyarwanda, Hima, Alur, Acholi, Babukusu, Bakonzo, Reli who continue to access, work and reside in Uganda.<sup>5</sup> In fact during the mass registration for National Identity cards in 2014, there were reports of aliens in this category of border communities registering for Ugandan National IDs.<sup>6</sup>

By implication therefore, the murky nature of identity and citizenship in Uganda, is in itself an impediment to the hedging of any economic space of citizens.

### **Citizens' awareness of their economic entitlements**

Given that the notion of economic rights of citizens presupposes a sense of entitlement to certain economic privileges, the extent of awareness of their entitlements by citizens is integral to partaking, protection and enforcement of any such entitlements. However in the context of Uganda, the reality of the existence of entitlement accruing to citizens in the economic sphere is a matter of debate. Ordinarily such entitlements would inter-alia encapsulate employment, minimum wage and deliberate protectionist laws and policies for the economic space of citizens.

Unfortunately, the low levels of civic awareness and participation by citizens in inter-alia holding the powers-that-be to account for their undertakings on various aspects of the

---

<sup>5</sup> <http://www.observer.ug/component/content/article?id=1917:no-banyarwanda-of-rwandese-origin>

<sup>6</sup> <http://accu.or.ug/aronda-orders-probe-into-aliens-registration-for-national-ids/>

afore-mentioned would-be entitlements has grossly widened the gap between expectation and reality with regard to the realization of economic rights of citizens. According to a 2014 National Population and Housing Census report by Uganda Bureau of Statistics, The trend of unemployment versus age is such that for the age group 14-19 years unemployment stands at 64%, the age group 20-24years stands at 65% and for those above 25 years, unemployment stands at 90%. With one of the youngest and fastest growing populations in the world and a fertility rate of 3%-one of the highest in sub Saharan Africa, the unemployment is bound to worsen unless strategic interventions are undertaken.

The proposed minimum wage legislation, tabled as a Private members' Bill in 2012, remains before the Parliamentary Committee on Gender, Labour and Social development well over 1000 days over and above the 45 days prescribed in the Parliamentary Rules of Procedure that governs the conduct of House business. All this points to a glaring absence of significant economic entitlement of citizens. The 2014 National Census report indicates that only about 5.14% of the households enumerated participated in trade as compared to the 43% who engaged in agriculture as an enterprise. This implies that while the most uproar has been on aliens engaging in retail trade, the proportion of Ugandans engaged in trade, as a means of livelihood is small. Therefore any protectionist interventions should be more robust.

### **Economic rights of citizens in the face of increased regional integration**

Increased regional integration especially within the East African Community has led to increased intra-Member State movement. Article 104 of the Treaty establishing the East African Community provides for free movement of persons, labour services, right of establishment and residence. The scope of the article stipulates that; "Partner States agree to adopt measures to achieve the free movement of persons, labour and services and to ensure the enjoyment of the right of establishment and residence of their citizens within the community". This implies that while Ugandan citizens of Member states may want to hedge their economic space and livelihoods from encroachment by aliens, they must contend with country obligations as per the treaty establishing the East African Community. Currently for instance, the number of Kenyans working in Uganda's hotels

has increased.<sup>7</sup> Ugandans therefore cannot continue to be inward looking with the onslaught of regional integration and attendant competition. This calls for governmental action in sharpening the competitiveness of Ugandan labour force to adequately compete for the often-limited economic space.

### **Economic rights within the wider framework of human and people rights**

The situation of economic rights is intertwined with the general situation of human rights in a society, hence the need to locate economic rights along the wider grid of human rights. Uganda experiences difficulties in the achievement of international standards of human rights for all citizens.<sup>8</sup> A case in point is Northern Uganda, which for nearly two decades, was ravaged by conflict. Thousands of civilians were subject to brutal attacks, rape, torture, extra-judicial execution and destruction of homes and communities. While over the last few years attempts have been made to prosecute some culprits, the pace of the realization of justice and accountability has been agonizingly slow. This slow pace of justice and accountability in many ways reflects the character of governance with regard to rights in general. In such a situation, any economic rights of citizens may remain in the statute books at best with its actual realization a far cry. It is no surprise therefore that while groups of native traders in urban areas such as Kampala protest the influx of aliens in retail trade, government is caught up in a cyclical process of pursuing legal and policy reform whose impact society awaits. All this as the proliferation of aliens in retail and petty trade continues.

### **Gaps in existing Immigrations laws**

While it is politically expedient to the electorate for politicians to be seen to safeguard the economic interests and livelihoods of citizens, the Uganda Citizenship and Immigration Control Act (cap 66) is silent on this. Matters are not helped by the seeming absence of a policy and regulatory framework to enhance and protect the economic rights and livelihoods of citizens. While Section 82 of the Uganda Citizenship and Immigration Control Act for instance grants general powers to the Minister of Internal Affairs to make regulations for the implementation of the Act, there was no evidence of any regulations in

---

<sup>7</sup> <http://www.monitor.co.ug/SpecialReports/Ugandans-are-perpetually-locked-out-of-the-hotel-labour-market/688342-1439574-1xohq2z/index.html>

<sup>8</sup> [https://en.wikipedia.org/wiki/Human\\_rights\\_in\\_Uganda](https://en.wikipedia.org/wiki/Human_rights_in_Uganda)

place that deliberately aims at securing the economic space and livelihoods of citizens in the issuance of entry/work permits. With the Investment Code Act, 1991 (Cap 92) similarly silent on any such protectionist strategies, it goes without saying that the current legal and policy regime that governs immigration and investment are significantly short of institutional safeguards for the economic space and livelihoods of citizens.

Proposed amendments to the Immigrations law remain in draft form in cabinet since its submission in 2012. When this Bill is finally tabled, it will be imperative to address intra-governmental coordination gaps in immigrations management, resourcing of the Directorate of Citizenship and Immigration Control, and deliberate protectionist strategies for the economic space and livelihoods of citizens in the issuance of work/entry permits and conditioning the licensing of businesses to specific immigrations terms and conditions.

### **Institutional limitations: the role of Uganda Investment Authority**

Uganda Investment Authority (UIA)-the statutory agency mandated to initiate and support measures that enhance investment in Uganda and advise Government on appropriate policies conducive for investment promotion and growth does not have the protection of the economic space of citizens as part of its mandate.

While Section 10 (2) of the Investment Code Act, 1991 limits the kind of industry that a foreign investor can participate in by excluding them engaging in crop production, animal production or acquiring or leasing land for the purpose of crop production or animal production; the third schedule of the same Act excludes foreigners from; wholesale and retail commerce, personal services sector, public relations business, car hire services and operation of taxis, bakeries, confectioneries and food processing for the Ugandan market only, postal services and professional services. However the absence of any synchronized government action in implementing this law has enabled aliens to increasingly engage in these very activities. A July 2016 presidential directive barring aliens from retail trade confirms this.<sup>9</sup> As it is, aliens continue to have their businesses licensed by city and municipal authorities without necessarily referring to their immigrations status. Coordinated action by the various public entities that govern

---

<sup>9</sup> <http://www.sunrise.ug/news/201607/museveni-orders-chinese-indians-to-quit-retail-trade.html>

immigrations and commercial activity will go a long way in hedging citizens' economic space from the proliferation of aliens.

Section 5 of the Trade Licensing Act, 1969 spells out the geographical boundaries where aliens can/can not conduct commercial activity and that the line of commodities they trade in should be that for which they are licensed. The inherent loophole is that it does not peg licensing to set clearances from the Directorate of Citizenship and Immigration Control and the Uganda Investment Authority. Since Licensing is at the tail end of the chain, it should be conditioned to clearances from DCIC and UIA. And local licensing authorities should be empowered and resourced to monitor compliance.

### **The limitations of mitigation measures by Government**

In a bid to stem the proliferation of aliens in retail and petty trade, the government instituted a Technical Working Group on the harmonization of procedures for the issuance of entry permits to aliens. This working group comprises representatives from the Ministry of Tourism, Wildlife and Antiquities, Ministry of Trade, Industry and Cooperatives, Ministry of Gender, Labour and Social Development, Ministry of Works and Transport, Uganda Investment Authority and the Directorate of Citizenship and Immigration Control. Considering that this Technical Working Group is inter-alia tasked with formulation of operational guidelines on the educational and professional levels of applicants for entry permits, there is need for it to be supported in its attempts to bolster the post-entry management of aliens. When the Executive ultimately tables the much awaited Uganda Citizenship and Immigrations Control (Amendment) Bill, the institutionalization of this inter-ministerial coordination framework should be considered to ease the management of aliens.

### **Conclusion**

From the fore-going analysis, the future of the economic rights of citizens in Uganda lies in legal and policy reforms that will explicitly streamline the acquisition and delineation of citizenship, strengthen post-entry monitoring of aliens, define and safeguard the economic rights and livelihoods of citizens, improve enforcement of existing legal and policy regimes, enlighten citizens of their rights and duties in general and galvanize them in the protection of their rights without fanning ethnocentrism and generally improve the

propensity of the state to secure and protect not only the economic rights but also the general rights of its citizens. There should also be deliberate governmental action in enhancing the competitiveness of Ugandan labour force so as to adequately compete for available economic space in the face of increased regional integration. In the pursuit of legal and policy reforms in the regulation of the conduct of commercial activity by aliens, government should also be alive to the principle of reciprocity in international relations where the treatment of a country's citizens by another may elicit a similar treatment from the other Country. The Uganda Citizenship and Immigration Control Act 1999 should be amended to redefine the parameters for the issuance of the various categories of work and entry permits in a manner that safeguards the skills areas and livelihoods of citizens. Only aliens with unique skills that are in short supply locally should be accorded work permits. In addition, amendments should explicitly provide for inter-governmental coordination in immigrations management especially post-entry monitoring. In the meantime, the Ministry of Finance, Planning and Economic Development should heed the Section 8A of the Uganda Citizenship and Immigration Control Act (as amended in 2009) providing for the retention of Non Tax Revenue by the DCIC as this would plug the endemic funding gap.

The Trade Licensing Act should be amended to peg licensing to compliance by prospective licensees to specific provisions of the Uganda Citizenship and Immigrations Act dealing with, amongst others terms and conditions of the specific categories of entry/work permits, the industrial parameters for engagement by aliens and security deposits.

The Investment Code Act should be amended to possibly triple the level of security deposits by prospective investors from US\$100,000 to US\$ 300,000 so limit the influx of foreign investors to only those that are intent on massive capital investment. In addition, the issuance of investment licenses should be pegged to specific quotas of shareholding and employment of natives

## REFERENCES

Carmine Gorga, (1999), *Toward the Definition of Economic Rights* in the Journal of Markets & Morality 2, no. 1(Spring 1999), 88-101; Center for Economic Personalism

World Bank, (2008), African Development Indicators 2008/2009: World Bank, Washington, DC

Uganda Bureau of Statistics, (2015), The 2014 National Census report; UBOS: Kampala

The Constitution of the Republic of Uganda, 1995

The Uganda Citizenship and Immigration Control Act, 1999

The Investment Code Act, 1991

The East African Community, (2002), The Treaty for the Establishment of the East African Community, EAC Secretariat: Arusha

Trade Licensing Act 1969 (As Amended in 2012)

<http://www.sunrise.ug/news/201607/museveni-orders-chinese-indians-to-quit-retail-trade.html> (Accessed on Saturday 8th October 2016)

[https://en.wikipedia.org/wiki/Human\\_rights\\_in\\_Uganda](https://en.wikipedia.org/wiki/Human_rights_in_Uganda) (Accessed on Sunday 9th October 2016)

<http://www.monitor.co.ug/SpecialReports/Ugandans-are-perpetually-locked-out-of-the-hotel-labour-market/688342-1439574-1xohq2z/index.html> (Accessed on Saturday 8th October 2016)

<http://accu.or.ug/aronda-orders-probe-into-aliens-registration-for-national-ids/> (Accessed on Saturday 8th October 2016)

[http://webcache.googleusercontent.com/search?q=cache:OZ4v6tte2wAJ:www.mtic.go.ug/index.php%3Fdoc\\_download/132-press-release-on-registration-of-foreign-petty-traders/+&cd=1&hl=en&ct=clnk&gl=ug](http://webcache.googleusercontent.com/search?q=cache:OZ4v6tte2wAJ:www.mtic.go.ug/index.php%3Fdoc_download/132-press-release-on-registration-of-foreign-petty-traders/+&cd=1&hl=en&ct=clnk&gl=ug) (Accessed on Sunday 9th October 2016)

<http://www.observer.ug/component/content/article?id=1917:no-banyarwanda-of-rwandese-origin> (Accessed on Saturday 8th October 2016)

<https://www.theguardian.com/global-development-professionals-network/2016/aug/20/is-uganda-the-best-place-to-be-a-refugee> (Accessed on Saturday 8th October 2016)

<http://www.theeastafrican.co.ke/news/Ugandan-traders-cry-foul-over-Chinese-/2558-2160308-o637ct/index.html> (Accessed on Saturday 8th October 2016)