LAWS OF SOUTH SUDAN

REFUGEE ACT, 2012

Act No. 20

Printed by the Ministry of Justice

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REFUGEES ACT, 2012

Arrangement of Sections

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LAWS OF SOUTH SUDAN

REFUGEES ACT, 2012

In accordance with the provisions of Article 86 (2) (3) read together with Article 55 (2) (3) (b) of the Transitional Constitution of the Republic of South Sudan, 2011, the National Legislative Assembly, ratifies and promulgate the following into law-

CHAPTER I

PRELIMINARY PROVISIONS

1. Title and Commencement.

This Act may be cited as "the Refugee Act, 2012" and shall come into force on the date of its signature by the President.

2. Repeal and Saving.

Any existing legislation governing the subject of this Act is hereby repealed; *provided that* any orders issued or regulations made thereunder, except to the extent they are cancelled by or are otherwise inconsistent with provisions of this Act shall continue in force and effect until repealed or amended by this Act.

3. Purpose.

The purpose of this Act is to give effect, within the Republic of South Sudan, to relevant international treaties, conventions and the principles and standards relating to refugee protection; to provide for the reception into South Sudan of asylum seekers; to regulate applications for and recognition of refugee status; to provide for the rights and obligations flowing from such status; and to provide for related matters.

4. Authority and Application.

This Act was drafted in accordance with the provisions of Article 52 and Schedule A Paragraph (6) of the Transitional Constitution of the Republic of South Sudan, 2011 which gives the National Government legislative and executive authority on all concurrent and residual matters and, specifically, on matters of nationality, immigration and Aliens. Its provisions shall apply throughout the Republic of South Sudan.

5. Interpretation.

In this Act, unless the context otherwise requires:

"Appeals Board" means the Refugees Appeals Board established under Section 21 of this Act;
"Assistant Commissioner'' means the Assistant Commissioner for Refugees for States appointed under Section 15 (2) of this Act;
"Authorised Officer" means a person referred to or designated as such under Section 23 of this Act;
"Asylum Seeker" means a person who has made an application for the recognition as a refugee under section 23 of this Act;
"Commission" means the Commission of Refugees Affairs established under Section 12 of this Act;
"Commissioner" means the Commissioner for Refugees appointed under section 14 of this Act;
"Country of nationality" in relation to a person with more than one nationality, means each of the countries of which that person is a national;
"Deputy Commissioner'' means the Deputy Commissioner for Refugees appointed under Section 15 (1) of this Act;
"Elementary education" means primary education as defined by the General Education Act, 2012;
"Eligibility Committee" means the Refugee Eligibility Committee established under Section 16 of this Act;
"Entry Point" means entrance point at the border of the Republic of South Sudan including natural airports, rivers entry points and any nearest government administrated center;
"Fraudulent" with its grammatical variations and cognate expressions, means deceitful and dishonest;
"Gender discriminating practices" includes strict and forced adherence to a dress code, obligatory pre-arranged marriages, physically harmful facial or genital mutilation, rape, domestic violence and other gender related negative activities;
"Geneva Convention" and "1951 Convention Relating to the Status of Refugees**"** means the convention adopted on 28 July 1951, which entered into force on 22 April 1954 and it's 1967 Protocol, also known as the New York Protocol, which entered into force on October 4, 1967.
"Integration" means a process of interaction and peaceful co-existence and the sharing of available services between refugees and nationals;
"Member of family of Refugees" means:

(a) a spouse or spouses of the refugee;
(b) dependent children of the refugee; and
(c) any person who is dependent on the refugee;

"Minister" means the Minister of Interior or any Minister Appointed by the President responsible for refugees;
"Ministry" means the Ministry of Interior of the Republic of South Sudan.
"Non-political crime" means a crime which is not of a political character or a crime which does not involve opposition to the government of a country on an issue connected with the political control or government of that country, or a crime which is not incidental

to or forming part of an organised political upheaval committed as part of an organised political party or body contending for power or political control of a country;
"OAU**"** means the Organization of African Unity established by the Heads of States and Governments of Africa in Addis Ababa, Ethiopia on 25th may 1963 and renamed as "African Union" on 9th July 2001;
"OAU Convention" means the convention governing specific aspects of refugee problems in Africa, adopted by the Assembly of Heads of States and Government of the OAU at its Sixth Ordinary session at Addis Ababa on 10th September 1969;
"Persecution" includes any threat to the life or freedom, or serious violation of human rights of a person on account of that person's race, religion, nationality sex, political opinion or membership of a particular social group and as long as a person is threatened with any harm which can reasonably be seen as part of a course of systematic conduct directed against that person as an individual or as a member of a class of person, on account of race, religion, nationality, sex, political opinion or membership of a particular social group, that person is being persecuted for purposes of this Act;
"Refugee" or recognised refugee" means a person who, having qualified to be granted refugee status under Section 7 of this Act, has been recognized as a refugee by the Eligibility Committee under Section 24 (2) of this Act or is a member of a class of persons declared to be refugees under Section 30 of this Act;
"South Sudan" means Republic of South Sudan;

"Travel document" means a travel document issued under or in accordance with the provisions of the Geneva Convention to a refugee lawfully staying in South Sudan, for the purpose of travel outside South Sudan;
"UNHCR" means the Office of United Nations High Commissioner for Refugees operating in South Sudan.

CHAPTE II

REFUSAL OF ENTRY, EXPULSION OR EXTRADITION

6. General Prohibition of Refusal of Entry, Expulsion, Extradition or Return to other Country in Certain Circumstances.

Notwithstanding any provision of this Act or any other law to the contrary, no person may be refused entry into South Sudan, expelled, extradited or returned to any other country or be subject to any similar measure, if as a result of such refusal, expulsion, extradition, return or other measure, such person is compelled to return to or remain in a country where:

(a) He or she may be subjected to persecution on account of his or her race, religion, nationality, political opinion or membership of a particular social group; or he or she becomes a citizen of South Sudan or acquires the nationality of some other country and enjoys the protection of the country of that new nationality; or

(b) His or her life, physical safety or freedom would be threatened on account of external aggression, occupation, foreign domination or other events

seriously disturbing or disrupting public order in either a part or the whole of that country.

7. Definition of Refugee.

Subject to provisions of Chapter IV of this Act, a person qualifies for refugee status for purposes of this Act, if that person:

(a) based on a well-founded fear of being persecuted by reason of his or her race, tribe, religion, nationality, political opinion or membership of a particular social group, is outside the country of his or her nationality and is unable or unwilling to avail himself or herself of the protection of his or her country, or, not having a nationality and being outside the country of his or her former habitual residence is unable or, owing to such fear, unwilling to return to it;

(b) based on external aggression, occupation, foreign domination or events seriously disturbing or disrupting public order in either a part or the whole of his or her country of origin or nationality, is compelled to leave his or her place of habitual residence in order to seek refuge elsewhere;

(c) is a dependant of a person contemplated in paragraph (a) or (b);

(d) based on well- founded fear of persecution due to gender discriminating practices, that person is compelled to leave his or her place of habitual residence in order to seek refuge in another place outside the country of his or her origin or nationality;

(e) that person is considered a refugee under any treaty obligation to which South Sudan is a party, or any law in force at the commencement of this Act and bilateral agreements concerning refugees.

8. Exclusion from Refugee Status.

(1) A person does not qualify for refugee status for purposes of this Act if there is reason to believe that such person:

(a) has committed a crime against peace, a war crime or a crime against humanity or genocide as defined in any international legal instrument dealing with any such crimes;

(b) has committed a serious non-political crime outside of South Sudan prior to admission to South Sudan as a refugee;

(c) has been guilty of acts contrary to the objects and principles of the United Nations or the Organization of African Unity; or

(d) enjoys the protection of any other country in which he or she has taken residence.

(2) For purposes of subsection (l) (c), no exercise of a human right recognized under international law may be regarded as being contrary to the objects and principles of the United Nations.

9. Cessation of Refugee Status.

(1) A person ceases to qualify for refugee status for purposes of this Act if:

(a) that person voluntarily re-avails himself or herself of the protection of the country of his or her nationality;
(b) becomes a citizen of South Sudan or acquires the nationality of some other country and enjoys the protection of the country of his or her new nationality; or
(c) voluntarily re-establishes him or herself in the country which he or she left.

(2) The refugee status of a person who ceases to qualify for it in terms of subsection (1) may be withdrawn in accordance with Section 39 of this Act.

10. Interpretation, application and administration of the Act.

(1) This Act shall be interpreted and applied with due regard to:
(a) The Convention Relating to Status of Refugees (UN, 195I);
(b) The Protocol Relating to Status of Refugees (UN, 1967);
(c) The OAU Convention Governing Specific Aspects of Refugee Problems in Africa (OAU, 1969);
(d) The Universal Declaration of Human Rights (UN, 1948); and
(e) any other relevant convention or international agreement to which South Sudan is or becomes a party.

(2) The Commissioner shall be responsible for the administration of this Act.

11. Delegation of powers and duties.

(1) The Minister may delegate any power granted to, or duty imposed upon him or her in terms of this Act, except the duty referred to in Section 9(2), to an officer in the Commissioner Department.
(2) A power or duty so delegated must be exercised or performed in accordance with the directions of the Minister, who may at any time withdraw such delegation.
(3) A delegation under subsection (1) does not prevent the Minister from exercising the power or performing the duty in question himself or herself.

CHAPTER III

ADMINISTRATIVE MATTERS RELATING TO REFUGEES

12. Establishment of the Commission of Refugees Affairs.

There is established a Commission of Refugees Affairs, which shall be a Public Office.

13. Functions of the Commission of Refugees Affairs.

(1) The Commission of Refugees Affairs shall be responsible for all administrative matters concerning refugees in South Sudan and shall, in that capacity, coordinate inter-ministerial and non-Governmental activities and programmes relating to refugees.

(2) Without prejudice to the generality of subsection (1), the Commission shall:

(a) be the secretariat of the Eligibility Committee;
(b) advise the Government and the Eligibility Committee on policy and other matters relating to refugees;
(c) advise the Government on international and regional conventions and government obligations relating to refugees;
(d) protect refugees and coordinate the provision of services for their welfare;
(e) identify and initiate projects for refugees and refugees affected areas;
(f) advise and work in liaison with the office of UNHCR and other organizations on refugee programmes and their implementations;

(g) implement national and regional development plans relating to refugees, in line with current international refugees practices;
(h) promote and participate in inter state and regional initiatives for voluntary repatriation of refugees returning to their countries of origin or habitual residence;
(i) promote South Sudan's regional and international cooperation on refugee matters with other countries and international organizations;
(j) obtain country-of-origin information relating to asylum seekers and refuge matters;
(k) be the custodian of government properties in refugees settlements;
(l) issue identity cards and recommendations for travel documents to refugees; and
(m) ensure maintenance of law and order in refugee settlements.

14. Commissioner for Refugees.

(1) There shall be a Commissioner for Refugees whose office shall be a public office and who shall be appointed by the President on the recommendation of the Minister.
(2) The Commissioner shall be the head of the Commission of Refugee Affairs and shall be responsible for the management of the Office and for the administration, organization and control of the staff of the Commission.
(3) Without prejudice to the generality of subsection (2) of this Section, the Commissioner shall:
(a) advise the accounting officer on the soliciting of funds for the care and welfare of refugees and rehabilitation of refugee affected areas;
(b) liaise with UNHCR and other agencies for the protection of refugees;

(c) formulate programmes for ensuring that adequate facilities and services for reception of refugees, settlement and integration are available;
(d) inform and advise the Eligibility Committee on matters relating to refugees status determination;
(e) receive and process applications for refugee status or other related applications for submission to the eligibility Committee for consideration and decisions;
(f) report to and advise the Minister regarding matters relating to refugees;
(g) advise the Minister on technical matters relating to refugees; and
(h) perform any other duties that may be assigned to him or her under this Act.

(4) In performing the functions under this Act, the Commissioner shall be responsible to the Minister.

(5) The Commissioner shall produce a bi-annual report on matters and activities relating to refugees which shall be submitted to the Minister,

(6) The Minister may give directions of specific or general nature to the commissioner and the commissioner shall comply with such directions.

15. Other Officers and Employees.

(1) The Deputy Commissioner for Refugees shall be appointed by the Minister on the recommendation of the Commissioner.

(2) An Assistant Commissioner to the states shall be appointed by the Minister upon recommendation of the Commissioner.

(3) There shall be such other Officers and employees of the Commission as may be necessary for effective implementation of this Act. Such employees shall be appointed by the Commissioner in accordance with public service regulations.

16. Refugee Eligibility Committee.

(1) There is established a committee to be known as the Refugee Eligibility Committee consisting of:

(a) a representative appointed by the Minister of Justice who shall be the chairperson of the committee, or his or her representative;
(b) a representative of the Ministry of Foreign Affairs who shall be the vice-chairperson of the committee;
(c) a representative of the Ministry of Defence;
(d) a representative of the Internal Security Organization;
(e) a representative of the Ministry of Gender, Child and Social Welfare;

(f) the Director General of the Directorate of Immigration, Passports and Nationality or his or her representative;
(g) the Chairperson of the Human rights commission or his or her representative;
(h) a representative of the Director of Border Police, Ministry of Interior;
(i) Representative of the Ministry of Humanitarian Affairs and Disaster Management.

(2) The Commissioner for Refugees Affairs or representative shall be an ex-officio member of the Eligibility Committee and shall serve as Secretary to the Committee.

(3) The UNHCR may attend meetings of the Eligibility committee in an advisory capacity at its discretion.

17. Functions of the Eligibility Committee.

The functions of the Eligibility committee are:
(a) to consider and deal with applications for refugee status in accordance with Section 23 (1) of this Act;
(b) where necessary, to review or revise cases previously dealt with by it;
(c) to advise the minister on matters relating to refugee status;
(d) to recommend to the Minister for his or her actions;
(i) cases of expulsion or extradition;
(ii) cases of cessation of refugee status;
(iii) cases where a person requires assistance to find an alternative country of asylum.

18. Meetings of the Eligibility Committee.

(1) The Eligibility Committee shall meet as often as is necessary to discharge its functions but shall in any case meet at least once in every month.

(2) The Chairperson of the Committee shall preside over meetings of the Committee and in absence of the Chairperson, the representative of the Ministry of Foreign Affairs shall preside.

(3) The quorum at a meeting of the Committee shall be five members, including the presiding member.

(4) The Secretary shall keep minutes of the meetings of the Eligibility Committee.

(5) The Secretary shall forward copies of the minutes of the meetings of the Eligibility Committee to the Minister.

19. Power to co-opt.

(1) The Eligibility Committee may co-opt any person to assist it in dealing with any matter if the committee is satisfied that such person has the requisite experience or qualifications likely to help the committee to deal with any such matter.

(2) A person co-opted under Section (1) is entitled to take part in the proceedings of the Eligibility Committee concerning any matter, but shall not be entitled to vote on any matter coming for decision before the Eligibility Committee.

20. Subcommittees of Eligibility Committee.

(1) The Eligibility Committee may appoint one or more Subcommittees to:
   (a) inquire into and advise the Eligibility Committee on matters within the scope of its functions as the Committee may refer to the Subcommittee; and
   (b) to exercise such powers and perform such duties of the Eligibility Committee as the Committee may delegate or refer to the Subcommittee.

(2) A Subcommittee shall consist of a Chairperson who shall be a member of the Eligibility Committee and such other persons, whether members of the Eligibility Committee or not, as the Eligibility Committee shall determine.

(3) A Subcommittee is subject to the control of the Eligibility Committee and may be discharged or reconstituted by the Eligibility Committee.

(4) A Subcommittee may be regulated by the Eligibility Committee at any time.

(5) Subject to any directions that may be given by the Eligibility Committee, a Subcommittee may regulate its own procedure.

21. Refugee Appeals Board.

(1) Establishment of Refugee Appeals Board

There is hereby established a Refugee Appeals Board. The headquarters of the Appeals Board shall be determined by the Minister. The Appeals Board shall function without bias and shall be independent.

(2) Composition of Appeals Board-
   (a) The Appeals Board shall consist of a Chairperson and at least two other members appointed by the Minister with due regard to suitability to serve as a member by virtue of the experience, qualifications and expertise of that person and capability to perform the functions of the Appeals Board properly;

(b) At least one of members of the Appeals Board must be a qualified advocate;
(c) A member of the Eligibility Committee shall not be a member of the Appeals Board.

22. Functions and powers of Appeals Board.

(1) The Appeals Board may receive and hear appeals from decisions of the Eligibility Committee.

(2) In any appeal before it, the Appeals Board may:
(a) affirm the decision of the Eligibility Committee;
(b) set aside the decision of the Eligibility Committee and refer the matter back to the committee for further consideration and decision;
(c) order a rehearing of the application.

(3) The Appeals Board shall expeditiously hear and determine any appeal referred to it and shall render its decision within sixty days after the date of receipt of the appeal.

(4) The Appeals Board shall not make a decision granting the status of refugee to an applicant.

(5) Written notification of the decision of the Appeals Board shall be sent in writing to the applicant within fourteen days after the date of the decision.

(6) Subject to this Act, the Appeals Board may determine its own procedure except so far as its procedures are prescribed by regulations made under this Act.

(7) The Minister may assign specific individuals employed in the Ministry to carry out certain administrative functions of the Appeals Board as may be necessary for effective execution of the work of the Board.

(8) The UNHCR may attend meetings of the Appeals Board in an advisory capacity, at its discretion.

CHAPTER IV

APPLICATION FOR REFUGEE STATUS

23. Application for refugee status.

(1) Any person who enters South Sudan and wishes to remain in South Sudan as a refugee may make a written application to the Eligibility Committee for granting

refugee status within a reasonable period of time after the date of entry of that person into South Sudan.

(2) An application made under subsection (1) of this Section may be submitted to an Immigration Officer at an entry point. Such application shall be conveyed to the Refugee Commission in a report and the asylum seeker shall be permitted to enter South Sudan.

(3) An application made under subsection (1) of this Section may be submitted to the Commissioner through an authorised officer or through the UNHCR.

(4) An authorised officer or UNHCR representative to whom an application is submitted under subsection (2) of this Section shall, as soon as is practicable, forward the application to the Commissioner.

24. Recognition of Refugee Status.

(1) The Commissioner shall, as soon as is practicable, process application for presentation before the Eligibility Committee and may:
   (a) require such further information from the applicant as may be necessary to support the application; and
   (b) carry out inquiries or investigations.

(2) The Eligibility Committee shall, within ninety days after the date of receipt of the application by the Commissioner, consider and determine the refugee status of the applicant and may, after making any inquiry or investigations as the Committee may consider necessary:
   (a) recognize the refugee status to the applicant; or
   (b) reject the application.

(3) The commissioner shall, within fourteen days after the date of the decision of the Eligibility committee, inform the applicant in writing of the decision of the committee.

(4) Where an application is rejected under subsection (2) (b) of this section, the Eligibility committee shall state the reasons for its decision in writing and the applicant shall be provided with a copy of the statement.

(5) For avoidance of doubt, the period of ninety days referred to in sub-section (2) of this section shall commence on the day following the date on which the applicant submitted the application to:
   (a) the Commissioner;
   (b) the authorised officer; or
   (c) through the UNHCR representative to the Commissioner or authorised officer.

25. Appeal to Appeals Board.

(1) An applicant may appeal a negative eligibility determination by the Eligibility Committee to the Appeals Board within thirty days after receipt of the notice of decision of the Eligibility Committee.

(2) Notwithstanding subsection (1) of this Section, the Appeals Board may hear an appeal filed after the expiry of thirty days if the appellant has shown justifiable cause for having filed a late appeal.

(3) At the hearing of an appeal under this Section, the appellant may appear before the Appeals Board in person or may be represented by an advocate at his or her expense.

26. Judicial Review.

An applicant may appeal a negative determination of the Appeals Board to the High Court with regard to findings and interpretation of law.

27. Application requiring urgent and special attention.

(1) Without prejudice to the requirement for a just and equitable procedure for the determination of refugee status, the Commissioner shall deal in an expeditious manner with applications requiring urgent attention, in accordance to procedures prescribed under this Act.

(2) The Commissioner shall expedite procedures with regard to applications of:

(a) persons with disabilities;
(b) trauma victims;
(c) detained persons;
(d) victims of torture;
(e) vulnerable persons; and
(f) unaccompanied children.

28. Residence pending decision of Eligibility committee.

(1) Notwithstanding the provisions of any law, a person who has applied for refugee status and every dependent shall remain in South Sudan:

(a) until his or her application is granted or rejected, and no appeal has been filed with refugee appeals Board;
(b) where an application is rejected, until that person has exhausted his or her right of appeal under this Act.

(2) Where a person has exhausted the right of appeal in relation to an application under which the refugee status has not been granted, that applicant shall be allowed to stay in South Sudan for a reasonable period to enable him or her to seek asylum or admission to a country of his or her choice.

(3) At the expiry of the period referred to in subsection (2) of this Section, the applicant whose application has been rejected shall be subject to other appropriate action under the applicable laws.

(4) The Minister may, on application by the applicant concerned, extend the period referred to in this subsection(2) of this Section if the Minister has reasonable grounds to believe that the person concerned is likely to be given asylum in or to be admitted to the country of his or her choice within the extended period.

(5) The Minister shall have the discretion to permit the applicant to remain in South Sudan indefinitely for humanitarian reasons.

29. Entitlement of asylum seeker after submission of application.

(1) After an applicant has submitted an application for refugee status, to the Eligibility committee under Section 23 of this Act, the applicant shall:
   (a) be issued with temporary document valid for a reasonable period not less than ninety days from the date it is issue , and thereafter the document shall be renewed every two months until all rights connected with or incidental to applications for refugee status are exhausted;
   (b) be informed of the presence of UNHCR services in South Sudan and given the opportunity to contact UNHCR representatives.

(2) The applicant is entitled to a hearing during the consideration of the application and, when needed, the state shall provide the services of a competent interpreter to the applicant.

(3) In exercising the rights granted under subsection (2) of this section, the applicant may be represented or assisted by a person of his or her choice, including an advocate at the expense of the applicant.

30. Group recognition, mass influx and temporary protection.

(1) The Minister may, if it is evident that a class of persons qualifies to be refugees under Section 7 of this Act, declare that class of persons to be refugees.
(2) The minister shall cause a declaration made under subsection (1) of this Section to be published in any manner that will best ensure that the declaration is brought to the attention of the authorised officers and persons to whom it relates.
(3) Where there is a mass influx of asylum seekers into South Sudan, The Minister may consult with the Minister responsible for Foreign Affairs to extend temporary protection by issuing an order permitting asylum seekers to reside in South Sudan

as temporarily protected persons without requiring their individual status to be determined under Section 7 of this Act.

(4) A declaration made under subsection (3) of this Section is valid until the cause of the influx into South Sudan from the country of origin or habitual residence ceases to exist.

(5) Where asylum seekers are permitted to reside in South Sudan under subsection 3 of this Section, they shall be subject to the general treatment and rights accorded to refugees under this Act.

(6) The exclusion of a specified person from a declaration made under subsection (1) of this Section shall preclude that person from applying to the Eligibility Committee for the grant of refugee status under this Act.

(7) The termination of temporary protection granted by the Minister under sub-Section (3) shall not preclude any individual of the group of asylum seekers from applying to the Eligibility Committee for the grant of refugee status under this Act.

31. Family of recognized refugee.

(1) Every dependent of a recognised refugee in South Sudan shall enjoy the same protection as that the recognised refugee and shall be permitted to enter and remain in South Sudan for as long as the recognized refugee is permitted to remain.

(2) Every dependent of a recognized refuge in South Sudan shall individually be issued with all necessary documents relevant to his or her status.

(3) On the death of a recognised refugee, every dependent of the recognised refugee in South Sudan shall continue to enjoy the protection referred to in subsection (1) of this Section.

(4) Nothing in this Section shall prevent a dependent of a recognised refugee from applying for the grant of refugee status in accordance of this Act.

32. Family reunification.

(1) A recognised refugee may apply to the Eligibility Committee for permission for a member or members of his or her family to enter and reside in South Sudan for purposes of family reunification.

(2) Regulations made under this Act shall prescribe the procedure for applying for a family reunification under subsection (1) of this Section, taking into account the principle of family unity.

(3) Where an application is made to the Eligibility Committee under subsection (1) of this Section, the Commissioner shall make investigations regarding the

applications and submit a report in writing to the Committee, specifying the relationship between the refugee and the person to whom the application relates.

CHAPTER V

RIGHTS AND OBLIGATIONS OF REFUGEES

33. Protection and General Rights and Obligations of Refugees.

Subject to this Act, every recognized refugee and every member of his or her family in South Sudan shall:

(a) be entitled to the rights contained in the international conventions to which South Sudan is party;
(b) be entitled to a formal written recognition of refugee status in the prescribed form;
(c) enjoy full legal protection, which includes the rights set out in Part Two of the Transitional Constitution of the Republic of South Sudan and the right to remain in South Sudan in accordance with the provisions of this Act;
(d) be entitled to an identity document referred to in Section 34;
(e) be entitled to a Convention Travel Document on application as contemplated in Section 35;
(f) be entitled to seek employment;
(g) be entitled to the same basic health services and primary education which nationals of South Sudan receive;
(h) be obligated to obey all laws of South Sudan.

34. Identity document to refugee.

(1) A refugee shall be issued with an identity document which shall contain:
(a) an identity number of the holder compiled in the prescribed manner;
(b) the holder's surname, full forenames, gender, date of birth and the place or country where he or she was born;
(c) the country of which the holder is a citizen, if any;
(d) a recent photograph of the holder.

35. Convention Travel Document.

(1) A refugee shall be entitled to a travel document.

(2) A travel document referred to in subsection (1) shall be in the prescribed form, as provided for in the Refugee Convention and shall conform to international standards prescribed for valid travel documents.

(3) A refugee shall be entitled to a Refugee Identification Card

36. Unaccompanied Child.

(1) Any child who is found under circumstances which clearly indicate that he or she is a child in need of care as provided in the Child Act, 2008, must be assisted in applying for asylum in terms of this Act.

(2) A *guardian ad litem* shall be appointed by the Minister of Gender, Child and Social Welfare to assure the best interests of the child are met.

37. Physically or Mentally Disabled Asylum Seeker.

(1) Any physically or mentally disabled asylum seeker or person who otherwise appears to qualify for refugee status according to Section 7 of this Act shall be assisted in applying for asylum in accordance with this Act in co-ordination with the Minister of Gender, Child and Social Welfare, including where necessary the appointment of a guardian ad litem.

CHAPTER VI

MISCELLANEOUS

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38. Principles of International Instruments to be followed.

In the exercise of their functions under this Act, the Eligibility Committee and the Appeals Board shall be guided by the principles laid down in relevant international instruments including but not limited to those defined in Chapter 1 of this Act.

39. Withdrawal of refugee status.

(1) Where the Commissioner has reasonable grounds to believe that a person who has been recognized as a refugee under this Act has misrepresented material facts in his or her claim or where fundamental changes in circumstances have occurred such that the person's status:
(a) should not have been recognised; or
(b) has ceased to be a refugee under this Act;

the Commissioner shall refer the case to the Eligibility Committee for determination whether or not the eligibility status of that person should be withdrawn.

(2) Where a case has been referred to Eligibility Committee under Section (1) of this Section, the Committee shall cause a written notice to be served upon the person whose refugee status is under consideration:

(a) informing that refugee of the fact that his or her refugee status is under consideration for withdrawal; and
(b) inviting that refugee to make written representations regarding the claim for refugee status to the Eligibility Committee within a reasonable period after the date of service of the notice on him or her.

(3) The Eligibility Committee:
(a) shall consider a case referred to it under subsection (1) of this Section;
(b) may take such inquiries or investigations as it may consider necessary concerning the case; and thereafter;
(c) may withdraw the recognition of that refugee on the grounds of misrepresentation of facts of a material or substantial nature regarding;
(i) the nationality of that refugee; or
(ii) the qualification for refugee status under this Act.

(4) The Eligibility Committee shall notify the person concerned in writing of its decision under this section.

(5) Any person who is aggrieved by the decision of the Eligibility Committee under this Section may within thirty days of being notified of the decision, appeal to the Appeal Board.

(6) In any appeal under subsection (5) of this Section, the Appeals Board may;
(a) set aside the decision of the Eligibility Committee and recommend that refugee status should be maintained and notify the Eligibility Committee of its decision.
(b) refer the matter to Eligibility Committee for further investigation and advise or recommendation or make such further enquiries and investigations into the matter as the Appeals Board thinks fit.
(c) confirm the withdrawal of refugee status.

40. Prosecution for unlawful presence in South Sudan.

(1) Notwithstanding the provisions of South Sudan Nationality Act 2011 and Immigration and Passport Act 2011, proceeding shall not be instituted or continued against any person or any member of the family of any such person in respect of the unlawful entry or presence in South Sudan of such person, if that person intends to make an application to be recognised as a refugee under this Act; or has been granted refugee status.

(2) Any person who having applied and exhausted all rights for the grant of refugee status under this Act, fails to be recognised as a refugee and unlawfully continues to

stay in South Sudan, shall be dealt with under South Sudan Passports and Immigration Act 2011 or other applicable law.

41. Naturalisation of Refugee.

The Constitution and regulations under this Act shall apply to the naturalisation of a recognised refugee.

42. Voluntary Repatriation of Refugee.

(1) A recognized refugee who voluntarily wishes to be repatriated shall, in consultation with UNHCR, cause arrangements to be made for voluntary repatriation.

(2) Where an application for voluntary repatriation is received by the UNHCR, the Commissioner shall be informed accordingly.

43. Expulsion of Refugee.

(1) The Minister may, after consultation with the Minister of Interior, order the expulsion of any recognised refugee from South Sudan if the Minister considers the expulsion to be necessary or desirable in the interest of national security or public order.

(2) Before ordering the expulsion of a recognised refugee under subsection (1) of this Section, the Minister shall give due consideration to any representation made by the refugee concerned, his or her representative or the representative of UNHCR.

44. Extradition of Refugee.

(1) Where:

(a) a country with which South Sudan has extradition arrangements or treaty;

(b) an international tribunal, makes a request to South Sudan for the extradition of a recognised refugee on the ground that such refugee:

(i) is required to answer criminal charges; or

(ii) has been convicted by a court of competent jurisdiction of a serious non-political crime,

the Minister may, after consultation with the Minister of Interior and the Attorney-General, order the extradition of that refugee in accordance with the provisions of the applicable extradition law.

(2) A request for an extradition under subsection (1) of this Section may be granted only if the offence that gave rise to the extradition request was committed in the

territory of the requesting country, and that country is not the country of origin or habitual residence of the refugee.

45. Confidentiality.

(1) No one shall disclose information acquired under this Act except:
- (a) in the course of duties under this Act;
- (b) with the consent of the Commissioner, or
- (c) with the written consent of the subject of the information.

(2) No person who receives information in contravention of subsection (1) shall disclose or publish the information.

(3) A person who contravenes any provision of this Section commits an offence and shall on conviction be liable to a fine not exceeding five thousands SSP or to imprisonment for a term not exceeding six months or both such fine and imprisonment.

46. Regulations.

(1) The Minister may, by statutory instrument, make regulations prescribing matters:
- (a) required or permitted to be prescribed by or under this Act; and
- (b) necessary or covenant to be prescribed in order to give effect to this Act.

(3) Without prejudice to the generality of subsection (1) of this section, regulations made under subsection (1) shall provide for*, inter alia*:
- (a) the exercise of the right of appeal conferred by this Act;
- (b) procedures of the Eligibility Committee;
- (c) procedures of the Appeals Board;
- (d) the procedure for consideration of applications for granting refugee status and the form in which applications shall be made;
- (e) the form and issuance of identification and travel documents to a refugee and members of family of such refugee;
- (f) the assignment of functions to Subcommittees of the Eligibility Committee or to other persons, relating to investigation, country of origin information and information relating to determination of refugee status;
- (g) the form of any order or notice required to be served on a refugee under this Act;
- (h) the procedure for extradition of refugee;
- (i) the procedure for affirmative action in the integration of refugee women, refugee children and refugees with disabilities;
- (j) the procedure for protection and integration of refugees in host communities for the purpose of self-reliance and sufficiency of the refugee;
- (k) the integration of refugee concerns in local, national and regional development plans;

(l) the procedure for regulating the conduct of voluntary organisations, advocates and other agencies which interact with the Commission on matters concerning the activities and welfare of refugees; and

(m) regulation of user-rights of refugees with respect to lands on which they are settled.

47. Transitional arrangements.

Transitional matters relating to refugees and asylum seekers present in South Sudan prior to the coming into force of this Act shall be managed in accordance with regulations issued pursuant to this Act.

Issued under my hand in Juba on this 5 day of June in the year, 2012

Gen. Salva Kiir Mayardit
President of the Republic