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John L. Bonee III

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Caesar Augustus and the Flight of the Asians—the International Legal Implications of the Asian Expulsion From Uganda During 1972

General Introduction¹

Uganda is an extremely beautiful nation in central East Africa located on the northern shore of Lake Victoria, the second largest fresh water lake in the world. Her air is sharp and thin because the East African plateau extends across most of her countryside raising it to a altitude of approximately 3,500 feet; and hence, her climate is delightfully moderate with midday temperatures rarely climbing above 80 degrees Fahrenheit.

Kenya is to the east; the Sudan is to the north; and Zaire is to the west—separated from Uganda by the majestic Ruwenzori Mountains Ptolomy's Mountains of the Moon. The equator runs through the middle of Uganda causing it to have practically no seasonal variation. A sense of timelessness pervades the atmosphere. Plentiful rains enable the rusty-colored soil to feed lazy banana trees, flowering mango trees, and extensive plantations of tea, coffee, and cotton. When Stanley first came to Uganda as an explorer, he remarked that he surely had discovered the Garden of Eden.²

One experiences a truly remarkable contrast, however, when he leaves the Uganda countryside and enters one of her towns or cities. Generally, an urban center anywhere in East Africa will have four or five definite and immediately identifiable sections. The most luxurious is the old colonial residential section with its beautiful homes and gardens and stone-white

*Senior, Suffolk University Law School, Boston, Mass.; student member, ABA Section on International Law; formerly special representative of Trinity College, Hartford, Conn., at Makerere Univ., Kampala, Uganda, to set up a student exchange program between the two universities.

¹The author spent two trimesters, from September 1970 until March 1971, at Makerere University, Kampala.

²J. Rowe, *The Baganda Revolutionaries*, 3 Tarikh No. 2, at 24 (1970).

churches. There is always a showcase business sector with tall modern hotels and offices. One cannot miss the sprawling, overpopulated Asian³ section which has close living quarters, family shops at the street level, and numerous Hindu (and sometimes Muslim) temples which to the western eye look like huge, highly decorated birthday-cake castles which might be found in a cheap American amusement park. Finally, the African sections.

The poor Africans, who have come to the city from their traditional farming villages to seek an exciting life, live in close shanty towns of wood, mud and tin roofs. The local African elite live in a more moderate section which follows somewhat the colonial pattern. And the national African elite either live on a university campus or in the old colonial section.

To a traveller in Uganda, the Asians, who account for only about two percent of the population, seem to be everywhere because he can do almost nothing without their assistance. They are the clerks in the banks, the mechanics in the petrol station, the barbers, the electricians, and, most important, the shopkeepers. One cannot buy a material good without dealing with an Asian in his dukawallah. They have an almost total monopoly on all imported articles from Scotch whiskey to shampoo. They are the middleman for the crops which the African farmer brings to town. They sell clothes and mend clothes. And the Africans hate them with a passion which has almost no limit.

A foreigner, furthermore, quickly orients himself to the situation. He soon discovers that the best place to change his money is not with the Bank of Uganda where he would have to wait in line for half an hour to get seven Uganda shillings to the dollar, but with an Asian shopkeeper where he could get ten shillings to the dollar in half a minute. Europeans are served fast and well at the Duka; Africans who bring their agricultural products or hand-made goods to be resold are likely to be given less than the lowest price imaginable. But the Asians suffer also—they are often subject to roaming gangs of thieves and never really feel safe walking the streets at night.

Asian culture is vastly different from Uganda culture. The two peoples do not mix at all on any level. The Asians live exclusively in their sections and the women wear their traditional dress (as do the African women). A favorite saying among the Africans is that the city of Kampala becomes Bombay on Sunday afternoons, when the Asian community takes its traditional afternoon walk through the streets to discuss business, politics and

³"Asian" is the East African synonym for all domiciled peoples of Indian and Pakistani origin. The term is said to have come into use after the partition of the Indian subcontinent in 1948 as the more accurate term "Indian" was no longer acceptable to the Pakistanis. Comment, *The Changing Pattern of Majority—Minority Relationships in Kenya*, Colombia University S4012D, at 1, n.1 (1972).

familial affairs. Asian food is so radically different from Uganda food, that not only can they not sit down at the same table with each other, but also each group thinks the other smells awful as a result!

Most of the Asians are Hindu (with a Pakistani Muslim minority) while most of the Ugandans are Christian. The Asians have brought their caste system to East Africa and sometimes relegate the Africans to the "untouchable" class. A marriage between an African and an Asian is unheard of. In fact, an Asian father might have an extremely hard time marrying off one of his daughters if her complexion were relatively dark by Asian standards.

The African students never mix socially with the Asian students. Asians take courses generally in business administration or medicine because they know they have a limited future in other more political fields. Squash and swimming are Asian sports; football and track are African.

Until most recently, the above situation simply existed, and no one seemed to believe anything could be done about it. If the Africans spoke from their hearts, they said: "Every Asian in Uganda should be rounded up and dumped into Lake Victoria." If the Asians spoke from their hearts, they would say that every African was a filthy, smelly animal.

On January 22, 1971, Prime Minister Obote's government fell, and a colonel in the Uganda army named Idi Amin Dada took over. The British were happy because Obote had been giving them a hard time both with their business enterprises in Uganda and with South Africa at the United Nations; in fact, they were one of the first governments to recognize the new Amin regime formally. The Baganda (the largest tribe in Uganda who lived in and around Kampala) were happy because Obote's police would no longer terrorize them and hopefully the old glories of the Baganda Kabakkaship (kingship) would be reinstated. The African Muslims were happy because Amin is a devout Muslim, and they believed he would deliver them from their extreme minority status in Ugandan society. The Asians were happy because they thought business would improve. Only the Lango and Acholi were unhappy because Obote was from their land in the north, and they would now suffer greatly.

Kampala was wildly celebrative for two weeks—everyone took to the streets to rejoice in Idi Amin and his *coup*. Amin, himself, quickly became known for his jeep trips around the countryside, trying to organize his new government. *Time Magazine* reported that on one of these trips he was arrested for speeding and cheerfully accepted the reprimand. "It goes to show," he said, "that I am not above the law."⁴ Whether or not he would

⁴Time, Feb. 19, 1972, at 30.

live by this statement during 1972, will be open to world debate for quite some time to come.

Events of the Uganda Asian Crisis

The following is a chronological compilation of pertinent announcements in the worlds' newspapers during 1972 regarding the Asian expulsion from Uganda, to give the reader an understanding of the events as they unfolded, and a better feeling for the facts without which a legal analysis is impossible. Please note that the reported numbers and money values often conflict in amount, depending on the newspaper. Apparently, no one knows exactly what happened; hence, an international selection of newspapers has been included to reduce the bias.

In January of 1972, *The Nation* reported that large numbers of panic-stricken Asians were preparing to leave Uganda during the following week. "The anxiety among the Asian community which arose when the Obote regime introduced the Trade Licencing Act (designed gradually to tax them out of business), and stringent immigration measures has been revived by President Idi Amin's recent announcement that citizenship applications left unprocessed by the ousted Obote régime have been cancelled."⁵ "The twelve thousand Asians who applied for citizenship during the 1962-64 period, and whose applications were never acted upon now believe their rights were not justly received."⁶

Then, until the beginning of August, there was very little news regarding the Uganda Asians. Suddenly, President Amin issued his decree that all of the Asians had to get out of Uganda by November 8, 1972, and that the British government must take over responsibility for all Asians in Uganda who are holding British passports, because they are "sabotaging the economy of the country." He said he wants to see the economy in the hands of "Black Ugandans" and appealed to the troops to assist him.⁷

A week later, Amin said that he had directed "ministers concerned" to start selling "with immediate effects" the shops owned by British Asians and by nationals of India, Pakistan, and Bangla Desh. Such owners would be required to quit as soon as their shops were bought by Ugandans even before the end of the ninety-day period.⁸

On the same day, *The Observer* claimed that Amin's instincts had led him to pick the only issue which could assure him widespread support within his now dangerously divided country and army:

⁵The Nation (Nairobi), Jan. 2, 1972, at 1.

⁶*Ibid*, Jan. 9, 1972, at 1.

⁷*Ibid*, Aug. 6, 1972, at 1.

⁸*Ibid*, Aug. 13, 1972, at 1.

The Asians have become the scapegoats of East Africa. Like the Jews of the Diaspora, they sought to maintain their distinctive culture, religious, and community life, and have therefore remained an easily identifiable "alien presence." This instinctive sense of racial preservation was further reinforced by colonial policies that discriminated against Asians forcing them, again like the Jews, into a narrow range of pursuits—mainly commerce, the liberal professions, and the better paid middle class occupations. And because they were clever, thrifty, and hard working, they were able to put their accumulated wealth into property, industry and plantations, thus laying themselves open to the charge of dominating the economy. The only thing the African leaders have been able to do about the Asian situation was to enact discriminatory legislation *vis-à-vis* the non-citizens.⁹

In Kampala, the British High Commission officials said that the stateless Asians would not be the responsibility of Britain, and that the mere fact that an Asian lost his Ugandan citizenship did not necessarily turn him into a British citizen.¹⁰

The Nation further reported that Amin said the 5,000 professional Asians hitherto exempted by the expulsion order now must go because they "could not serve the country with a good spirit" after the departure of the other Asians.¹¹

According to *The Observer*, Amin, in the above speech, said that the approximately twenty-thousand Asians with Uganda citizenship also must go from Uganda. Such Uganda nationals will become stateless, and while Britain has pledged to accept all British passport holders, it is seeking Commonwealth help regarding the rest. He further said that all Asian-owned buildings, industries, and businesses would be sold by the government; private transactions would be prohibited except for personal effects; and that no Asian would be allowed to leave the country with more than £.100; all the rest will go into a Uganda "trust fund."¹²

And in another decree, Amin said that the Minister of Education, Mr. Edward Rugumazo, will be empowered to direct African students at Makerere University to take over from departing Asian teachers.¹³

Then on the 22nd of August Amin modified his decree and announced that Asians who are Uganda citizens will not be required to leave. But he said that "those Asians who will be found to have dual citizenship will be given notice to leave the country."¹⁴

⁹The Observer (London), Aug. 13, 1972, at 6.

¹⁰The Nation (Nairobi), Aug. 20, 1972, at 1.

¹¹*Id.*

¹²The Observer (London), Aug. 20, 1972, at 1.

¹³*Id.* One of the biggest worries among the African students at Makerere University in 1971, was the fact that jobs for university educated Africans were becoming extremely scarce, and many of them were being told to go home to their farms upon graduation.

¹⁴The Uganda Argus, Aug 23, 1972, at 1.

The Nation estimated that the non-Ugandan Asians had about £.75 million in assets in Uganda, and that it saw no way Uganda could raise such a sum to pay compensation.¹⁵

An article in the *New York Times* tried to give both sides of the problem. It first quoted an Asian lawyer thus: "My father came to Uganda in 1910 with no money, no skills, and worked forty-six years until his health broke. And now, after our lives are here, our roots are here, they say get out. It is shameful."

Then, for the African side, it said that they believe, perhaps with some justification, that the Indian and Pakistani businessmen have overcharged, hoarded goods, smuggled money abroad, kept Africans underpaid, and written their account books in Gujarati or Punjabi to bewilder the income tax official. Four out of every five stores in Uganda are owned by Asians who control 90 percent of Uganda's commerce and trade. In summation, the article maintained that the move against the Asian community stems from racial as well as economic factors.¹⁶

In September, Amin stated that unless the Asians fill in all the appropriate forms declaring their properties before they leave, the Uganda government would not be responsible for such undeclared properties.¹⁷ And furthermore: "Uganda's team's behaviour and performance at the Olympics had put Uganda on the world map and have served to demonstrate that Ugandans do not mix politics with sport. Therefore, those non-Ugandan Asians who played in the hockey team will receive Uganda citizenship."¹⁸

Suddenly, between 5,000 (the British estimate) and 8,000 (the Uganda estimate) Asian men, women and children holding British passports who had been cleared for emigration, were given forty-eight hours to leave Uganda. They would immediately lose their work permits and trading licenses. The national security forces were commanded to insure that these instructions be strictly obeyed.

At this point, *The Nation* noted that rather than a purposeful slowing down of the emigration process by the British, it was the long lines at the emigration offices (*i.e.*, the British High Commission, the Uganda Emigration Office, and the Bank of Uganda), and a fear of their trip from Kampala to the airport at Entebbe, which was really holding the Asians back.¹⁹ But *The Times* quoted Mr. Praful Patel, a member of the Uganda Resettlement

¹⁵The Nation (Nairobi), Aug. 27, 1972, at 3.

¹⁶N.Y. Times, Aug. 27, 1972, sec. E, at 4.

¹⁷The Nation (Nairobi), Sept. 3, 1972, at 3.

¹⁸Uganda Argus, Sept. 16, 1972, at 1.

¹⁹The Nation (Nairobi), Sept. 24, 1972, at 6.

Board, and Mr. V.V. Radia, a former chairman of the Uganda Chamber of Commerce, as saying, "It is the British High Commission in Kampala that is holding up the exodus of the Asians, not the Ugandan authorities, who have set up excellent machinery."²⁰

Philip Short reported from Kampala for *The Times* that: "The view from there, not only of Ugandans but also of many western diplomats, is that a U.N. debate on the Uganda Asian issue is of doubtful value. The original argument (by the British) for getting the November 8th deadline extended was that it could not be met. It is now clear that the deadline can and probably will be met."²¹

By October 8, Amin had promised that the Asians who were unable to leave Uganda before his November 8th deadline would be treated "properly and in a normal manner."²² He also urged the Ugandan Asians to identify themselves with Ugandan Africans. The President said that if they had done this before, what is happened now would never have happened. "I want to see Africans marrying Asians and vice versa," he said.²³

"Following a directive from Amin, a cabinet sub-committee and members of the armed forces have started a thorough check of every building in Kampala, to find out who of the non-citizen outgoing Asians have not left the country. Those Asians found without identity cards or immigration documents were taken for further checking. Concern was expressed over Asians still trading and working without permits.

Furthermore, there is no indication yet what position Britain will take toward the 5,000 British wives and children of non-British Asians. Presently, they are being refused entry permits on the ground that the head of the family is not British. Nor is it known what will happen to about 16,000 stateless Asians for whom both Britain and Uganda disclaim responsibility."²⁴

David Holden reported that:

several Asians have been arbitrarily "arrested" in Kampala by military police, and "persuaded" to buy themselves off for sums ranging from £.750 to £.2000; an Ismaili businessman is dead as a result of a shooting incident which is believed to have involved the army; three Africans were summarily and publicly shot by police in a poor quarter of Kampala on a simple accusation of attempted robbery; and many famous personages like Mr. Anil Clerk, a prominent Asian lawyer, and the African professor of Ophthalmology at Makerere University were simply kidnapped by the army and believed to

²⁰The Times (London), Sept. 27, 1972, at 1.

²¹P. Short, *Hopes Fade for Early Uganda Peace Talks*, The Times (London), Oct. 1, 1972, at 1.

²²The Times (London), Oct. 8, 1972, at 1.

²³The Nation (Nairobi), Oct. 8, 1972, at 1.

²⁴*Ibid.*, at 3.

be dead. The normal forces of law have become the prime agents of the disorder, in which the African population is as much the victim as the Asian—and far more so than any Europeans. The country is ruled by speeches—and fear.²⁵

“Mr. Manubhai Madhvani has been ordered to leave Uganda by President Amin because he is not Ugandan. He must go before November 8th. Amin called on Ugandans to make bids for the Madhvani Group of Companies, the biggest industrial group in East Africa, and to pay with bank loans. These companies are now completely owned by the Madhvani family.”²⁶

“In a new policy statement on November 2, Amin declared: ‘Those Asians in the towns who claim to be Uganda citizens must go to the villages and mix up with the other Ugandans. All the businesses are going to be taken over by Black Ugandans.’ Thus many who had planned to stay, are quickly preparing to leave—which is probably what Amin intended. Otherwise, by Wednesday night (November 1), the last of the non-citizen Asians ordered to be expelled should have left Uganda.”²⁷

“Amin announced today, November 25, that ‘all buildings throughout Uganda left by the non-citizen Asians automatically belong to the government for the time being. Businessmen will only transact their business in these buildings as tenants and will have to pay rent which will be fixed by the government’.”²⁸

“An Asian who became one of the one thousand stateless Asians from Uganda to be admitted to the United States said that he had his passport snatched away by a soldier, and was told he would have to leave Uganda. From that moment, he was subjected to harassment by the soldiers swarming all over Kampala, because he had neither passport nor verification of his citizenship. The Uganda government also confiscated all of his property and savings which he said were worth \$50,000.”²⁹

“Idi Amin has now driven 26,000 Asians out of Uganda. He has ordered the remaining 1100 Asians who are Uganda citizens to abandon their homes and businesses in the towns and become farmers in the bush country. He has decreed that national sports teams must be Africanized, which means, for example, that star Asian players will be dropped from the Uganda cricket team.”³⁰

²⁵D. Holden, *Amins' Instant Law Takes Over in Uganda*, The Times (London), Sept. 17, 1972, at 8.

²⁶The Nation (Nairobi), Nov. 5, 1972, at 1.

²⁷P. Short, *Amin Lines Up His Next Victims*, The Times (London), Nov. 5, 1972, at 10.

²⁸The Egyptian Gazette, Nov. 30, 1972, at 1.

²⁹N.Y. Times, Dec. 10, 1972, at 73.

³⁰Time, Dec. 18, 1972, at 40.

"The Asians were expelled with only a few personal belongings and £.50 in foreign currency compared with the normal £.3,000 allowance for immigrants."³¹

"As a result of Amin's expulsion order, 27,500 Asians went to England. Also, 13,000 Asians with British passports have settled outside the U.K.: 8,500 have returned to India; others have settled in Canada, Zambia and Malawi; the United States has admitted some stateless Asians."³²

Uganda at the United Nations

In response to the British Foreign Secretary's request on September 27, 1972 that the General Assembly move to demand that Amin revise his expulsion order of the non-citizen Asians in Uganda, the Uganda Mission to the United Nations issued a policy statement on September 28, 1972,³³ and the Uganda Ambassador addressed the General Assembly on October 6, 1972.³⁴ Eventually, the United Nations, via a special committee, decided the issue involved Uganda's internal affairs and took no action. The following is a summary of Uganda's position and is taken directly from a combination of the above two statements.

"Uganda claims that Great Britain has a legal and moral obligation to accept the 55,000 Asians living in Uganda who retained British citizenship.

"In the early 1900's the British colonial masters shipped Asians to East Africa to be laborers for the great railroad which ran from the port of Mombasa on the Indian Ocean to Kampala. The British then engaged them to settle in East Africa to provide an instrument for promoting colonial trade and commerce. From the beginning, the British insured that the indigenous Africans would not have the opportunities in business and trade which the Asians did.

"In 1946 and 1947, there were serious riots in Uganda to protest this policy; in 1959 came an extensive boycott of all Asian businesses which was so effective that it almost paralyzed the economy of Uganda. However, Britain always did nothing but suppress the movement and imprison the leaders.

"By the time Uganda became independent in 1962, its economy was still

³¹Egyptian Gazette, Dec. 19, 1972, at 2.

³²N.Y. Times (Magazine), Dec. 24, 1972, at 11.

³³"*British Asians in Uganda: Background Information on the Issue*," by The Uganda Mission To the United Nations, New York, Sept. 28, 1972.

³⁴Address by His Excellency Mr. G.S.K. Ibingira, Ambassador and Permanent Representative of Uganda to the United Nations at the Twenty Seventh Session of the General Assembly of the United Nations, Oct. 6, 1972.

totally dependent on these foreign nationals. On independence, all those indigenous Africans in Uganda automatically became Uganda citizens. The Asians were given the choice at that time to become Uganda citizens, but a vast majority decided to retain their British status.

“Uganda considers this refusal to take citizenship to be an insult to its hospitality and worth as a nation. It was expected to continue as a host country for parasites without feeling of obligation between the two beyond exploitation.

“The British Immigration Act, 1968, stated that British citizens of Asian and Caribbean origin must obtain entry vouchers before entering the U.K. All of East Africa was to be granted only 3,500 per year. Such an act was a racist device put in the way of British people of black or brown races while it exempted those British citizens whose parents and grandparents were from the British Isles.

“Therefore, since Britain can detain within a reasonable time those Asians who contravene the 1968 Immigration Act when they land on British shores, Uganda has the same sovereign right to determine what to do with those who stay in Uganda illegally according to the laws of Uganda.

“But the British have tried to impeach Uganda on an humanitarian basis because of the manner of the expulsion. Uganda did not arbitrarily create a situation of statelessness. Rather, Uganda simply asked all persons taking out Uganda citizenship to renounce their former British nationality so as not to have dual citizenship—something which few nations recognize. This the Asians would not do and brought the problem of statelessness upon themselves. Furthermore, the only reason that the ninety-day period might not be a reasonable time limit, is due to the British High Commission in Kampala which is purposely going as slowly as possible. In summary:

1. All foreign nationals asked to leave Uganda are being allowed to take personal belongings as well as a reasonable amount of cash which is a drain on Uganda's financial resources.
2. There will be no confiscation of their property. On the basis of their inventories, their property will be sold and credited to the account of the owners of such property. Their bank accounts will remain intact.
3. There will be no physical maltreatment by the intent of the Uganda government.
4. Those non-citizen Asians who inadvertently remain after the ninety days through no fault of their own will not be maltreated but must remain in an effort to leave.

Domestic Legal Considerations

By old English law, an alien had practically no legal rights whatsoever, and he therefore could not maintain in a court of law any of his property or personal rights. Of course, he was protected to a certain extent by the law merchant and the criminal law; but because an alien was held incapable of giving an oath of allegiance to a foreign prince, he could not take the oath of fealty and consequently could not own land in England. Nevertheless, he was allowed equal rights regarding the ownership of personal property or he probably could not have survived.³⁵

The English Common Law did not in itself give an alien the right to enter the country nor to remain as a permanent resident once he got there. The King had full power of expulsion over an alien at all times. This power of the monarch, however, was totally replaced by statute as Parliament increasingly asserted itself in this area. In fact, the last time foreigners were expelled on a large scale from the British Isles was by Elizabeth in 1575.³⁶

As England assumed prominence as a great power and extended her domain over the widest parts of the world, her laws regarding the rights of aliens, citizenship, and nationality became far more complex and extensive. No longer was she a fearful island nation protecting herself from the influences of foreign aliens, but she had become a colonial power and had administered the structure of the Commonwealth of Nations. It is in this light that the Asian problem in Uganda must be viewed.

It should be noted at this point that Uganda was a "protectorate" of Great Britain from 1894 until she achieved independence in 1962. We do not have the space to go into the historical reason why Uganda, specifically, was a "protectorate" as opposed to a "colony" like part of Kenya; rather, we shall simply consider the legal repercussions which grew out of this happenstance. The favorite African joke regarding all of this was always, "From what are we being protected? Elephants?"

After the period of the first World War, the rules by which England governed problems of nationality with relations to her colonies and protectorates were conducting primarily according to the British Nationality and Status of Aliens Act, 1914-43.³⁷ By this act, as far as England was concerned, the entire world's population was composed of two kinds of people, British subjects and aliens, and that was all.

³⁵H. HENRIQUES, *THE LAW OF ALIENS AND NATURALIZATION* 2-7 (1906).

³⁶*Ibid.*, at 10.

³⁷4 & 5 Geo. 5, c. 17; 8 & 9 Geo. 5, c. 38; 12 & 13 Geo. 5, c. 44; 23 & 24 Geo. 5, c. 49; 6 & 7 Geo. 6, c. 14; R. Plender, *The Exodus of Asians From East and Central Africa*, 19 AM. J. COMP. L. 287 (1971) (hereinafter cited as Plender).

According to Section 27 of the Act, everyone born in the British sovereign's dominion was a British subject, while everyone else was an alien.³⁸ Therefore, the natives of British Protectorates were considered aliens for the purpose of immigration into the United Kingdom.³⁹

In 1923, the League of Nations Council passed a resolution that the status of native inhabitants of mandated territories (like the Uganda Protectorate) was different from that of the natives of the mandatory state (the U.K.); and, further that it was desirable for the natives of the mandatories to have a title descriptive of their status. Therefore, a native of a British colony became a British subject, while a native of a protectorate became a British protected person.⁴⁰

The next legislative enactment affecting the citizenship status of the peoples of the Uganda Protectorate was the British Nationality Act, 1948 which took effect on January 1, 1949.⁴¹ Now, British nationality was inextricably intertwined with the Commonwealth of Nations which had become a unit *sui generis* in international law.⁴²

Nationality not only affects each member state of the Commonwealth vis-à-vis its own citizens, but also it affects the entire Commonwealth as a whole. Needless to say, the different members of the Commonwealth found it necessary to cooperate and somewhat qualify their sovereign independence when it came to the law of nationality; and at the Imperial Conferences they devised strict uniformity of legislation in this area, even though it had been established that the dominions "are autonomous communities in no way subordinate to one another in any respect of their domestic or external affairs, though united by a common allegiance to the Crown."⁴³

As a result of the 1948 Nationality Act and the development of the Commonwealth, the former conception of "British nationality" took on a new meaning. Now a person had the double status of being a "British subject" while at the same time being a "Commonwealth citizen"—a status which was enjoyed by all citizens of Commonwealth countries.⁴⁴

But British protected persons, as defined by the British Protectorates Persons Order In Council, 1948 (S.I. 1949, No. 140), were British nation-

³⁸Plender, at 290.

³⁹P. WEIS, NATIONALITY AND STATELESSNESS IN INTERNATIONAL LAW 18 (1956) (hereinafter cited as Weis).

⁴⁰1923 League of Nations Official Journal 604; Plender, at 291.

⁴¹11 & 12 Geo. 6, c. 56; Plender, at 291.

⁴²Weis, at 18.

⁴³Report of Inter-Imperial Relations Committee of Imperial Conference of 1926, 21 AM. J. INT'L L. SUPP. 21 (1927); W. BISHOP, JR., INTERNATIONAL LAW 316 (3d ed. 1962).

⁴⁴British Nationality Act, 1948, Sec. 1 (2); Plender, at 292.

als without being British subjects. A British protected person is "one who is a member of a class of persons declared by order in council made in relation to any protectorate . . . to be for the purpose of this Act British protected persons by virtue of their connection with the protected state."⁴⁵

Such people are subject to British protection, but not British subjecthood. They are nationals of both the Commonwealth of Nations and the member of the Commonwealth of Nations under whose law they have the status of British protected persons. Furthermore, these people now have the same right of entry into the British Isles as British subjects and are therefore to be considered as British nationals for the purpose of immigration into the United Kingdom.⁴⁶

The constitution which went into effect in Uganda once it achieved independence on October 9, 1962 is an extremely well written document.⁴⁷ It is the culmination of long negotiations to develop a reconciliation between the conflicting interest of the southern peoples (most notably, Buganda, Bunyoro, and Busoga) on the one hand, and the rest of the country on the other.⁴⁸

One of Uganda's major problems is that the southerners, although often at war with each other in the past, have common traditions which are radically different from the northerners who are more like the southern Sudanese. These Bantu speaking southerners are primarily farmers and have a hierarchical government while the northerners have a totally different lingual structure, are really almost of a different race in their physical appearance, raise cattle, and are accustomed to a democratic government.

Nevertheless, the borders which the Europeans drew up had to remain intact, and a sense of nationhood had to be instilled in everyone in Uganda in order for it to compete as a nation in the modern world. By way of compromise, therefore, a constitutional federation was established by which the southern kings remained in power over their own individual regions while a national parliament was created to represent the entire nation. This parliament elected the king of the Baganda, Sir Edward Frederick Mutesa II (King Freddie), to be the first president of Uganda. Milton Obote, a northerner, became the Prime Minister.

Trouble was inevitable. Obote eventually got control of the army and in April of 1966 masterminded a *coup*, which forced King Freddie to flee to

⁴⁵Weis, at 20.

⁴⁶British Nationality Act, 1948, Sec. 3 (3); Weis, at 22.

⁴⁷B. GORDON, *THE LAWS OF UGANDA* (Revised ed. 1964).

⁴⁸H. Morris, *The Uganda Constitution*, April 1966, 10 J.A.L. No. 3, 112 (1966) (hereinafter cited as Morris).

England. Obote immediately declared a state of emergency to erase the kingdoms from their place in the constitution and establish his power over the nation as a whole.

Nevertheless, the 1966 Constitution to a large extent reiterates verbatim the provisions of its predecessor. It makes no changes in the Uganda citizenship laws, and the changes which it makes regarding the protection of the fundamental rights of men and individual freedoms were primarily procedural (*i.e.*, how the people should exert their rights in a court of law now that there were no more kingdoms), but did not change the basic rights themselves.⁴⁹

In January of 1971, Obote went to attend the Commonwealth Conference in Singapore, and has not yet been able to return to his country. While he was gone, Idi Amin took control. Amin is from an even lesser known region in the north than was Obote, and he is a Muslim which puts him into a still more extreme minority in Uganda. Nevertheless, he had the weight of tanks behind him and immediately began his personal rule. Naturally, the Constitution was suspended once more.

We shall have to examine this belated document, however, and some of the laws which were enacted under it, to understand the Asian problem as it developed during the last ten years. The Asians lived in Uganda in accord with, and because of, this Constitution and the laws of whichever government was in power.

As an independent nation, Uganda had full powers to set up her own laws regarding citizenship. She retained her Commonwealth status, however, and her Constitution states that "every person who . . . is a citizen of Uganda . . . , by virtue of that citizenship, has the status of a Commonwealth citizen."⁵⁰ But unless a person is a citizen of Uganda, he is treated in the same way as an alien even if he is another Commonwealth citizen.⁵¹

Practically all of the nationalization and citizenship regulations in the Uganda Constitution are contained in Chapter II. The Chapter served to replace the British Nationality Act, 1948, which was applied to Uganda by Chapter 45 of the Revised Laws of Uganda, 1951. The chapter begins:

- (1) Every person who, having been born in Uganda, is on 8th October 1962 a citizen of the United Kingdom and Colonies or a British protected person shall become a citizen of Uganda on 9th October 1962 provided that a person

⁴⁹Morris at 113-114.

⁵⁰Uganda Constitution, Sec. 13 (1).

⁵¹H. MORRIS and J. READ, *UGANDA THE DEVELOPMENT OF ITS LAWS AND CONSTITUTION* 177-178 (1966) (hereinafter cited as Morris & Read).

shall not become a citizen of Uganda by virtue of this subsection if neither of his parents was born in Uganda.⁵²

This section immediately, and on its face, wiped out the Uganda citizenship of a majority of the Asian population in Uganda.⁵³ But they were given a second chance:

(1) Any person who, but for the proviso to Section 7(1) of this Constitution would be a citizen of Uganda by virtue of that subsection, shall be entitled, upon making application before the specified date . . . to be registered as a citizen of Uganda.⁵⁴

By subsection (6) (a), the "specified date" was 9th October 1964, and thus the Asians had two years to take out Ugandan citizenship.

In order to prevent statelessness, Parliament in London inserted into the Uganda Independence Act, 1962, a section which held that a person who had been a British protected person by his association with the Uganda Protectorate, would not lose that status by virtue of Uganda's independence unless he became a citizen of Uganda.⁵⁵ Furthermore, the Uganda Constitution does not recognize dual citizenship:

Any person who . . . is a citizen of Uganda and also a citizen of some country other than Uganda shall . . . cease to be a citizen of Uganda . . . unless he has renounced his citizenship of that other country. . . .⁵⁶

Therefore, the Asians had the choice of remaining citizens of the United Kingdom and Colonies or becoming Uganda citizens. Most of them did nothing and simply retained their citizenship in the United Kingdom and Colonies by default.⁵⁷

The European Convention for the Protection of Human Rights and Fundamental Freedoms⁵⁸ greatly influenced the sections of the Uganda Constitution which deals with humanistic concerns.⁵⁹ Rather than expressly guaranteeing the protection of group interests, however, the Constitution is directed toward the protection of individual rights and freedoms.⁶⁰ Chapter III begins thus:

Whereas every person in Uganda is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest. . . .⁶¹

⁵²Constitution of Uganda, Sections 7 (1) and 7 (2).

⁵³Plender, at 293.

⁵⁴Constitution of Uganda, Section 8 (1).

⁵⁵1962 Uganda Independence Act, Sec. 2(3), 2(4) 10 & 11 Eliz. 2 Ch. 57.

⁵⁶Constitution of Uganda, Section 12 (1).

⁵⁷Plender, at 294.

⁵⁸Rome, 1950, U.K. T.S. 1953/71.

⁵⁹Constitution of Uganda, Ch. III, Sec. 17-33.

⁶⁰MORRIS and READ, at 169.

⁶¹Constitution of Uganda, Sec. 17.

The constitution then goes on to protect the right to life except in properly adjudicated acts of illegality,⁶² to protect the right to personal liberty—again with the same kinds of exceptions for the public welfare,⁶³ and to offer protection from inhuman treatment.⁶⁴ For the purposes of the instant discussion, Section 22 is quite important:

(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired except where the following conditions are satisfied, that is to say—

(a) The taking of possession or acquisition is necessary in the interests of defense, public safety, public order . . .

(c) Provision is made by a law applicable to that taking of possession or acquisition—

(i) for prompt payment of adequate compensation. . . .⁶⁵

Section 23(1) says that “except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises.” Section 28:

No person shall be deprived of his freedom of movement, and for the purposes of this section the said freedom means the right to move freely throughout Uganda, the right to reside in any part of Uganda, the right to enter Uganda, and immunity from expulsion from Uganda.⁶⁶

and Section 29:

. . . no law shall make any provision that is discriminatory either of itself or of its effect . . . in this section the expression “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, tribe, place of origin, political opinions, colour or creed . . .⁶⁷

But both of these sections above contain the all important exception that their protective safeguards shall not apply to non-citizens.⁶⁸ This exception is probably the most significant and outstanding aspect of Chapter III when considered in light of the Asian question and is noted by practically every author on the subject.⁶⁹

Another problem for the Asian population in East Africa developed during the 1960s from the English end of the legislative gamut. The Commonwealth Immigrants Act of 1962 provided that all British protected persons would be subject to immigration control upon their entry into the

⁶²*Ibid.* Sec. 18.

⁶³*Ibid.* Sec. 19.

⁶⁴*Ibid.* Sec. 21.

⁶⁵*Ibid.* Sec. 22(1) (a) and (1) (c).

⁶⁶*Ibid.* Sec. 28(1).

⁶⁷*Ibid.* Section 28 (1) and 29(1), (2) and (3).

⁶⁸*Ibid.*, Section 28, at 3(d) and 29, at 4(b).

⁶⁹MORRIS and READ, at 174; Plender, at 304.

United Kingdom.⁷⁰ Any person who was a citizen of the United Kingdom and Colonies and who had a United Kingdom passport was excepted.⁷¹

Then the 1962 Act was amended by the Commonwealth Immigrants Bill, 1968, which held that a British immigration officer may refuse admission to a citizen of the United Kingdom and Colonies holding a U.K. passport unless the citizen, or at least one of his parents or grandparents—

- (a) was born in the United Kingdom, or
- (b) is or was a person naturalized in the United Kingdom, or
- (c) became a citizen by being registered under Part II of the British Nationality Act, 1948, or under the British Nationality Act, 1964 either in the United Kingdom or in a country which, on the date on which he was so registered, was an independent country within the Commonwealth.

This legislation was obviously designed to protect Great Britain from a flood of Asian immigration. What it did was to establish a legal concept of “belonging”⁷² to the United Kingdom as opposed to “belonging” to a former colony. Naturally the Asians did not “belong” to the United Kingdom.

Unfortunately for the Asians, the people of Uganda did not think they belonged in Uganda, either. During the latter part of the Obote regime, therefore, a great deal of discriminatory legislation was enacted against the non-citizen Asians. The Trade Licencing Acts were passed which forced the Asians to live and trade only in certain prescribed cities and larger towns.

Furthermore, the Ugandan Immigration Act, 1969, went into effect on May 1, 1970, and provided that “no person shall enter or remain in Uganda unless he is in possession of a valid entry certificate, a certificate of residence, or a pass issued to him under the act.”⁷³ Of course, citizens of Uganda were exempted.⁷⁴

All non-citizens in Uganda had to apply for a new immigration pass by April 2, 1970 and these passes were subject to the absolute discretion of the Immigration Control Board. Of course, the employment had to benefit Uganda and its inhabitants.⁷⁵ Furthermore, the passes were to last not more than five years with a possible renewal for not more than three years.⁷⁶ What this all meant was that the “vast majority of non-citizen residents in Uganda, required entry permits from the Immigration Control Board in order to remain in Uganda after April 1, 1970.”⁷⁷

⁷⁰Plender, at 313.

⁷¹Commonwealth Immigrants Act of 1962, Sec. 1 (2).

⁷²Plender, at 313 and 714.

⁷³Uganda Immigration Act, 1968, Section 9(1).

⁷⁴*Ibid.*, Section 19.

⁷⁵*Ibid.*, Section 10(2) and (3).

⁷⁶*Ibid.*, Section 11.

⁷⁷Plender, at 301.

International Legal Considerations

One of the elements inherent in the concept of nationality is the right to settle and to reside in the territory of the state of one's nationality. The state has a legal duty in international law to grant and permit such residence to its nationals.⁷⁸

However, as between the national and his state of nationality, the question of the right of sojourn is not a question of international law.⁷⁹ But it may have an effect on the relations of different nation states. When one state expels a national, it forces another state to accept that national. But according to the international law, the admission of aliens is in the discretion of each state—except when a state is bound by a treaty to admit the national in question.⁸⁰

Furthermore, just as a state may refuse admission to an alien, it may expel him at any moment. It does not matter if the alien is in the State on a short visit or has taken his domicile in the state and has even set up his business or profession.⁸¹

But such a state may not, under international law, expel the alien arbitrarily and without just cause.⁸² From all this it follows that the expulsion of an alien may be carried out with the consent of the state to whose territory he is to be expelled, and that the state of nationality is under a duty toward the first state to take back its nationals into its territory.⁸³ Therefore, when a state avails itself on its right of expulsion in an arbitrary manner in such a way as to inflict upon another state in injury which cannot be justified by a legitimate consideration of its own advantage, it will incur international responsibility and liability.⁸⁴

Even though the conferment and deprivation of nationality is a right which international law recognizes as being within the exclusive domain of each sovereign state, international tribunals can still hold that state liable in an international claim.⁸⁵

International law cannot accept the expulsion of a state's own nationals because such an act creates, at least partially, duties for other states and infringes upon their sovereign jurisdiction without valid justification. Thus,

⁷⁸Weis, at 49.

⁷⁹Weis, at 50.

⁸⁰L. OPPENHEIM, I INTERNATIONAL LAW 616, (7th ed. 1948) (hereinafter cited as Oppenheim.)

⁸¹Atty. Gen. for Canada v. Cain, A.C. 542 (1906); Oppenheim, at 631.

⁸²Oppenheim, at 631; Weis, at 50.

⁸³Weis, at 50.

⁸⁴Oppenheim, at 313; See Boeck, in *Hague Recueil*, Vol. 18 at 627-640 (1927).

⁸⁵*Ibid.*, at 314; See the Minutes of the First Committee of the Hague Conference on Codification of International Law at 20 (1930); and Rundstein, 16 Z.V. 41-45 (1931).

the duty of a state to grant to its own nationals a right of residence is universally recognized.⁸⁶

In this area there develops a national conflict between how far a state may go in its municipal legislation regarding nationality laws and still not come in conflict with the established rules of international law. By its sovereign power, a state determines the rules governing the acquisition and loss of nationality. These rules will be supreme within the jurisdiction of that state. But outside its borders, the rules of international law cannot be ignored.

Once the state's laws come into conflict with international law, it may incur international liability for the violation of an international legal duty. Now, the state will be under an obligation to remedy the situation by bringing its laws into alignment with international law and to satisfy any international claim outstanding. Of course, the law which is invalid by international standards will remain in effect in the territory of the state, and the national will continue to be subject to it.⁸⁷

Constitutionally, it may be so set up that either the act of the national or the act of his government will bring about the loss of his nationality. As far as international law is concerned, however, it does not matter which party so acts.⁸⁸ Here, our major concern is not with the denationalization and expulsions of individual nationals or aliens, however, but with mass expulsions primarily for political or racial reasons.

And while it cannot be denied that every sovereign nation has the sole right to determine its own laws regarding the granting and taking away of nationality status, nevertheless, municipal measures which lead to deprivation of nationality are not given support by writers in international law.⁸⁹

For the most part, such writers have been concerned with a desire to avoid situations of statelessness.⁹⁰ They claim that mass denationalization has been declared inconsistent with the international obligations of states.⁹¹ Furthermore, many learned societies have adopted resolutions to prohibit denationalization and to make loss of nationality dependent on the acquisition of a new nationality.⁹²

⁸⁶Weis, at 51 and 53.

⁸⁷*Ibid.*, at 91.

⁸⁸*Ibid.*, at 119.

⁸⁹*Ibid.*, at 127.

⁹⁰*Id.* See Isay, in *Hague Recueil* at 441 (1924); and Rauchberg, in *Wille und Weg* 116-117 (1926).

⁹¹22 *Revue de Droit international privé* 246 (1927).

⁹²Weis at 127; Resolution of the Institute of International Law, adopted by Cambridge, XIV *Annuaire* 195 (1895); Resolution adopted at Venice, 1896, XV *Annuaire* 271; Report on the 33rd Conference of the International Law Association at Stockholm, Resolution No. 3, Report 28-32; Resolution of the Institute of International Law adopted at Stockholm, 1928, Article 2, *Annuaire* 726 (1928); Report of the Committee on the Status of Stateless Persons of the Grotius Society, *Grotius Transactions* 157 (1943).

The 1954 Convention Relating to the Status of Stateless Persons provided that a state party to the Convention (Uganda is not) may not expel a stateless person who has lawfully entered its territory except on grounds of national security or public order. Furthermore, the stateless person must be expelled in accordance with due process of law, and, unless there are compelling reasons of national security, he should be afforded an opportunity to present evidence to clear himself and to appeal to higher authority against the expulsion order.⁹³

Generally, state practice in most western nations opposes the expulsion of a stateless person unless such above considerations have been complied with.⁹⁴

One eminent East African writer asserts that international law does not recognize limitations on a state's exclusive competence to deport a stateless person.⁹⁵ Before a practice can become a rule of customary international law, it must be in accordance with "constant and uniform" usage.⁹⁶ And the Statute of the International Court of Justice requires that the practice become a "general practice accepted as law."⁹⁷

However, when it comes to putting this deportation ability into practice, international law does recognize some modifying factors. First of all, some other state must be willing to receive the stateless person since such an expulsion order could be an infringement of the sovereignty of the receiving state.⁹⁸ Furthermore, if the stateless person's life would be jeopardized by such expulsion, a state probably would not expell him.⁹⁹

Weis, however, feels that international law does not support the view that denationalization is illegal because it causes statelessness nor that it is illegal because it deprives an individual of his personal rights. Rather, he feels the strongest case against mass denationalization along lines of customary international law, is that such an act is an infringement of the rights of another sovereign state. He concludes that the right of a state to make its own rules governing the loss of its nationality is, in principle, not restricted by international law unless a state has imposed restrictions upon itself by treaty.¹⁰⁰

Of course, it is clearly established by international law that the property

⁹³1954 Convention Relating To The Status of Stateless Persons, Article 31, 360 U.N.T.S. 117.

⁹⁴See *R. v. Goldfarb* (1963), 1 All E.R. 169; *Stanislas v. Watkins and the Miedzinska case*, 26 Brit. Y.B. Int'l. Law 349 (1949).

⁹⁵A. Mutharika, *Is There An Obligation Under International Law Not To Deport a Stateless Person?* 2 Eastern African Law Review 242 (1969) (hereinafter cited as Mutharika).

⁹⁶*Columbia v. Peru*, I.C.J. 276-277 (1950).

⁹⁷Statute of the International Court of Justice, Article 38(1) (b).

⁹⁸*Morgenstern, The Right of Asylum* 26 Brit. U.B. Int'l Law 352 (1949).

⁹⁹Mutharika, at 242.

¹⁰⁰Weis, at 128-129.

rights of aliens or non-nationals must be respected by the host government.¹⁰¹ However, two factors may modify this principle, but not eliminate it. A state may interfere with private property rights for purposes of taxation, the administration of public utilities, and the general public welfare.

The other modification arises when a fundamental change occurs in the political system and the economic structure of the state.¹⁰² This situation has occurred quite frequently in Third World nations. As regards non-nationals or aliens, the public taking (nationalization) of their private property at the least, according to international law, must be done in a manner which is non-discriminatory, is non-arbitrary, and provides for prompt, adequate and effective compensation.¹⁰³

The traditional view regarding this problem was expressed by United States Secretary of State Hull when he said that "under every rule of law and equity, no government is entitled to expropriate private property for whatever purpose, without provision for prompt, adequate and effective payment therefor."¹⁰⁴ There can be no question that this is the view of customary international law.

Nasereko, however, makes a good plea for the plight of Third World countries (a common complaint of Third World jurists is that many of the rules of international law do not apply to them, because their culture is so radically different from the western countries where most of the rules of international law developed), which will invariably be under the control of alien economic interests long after independence. He notes that the long standing principle of strong protection of private property clashes here, with the modern concept that underdeveloped countries must be given the possibility of using their own natural resources.¹⁰⁵

Therefore, a Third World nation which was formerly in a colonial status may nationalize alien property; and unless it does, it need pay no more compensation than the "net value" of the assets concerned. It is not obliged to pay for the loss of expected profits and goodwill to the former owners of the nationalized properties. Nor for disturbance costs such as costs of prematurely retiring staff made redundant and repatriating expatriate staff.¹⁰⁶

¹⁰¹Oppenheim, at 318.

¹⁰²*Id.*

¹⁰³D. Nasereko, *Tanzania Nationalization Laws*, 3 East African Law Review 14 (1970) (hereinafter cited as Nasereko).

¹⁰⁴Nasereko at 16; Steiner and Vagts, *Transnational Legal Problems*, at 322; Oppenheim, at 318.

¹⁰⁵54 A.J.I.L. 317 (1960); Nasereko, at 18.

¹⁰⁶Nasereko, at 20.

One final point. Uganda is a member of the United Nations and, therefore, supposedly adheres to the principles set forth in its Charter. The Charter provides that the U.N. is "to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights for all without distinction as to race, sex, language or religion."¹⁰⁷ Also, the Charter places an obligation on the U.N. to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."¹⁰⁸

Further, in order to support the above, the next article states that "all members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55."¹⁰⁹ It is not possible, consequently, to divide the duties of the U.N. as a total entity from the duty upon each individual member in the area of human rights and racial equality. Since the Charter of the United Nations is an international treaty, its precepts are legally binding upon all the members.¹¹⁰

In 1948 the General Assembly of the United Nations unanimously adopted the Universal Declaration of Human Rights. The Declaration's basic thrust was against any kind of discrimination stating that all men must be equal in the eyes of the law.¹¹¹ This had a profound effect upon the emerging African nations. In fact, the Organization of African Unity specifically mentions the Declaration in its preamble.¹¹²

As of yet, Uganda has neither signed nor ratified the International Convention on the Elimination of all Forms of Racial Discrimination which unanimously passed the General Assembly in December of 1965. And it has not done so with good reason—the convention contains reference to the treatment of aliens.¹¹³ Article 1 allows for a distinction to be made between citizens and non-citizens. However, it further says that this distinction over citizenship does not allow discrimination against aliens if it is not *qua* aliens, but on ground of color, race, descent, national or ethnic origin.¹¹⁴

¹⁰⁷Charter of the United Nations, Article 1(3).

¹⁰⁸*Ibid.*, Article 55 (c).

¹⁰⁹*Ibid.*, Article 56.

¹¹⁰E. Schwelb, *Human Rights and The International Community* 24 (1964); F. Njenga, *The Role of The United Nations In The Matter of Racial Discrimination*, 1 *Eastern African Law Review* 138 (1968) (hereinafter cited as Njenga).

¹¹¹Universal Declaration of Human Rights, Article 7.

¹¹²Njenga, at 140.

¹¹³International Convention on The Elimination of All Forms of Racial Discrimination, Article 1.

¹¹⁴Njenga, at 144.

Conclusion

To make a rational, legal analysis of the problems involved in the expulsion of the Asians from Uganda and the expropriation of their property interests is extremely difficult. Not only are the issues involved complex and intricate, but also the fact pattern is nigh unto impossible to decipher.

Because Uganda was a protectorate of Great Britain, and because the two nations are both members of the Commonwealth of Nations, one could argue that international law does not really apply to the expulsion of the Asians at all. The United Kingdom has always reserved the right to settle all disputes among members of the Commonwealth, and therefore she might never sign over jurisdiction to the International Court of Justice, if a claim were to arise from the Uganda affair.¹¹⁵ Furthermore, it would seem that each nation, Uganda and the U.K., can just as easily place the blame on the other, given both Uganda's colonial past and her continual difficulties with her Asian population.

The exceptions which the Ugandans were able to devise in their Constitution and laws over the distinction between citizens and non-citizens were very artfully drawn. Drawn so well, in fact, that a claim of racial discrimination against the Asians would be extremely difficult to substantiate. Furthermore, Uganda was careful not to become a signatory party to or to ratify any international convention or treaty agreement which would have prevented her from dealing with her non-citizen population as she wished.

Perhaps one should simply view the entire Asian expulsion as a prominent American newspaper did in an editorial:

Rich nations are accustomed to forcing their will on the poor whenever it suits their interests. The Uganda situation is a rare example of the poor forcing their will upon the rich. This is, in a sense, the inevitable consequence of the colonial era's end.¹¹⁶

After all, everything is over now, and the Asians are tucked safely away in various nations around the world.

What about their hard-earned savings and property holdings? And the way the Asians were personally treated down there? Or, the tremendous problems of housing and politics in Great Britain due to the mass influx of the Asians? Uganda will answer that those hard-earned savings were robbed from her by an alien population brought inside her borders by a colonial power, which lived well at the expense of her interests in Uganda for over one hundred years. Perhaps now that colonial power should do some suffering as payment.

¹¹⁵Plender, at 321.

¹¹⁶The Christian Science Monitor, Sept. 27, 1972, at 10.

In a very optimistic frame of mind, Francis Oppenheim ended his chapter on the international legal ramifications of a nation's expulsion of its alien population by stating that, "with the gradual disappearance of despotic views in the different states, and with the advance of true constitutionalism guaranteeing individual liberty and freedom of opinion and speech, expulsion of aliens, especially for political reasons will become less frequent."¹¹⁷ When he wrote this statement, however, Oppenheim certainly must not have taken into account the tremendous power of the army in Third World countries and the relative ease with which it can effect a *coup d'état*.

The issue of just compensation for the property losses which the Asians sustained will probably never be squarely dealt with. Uganda will continually claim that everyone will receive what is due him, but the amount will be forever disputed. There is no possible way to determine the value of the losses in light of the numbers of the individuals involved and the incredibly complex intricacies of their holdings.

The totalitarian figure of Adi Amin Dada, however, overshadows the entire affair of the Asians in Uganda. It is true that if the roots of the Asian situation had not already been in Uganda, Amin could not have exploited it so effectively and efficiently. Yet, while efficient, the most outstanding aspect of his method was its arbitrariness.

The Asian people never knew when they would suddenly be searched, robbed of their identification papers, or told to get out of the country and go anywhere at all on forty-eight hours notice. At first, he said every Asian living in the country of Uganda had to leave, then he changed his tune to take advantage of the legal disability placed upon the non-citizens.

During the ninety-day expulsion period, some Uganda Asian athletes happened to do well at the World Olympics. As a reward, Amin bestowed the blessing of citizenship upon them. Later on, he announced that all Asians on the Uganda cricket team had to resign. He even told the small number of citizen Asians who remained in Uganda, that they would have to live out in the country and marry African women.

Such a listing of Idi Amin's arbitrary rule by decree could go on forever. He will probably never be held accountable in a concrete way for the manner in which he treated the Uganda Asians. It cannot be denied, however, that the methods he employed in expelling the Asian population from Uganda during 1972, were in clear violation of customary international laws.

¹¹⁷Oppenheim, at 633.