

The “Liberalization” of Refugee Naturalization: Some Insights in *Republic v. Karbasi* on the Gains and Deficits on the Law on Local Integration

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I. INTRODUCTION

In the last century, the aftermath of the Second World War spawned a rethinking of the refugee problem. This, in turn, caused the birth of the universal and contemporary instrument on refugee protection, the 1951 Convention Relating to the Status of Refugees (1951 Refugee Convention).¹ The international treaty has been called the “[Magna Carta]

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for refugees,”² for it defines who “refugees” are, grants them status and rights, and obligates States to protect them.³

Today, world attention has once again shifted dramatically to refugees.⁴ The media has been a potent tool in highlighting the present refugee plight.⁵ Many have claimed that the current refugee and migrant crisis in Europe is the greatest and most severe since the Second World War.⁶ A report of the International Organization for Migration confirmed that over a million irregular migrants and refugees arrived in Europe in 2015 alone, mostly from the Syrian Arab Republic, Africa, and South Asia.⁷ Migrants have come from more than 100 countries, often through dangerous, desperate means — over 4,000 people have drowned attempting to cross the seas towards Europe.⁸ An unprecedented 65 million people have been forcibly displaced from home and are now in “search of international protection.”⁹ This is the

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1. United Nations High Commissioner for Refugees (UNHCR), History of UNHCR, *available at* <http://www.unhcr.org/en-us/history-of-unhcr.html> (last accessed Aug. 31, 2016) & Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137 (entered into force Apr. 22, 1954) [hereinafter 1951 Refugee Convention].
 2. Gilbert Jaeger, *On the History of the International Protection of Refugees*, 83 INT’L REV. RED CROSS 727, 736 (2001).
 3. *See generally* 1951 Refugee Convention, *supra* note 1.
 4. This is to not to say that world attention to refugees has been absent before. This merely asserts that the issue of refugee protection has been put in the front and center of public discourse because of recent massive refugee movements.
 5. Charles Parkinson, The Year Europe Buckled Under the Biggest Refugee Crisis Since World War II, *available at* <https://news.vice.com/article/the-year-europe-buckled-under-the-biggest-refugee-crisis-since-world-war-ii> (last accessed Aug. 31, 2016).
 6. *Id.*
 7. International Organization for Migration (IOM), Irregular Migrant, Refugee Arrivals in Europe Top One Million in 2015: IOM, *available at* <https://www.iom.int/news/irregular-migrant-refugee-arrivals-europe-top-one-million-2015-iom> (last accessed Aug. 31, 2016).
 8. *Id.*
 9. Andika Ab Wahab, Refugees in South-east Asia: A crisis of shared responsibility, *available at* <http://www.themalaymailonline.com/what-you->

highest level of displacement on record, according to the United Nations High Commissioner for Refugees (UNHCR).¹⁰ It is a crisis of epic proportions.

Governments and the media have vacillated in terming the phenomenon a “migration,” “refugee,” or “humanitarian” crisis.¹¹ The Author argues that the crisis is, in fact, all of them. The world is confronted by a mixed load of movement — both refugee and migration-related — which is humanitarian in nature and should be considered a humanitarian concern.

The ambivalence of States to call it a “refugee” crisis despite its clear context is the real “world crisis.” This depicts the kind of nationalistic persuasion that undermines efforts to lay out a clear regime of law that can sufficiently protect refugees. The “naming game” could have a disastrous effect, especially when refugee law — the applicable regime of law in this scenario — is downplayed or totally disregarded, on the false pretense that the crisis does not involve refugees, but mere irregular migrants. Furthermore, it is notable how it affects inter-State relations, and the relation of States with a supra-national body such as the European Union (E.U.). For instance, the rhetoric of the so-called exit of the United Kingdom (U.K.) from the E.U., or “Brexit,” has been built heavily around the crisis, although there is no remarkable refugee influx to the U.K. in terms of relative numbers.¹²

The crisis also highlights the question of how to begin the process of the integration of more than a million refugees and migrants just last year in the European continent.¹³ It is clear that States are concerned with border policies and the effect of refugee influx on their economy, culture, and

think/article/refugees-in-southeast-asia-a-crisis-of-shared-responsibility-andika-ab-waha (last accessed Aug. 31, 2016).

10. *Id.*

11. Jenny Phillimore, Integration and the European Migration “Crisis,” available at https://www.carnegiecouncil.org/publications/ethics_online/0118 (last accessed Aug. 31, 2016).

12. Amanda Taub, Brexit, Explained: 7 Questions About What It Means and Why It Matters, N.Y. TIMES, June 20, 2016, available at <http://www.nytimes.com/2016/06/21/world/europe/brexit-britain-eu-explained.html> (last accessed Aug. 31, 2016).

13. See IOM, *supra* note 7.

society as a whole.¹⁴ Indeed, integration is a perennial question in forced migration.¹⁵ The Republic of the Philippines (the Philippines), which is home to a lesser number of refugees,¹⁶ has also faced problems in relation to integration since it opened its borders to refugees in the early 20th century.¹⁷ In the Association of Southeast Asian Nations (ASEAN) region, as of 2014, only around 300,000 refugees and asylum seekers resided across five ASEAN States, namely Malaysia, the Kingdom of Thailand, the Republic of Indonesia, the Kingdom of Cambodia (Cambodia), and the Philippines.¹⁸

In 2015, in *Republic v. Karbasi*,¹⁹ the Supreme Court of the Philippines (Supreme Court) decided on the naturalization of Karman F. Karbasi (Karbasi), himself a refugee, and confirmed that he is a citizen of the

14. See, e.g., BBC, Migrant crisis: Finland's case against immigration, *available at* <http://www.bbc.com/news/world-europe-34185297> (last accessed Aug. 31, 2016); Demetrios G. Papademetriou, et al., Migration and the Economic Downturn: What to Expect in the European Union (A Paper Prepared for the Transatlantic Council on Migration), *available at* <http://www.migrationpolicy.org/research/migration-and-economic-downturn-what-expect-european-union> (last accessed Aug. 31, 2016); Patrick Donahue, Merkel Cites Refugees as Boon as Anti-Immigration Party Advances, *available at* <http://www.bloomberg.com/news/articles/2015-11-17/merkel-says-germany-can-take-on-refugees-as-poll-shows-pitfalls> (last accessed Aug. 31, 2016); & Gregor Aisch, et al., *Countries Under the Most Strain in the European Migration Crisis*, N.Y. TIMES, Dec. 22, 2015, *available at* <http://www.nytimes.com/interactive/2015/08/28/world/europe/countries-under-strain-from-european-migration-crisis.html> (last accessed Aug. 31, 2016).

15. *Id.*

16. Wahab, *supra* note 9.

17. See, e.g., Presidential Museum and Library, The Philippines as Haven for Refugees, *available at* <http://malacanang.gov.ph/75632-historical-ph-haven-for-refugees> (last accessed Aug. 31, 2016); Aye Macaraig, PH a 'paradise' for grateful White Russian refugees, *available at* <http://www.rappler.com/nation/96914-philippines-paradise-white-russians> (last accessed Aug. 31, 2016); & Paterno Esmaguél II, PH open to sheltering 3,000 'boat people,' *available at* <http://www.rappler.com/nation/93577-myanmar-rohingya-boat-people-philippines> (last accessed Aug. 31, 2016).

18. Wahab, *supra* note 9.

19. *Republic v. Karbasi*, 764 SCRA 352 (2015).

Philippines.²⁰ This case is historic for many reasons. It is the first time that the Supreme Court interpreted the 1951 Refugee Convention, and it is also the first case on local integration to reach the Supreme Court.²¹ Arguably, it may also become the progenitor of a succeeding line of jurisprudence on refugee naturalization in the Philippines and in the ASEAN region.

For the record, among ASEAN states, only the Philippines and Cambodia are parties to the 1951 Refugee Convention and its 1967 Protocol.²² The latter treaty removed time and geographic limitations to obligations under the 1951 Refugee Convention.²³ The Supreme Court relied on the 1951 Refugee Convention in ruling that *Karbasi* was qualified to be a Filipino citizen.²⁴

From the viewpoint of integration, naturalization — while it is not the only thing that counts — is crucial in ensuring the successful local integration of refugees.²⁵ This Comment presents insights on the *Karbasi* decision. It summarizes the case, including the facts, the opposition of the Solicitor General, and the Supreme Court's ultimate disposition of the issues. In a brief set of comments, it argues, among others, that *Karbasi* is of the

20. *Id.* at 384.

21. *Id.* at 382-83.

22. United Nations Treaty Collection, States Parties to the 1951 Convention relating to the Status of Refugees, *available at* https://treaties.un.org/Pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-2&chapter=5&Temp=mtdsg2&clang=_en (last accessed Aug. 31, 2016) [hereinafter States Parties to the 1951 Convention relating to the Status of Refugees] & United Nations Treaty Collection, States Parties to the 1967 Protocol relating to the Status of Refugees, *available at* https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-5&chapter=5&clang=_en (last accessed Aug. 31, 2016).

23. *See* Protocol Relating to the Status of Refugees, Jan. 31, 1967, 606 U.N.T.S. 267 (entered into force Oct. 4, 1967).

24. *Karbasi*, 764 SCRA at 382-84.

25. Different countries approach local integration of refugees in different ways, but most often, naturalization is an integral part of the integration process. *See generally* Alexandra Fielden, Local integration: an under-reported solution to protracted refugee situations (A Paper Prepared for the Policy Development and Evaluation Service of the UNHCR), *available at* <http://www.unhcr.org/486cc99f2.pdf> (last accessed Aug. 31, 2016).

tradition that directly invokes international law for the protection of refugees and their families. But it also notes that there are glaring deficits in the Philippine legal system which *Karbasi* inevitably brings to light, such as the absence of a specific scheme of naturalization for refugees, and the shrinking space of citizenship that may be sacrificed or set aside in order to pursue the liberalization of refugee naturalization.

These comments are made from the point of view of refugee law and are not a comprehensive set of analyses on the case. Nor are they meant to cover the entire gamut of issues brought about by the topics of naturalization and local integration. Rather, they are proposed by the Author in order to strike a dialogue on this relevant issue, and encourage discourse on the matter.

II. THE CASE PROPER: *REPUBLIC V. KARBASI*

A. *Facts*

Karbasi was born in Tehran, the Islamic Republic of Iran (Iran) on 4 September 1966.²⁶ His father was a doctor and his mother was a retired teacher.²⁷ For the first 20 years of his life, he remained in his homeland.²⁸ However, in 1986, he left the country, together with his brother Ali Reza Karbasi (Ali Reza), to escape the war that broke out between Iran and the Republic of Iraq.²⁹ The Iranian government had canceled their passports; the two travelled by camel to the Republic of Pakistan (Pakistan), where Karbasi remained for three years.³⁰

As a foreigner in Pakistan, he submitted himself to the UNHCR.³¹ However, he was not immediately granted refugee status, given that Pakistan is adjacent to Iran.³² He was also informed that he had to transfer to a third country that was not at war with Iran.³³ Since his brother, Ali Reza, had already relocated to the Philippines, Karbasi decided to transfer to the same

26. *Karbasi*, 764 SCRA at 358.

27. *Id.* at 361.

28. *Id.*

29. *Id.* at 362.

30. *Id.*

31. *Id.*

32. *Karbasi*, 764 SCRA at 362.

33. *Id.*

country.³⁴ He encountered great difficulty in securing travel documents, and eventually opted to procure a Pakistani passport under a fake name.³⁵

When he arrived in the Philippines on 11 July 1990, he submitted himself to the United Nations (U.N.) in Manila, and was subsequently recognized as a refugee.³⁶ Karbasi stayed in Quezon City for the first six months of his stay in the country, before transferring to Dipolog City.³⁷ In Dipolog, he enrolled in a two-year vocational course in Andres Bonifacio College.³⁸ He then pursued a Bachelor of Sciences degree in Industrial Technology at the Central Visayas Polytechnic College in Dumaguete City.³⁹ After graduating from the said institution, he attended several more technical training courses before returning to Dipolog City, where he opened his own electronics repair shop.⁴⁰ He married Cliji G. Lim and the couple begot two children.⁴¹

On 25 June 2002, Karbasi filed a petition for naturalization with the Regional Trial Court (RTC), and the same was granted.⁴² However, the Republic of the Philippines, through the Office of the Solicitor General (OSG), appealed the decision on the ground that Karbasi had failed to comply with the requirements of *character*, *income*, and *reciprocity*, as set forth in Commonwealth Act No. 473 (Naturalization Law).⁴³ According to the OSG, Karbasi failed to establish that —

(1) Iran grants reciprocal rights of naturalization to Filipino citizens; (2) he has a lucrative income as required under the law; and (3) he is of

34. *Id.*

35. *Id.*

36. *Id.*

37. *Id.* at 363.

38. *Karbasi*, 764 SCRA at 363.

39. *Id.*

40. *Id.* at 363-64.

41. *Id.* at 364.

42. *Id.* at 357.

43. *Id.* at 365. *See* An Act to Provide for the Acquisition of Philippine Citizenship by Naturalization, and to Repeal Acts Numbered Twenty-Nine Hundred and Twenty-Seven and Thirty-Four Hundred and Forty-Eight [Revised Naturalization Law], Commonwealth Act No. 473 (1939) (emphasis supplied).

good moral character as shown by his disregard of Philippine tax laws when he had underdeclared his income in his [I]ncome [T]ax [R]eturns (ITRs) and overstated the same in his petition of naturalization.⁴⁴

The Court of Appeals (CA), however, affirmed the grant of the petition for naturalization.⁴⁵ In its ruling, the CA held that (1) Karbasi's declaration in his Income Tax Return (ITR) was in good faith, and (2) as a refugee, Karbasi did not need to prove reciprocity between the Philippines and Iran.⁴⁶

B. The Opposition of the Office of the Solicitor General

The OSG insisted that Karbasi failed to prove that he had lucrative income.⁴⁷ The OSG cited the Table of Annual Income and Expenditure in Western Mindanao, which stated that the average annual income in Western Mindanao was ₱86,135.00 in the year 2000, and ₱93,000.00 in the year 2003.⁴⁸ In the succeeding years, Karbasi's gross income continued to fall well below the Western Mindanao average.⁴⁹ Thus, the OSG concluded that Karbasi did not have a lucrative income for the purpose of obtaining Filipino citizenship.⁵⁰

Meanwhile, the OSG's claim of a lack of good moral character stemmed from the fact that Karbasi had allegedly underdeclared his income in his ITRs, yet overstated the same in filing his petition for naturalization.⁵¹ According to the OSG, this was evidence of Karbasi's disregard for Philippine tax laws, which in turn showed that his conduct during his stay here had not been irreproachable.⁵²

C. The Position of Karbasi

44. *Karbasi*, 764 SCRA at 365-66.

45. *Id.* at 366.

46. *Id.*

47. *Id.*

48. *Id.*

49. *Id.* at 367.

50. *Karbasi*, 764 SCRA at 367-68.

51. *Id.*

52. *Id.*

In his comment, Karbasi countered that the OSG raised only questions of fact, all of which deserved scant consideration.⁵³ He emphasized that the objective of the lucrative trade or operation requirement, as it had been developed in jurisprudence, is to ensure that “the applicant [does] not become a public charge or an economic burden upon society.”⁵⁴ Karbasi claimed that his thriving electronics shop business is sufficient to show that, as a citizen, he would certainly be able to contribute to national progress.⁵⁵ Further, Karbasi challenged the data presented by the OSG in the Table of Annual Income and Expenditure in Western Mindanao as being merely statistical, one that was not an accurate reflection of the circumstances of a particular subject or person.⁵⁶ Therefore, he opined, it could not be a reliable basis to evaluate the qualification of a petitioner in a naturalization case.⁵⁷

With regard to the inconsistency in his ITRs, and in his petition for naturalization, he explained that the same was a result of an honest and good faith belief that the tax on his earnings from many of his transactions had already been withheld at source.⁵⁸

In addition to his comment, Karbasi also filed an amended pleading, in which he brought up the 1951 Refugee Convention and its 1967 Protocol.⁵⁹ In particular, he asserted that parties to these Conventions, such as the Philippines, are obligated “to safeguard the rights and well-being of refugees and to ensure the facility of their local integration, including naturalization.”⁶⁰

D. Issues

There were three primary issues for resolution in the case of *Karbasi*.

The first concerns the *income* requirement, which provides that an individual seeking naturalization must have a lucrative trade or income.⁶¹

53. *Id.* at 368.

54. *Id.*

55. *Id.*

56. *Karbasi*, 764 SCRA at 368.

57. *Id.*

58. *Id.* at 369.

59. *Id.*

60. *Id.* at 369 (emphasis supplied).

61. *Id.* at 374.

There is a question as to the kind of evidence that should be appreciated in determining whether this income requirement has been fulfilled, as well as the applicable standard for ascertaining whether or not a trade or income is sufficiently lucrative.⁶²

The second concerns the requirement of *irreproachable conduct*.⁶³ In particular, the question is whether the standard for irreproachable conduct is so strict as to disqualify a petitioner merely because of a discrepancy in declaring income.⁶⁴

The third concerns the requirement of *reciprocity* and the question of whether or not it is a requisite for naturalization that the person seeking to be naturalized is a citizen of a country that accords Filipino citizens the same opportunity for naturalization under the country's law.⁶⁵

E. Ruling

The Supreme Court has held in previous decisions that “[c]itizenship is personal and[] [entails] more or less permanent membership in a political community.”⁶⁶ Further, citizenship entails both the possession of civil and political rights, but also imposes the duty of allegiance to the political community.⁶⁷ Citizenship is not a right, but a privilege involving political status which an individual must cherish and carry with pride.⁶⁸ Moreover, vesting an individual with citizenship through the process of naturalization does not only affect the individual seeking such citizenship, but the public interest as well.⁶⁹ Thus, a petitioner who seeks to be naturalized must comply with all the requirements of the law.⁷⁰

62. *Karbasi*, 764 SCRA at 374.

63. *Id.*

64. *Id.*

65. *Id.*

66. *Go v. Republic*, 729 SCRA 138, 149 (2014) & *Karbasi*, 764 SCRA at 370 (citing JOAQUIN G. BERNAS, S.J., *THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY* 629 (2009 ed.)).

67. *Karbasi*, 764 SCRA at 370 (citing BERNAS, *supra* note 66, at 629-30).

68. *Id.* at 372.

69. *Id.* (citing *Cuaki Tan Si v. Republic*, 6 SCRA 545, 556 (1962)).

70. *Karbasi*, 764 SCRA at 372.

An enumeration of those who can be considered Filipino citizens is found in the 1987 Constitution.⁷¹ Expressly included in such enumeration are those who become citizens by naturalization — “the legal act of adopting an alien and clothing him with the privilege of a native-born citizen.”⁷²

Naturalization is either judicial or administrative.⁷³ The former, as provided in the Naturalization Law, requires a hearing and the receipt of evidence in order to establish that the petitioner possesses all of the qualifications and none of the disqualifications for naturalization.⁷⁴ In addition, the petitioner must also present at least two character witnesses who can attest to the petitioner’s attestations.⁷⁵ Under judicial naturalization, only a competent court may order the issuance of the proper naturalization certificate and its registration in the proper civil registry.⁷⁶ On the other hand, administrative naturalization, under Republic Act (R.A.) No. 9139 or the Administrative Naturalization Law of 2000,⁷⁷ provides that an alien who was born in the Philippines and continues to reside therein may be granted Philippine citizenship.⁷⁸ All that is required is an administrative proceeding initiated through a filing of a petition for citizenship with the Special Committee.⁷⁹ Upon approval, said committee will then issue a certificate of

71. *Id.* at 371 (citing PHIL. CONST. art. IV, § 1).

72. *Karbasi*, 764 SCRA at 371.

73. *Id.*

74. *Id.* at 372 (citing Revised Naturalization Law, § 7).

75. *Id.*

76. *Id.* at 371 (citing Revised Naturalization Law, §§ 8 & 12).

77. An Act Providing for the Acquisition of Philippine Citizenship for Certain Aliens by Administrative Naturalization and Other Purposes [The Administrative Naturalization Law of 2000], Republic Act No. 9139, § 3 (2001).

78. *Karbasi*, 764 SCRA at 371 (citing The Administrative Naturalization Law of 2000, § 3).

79. *Id.* (citing The Administrative Naturalization Law of 2000, § 5).

naturalization.⁸⁰ In both judicial and administrative naturalization, the final step is the oath of allegiance to be taken by the petitioner.⁸¹

The qualifications that an individual must possess for naturalization are provided in Section 2 of the Revised Naturalization Law:

Section 2. *Qualifications.* — Subject to section four of this Act, any person having the following qualifications may become a citizen of the Philippines by naturalization:

First. He must be not less than twenty-one years of age on the day of the hearing of the petition;

Second. He must have resided in the Philippines for a continuous period of not less than ten years;

Third. He must be of *good moral character* and believes in the principles underlying the Philippine Constitution, and must have conducted himself in a proper and *irreproachable manner* during the entire period of his residence in the Philippines in his relation with the constituted government as well as with the community in which he is living;

Fourth. He must own real estate in the Philippines worth not less than five thousand pesos, Philippine currency, or *must have some known lucrative trade, profession, or lawful occupation*;

Fifth. He must be able to speak and write English or Spanish and any one of the principal Philippine languages; and

Sixth. He must have enrolled his minor children of school age, in any of the public schools or private schools recognized by the Office of Private Education of the Philippines, where the Philippine history, government and civics are taught or prescribed as part of the school curriculum, during the entire period of the residence in the Philippines required of him prior to the hearing of his petition for naturalization as Philippine citizen.⁸²

I. Lucrative Income Requirement

In past decisions of the Supreme Court, it was said that “lucrative trade, [] profession[,] or lawful occupation”⁸³ —

80. *Karbasi*, 764 SCRA at 371.

81. *Id.* (citing The Administrative Naturalization Law of 2000, § 9 & Revised Naturalization Law, § 12).

82. *Id.* at 373 (citing Revised Naturalization Law, § 2) (emphases supplied).

83. *Id.* at 374.

means not only that the person having the employment gets enough for his ordinary necessities in life. It must be shown that the employment gives one an income such that there is an appreciable margin of his income over his expenses as to be able to provide for an adequate support in the event of unemployment, sickness, or disability to work and thus avoid[s] one's becoming the object of charity or a public charge. His income should permit him and the members of his family to live with reasonable comfort, in accordance with the prevailing standard of living, and consistently with the demands of human dignity, at this stage of our civilization.⁸⁴

Jurisprudence shows that the Supreme Court has always been strict in imposing this requirement, in the sense that it has not hesitated to decline a petition for naturalization where the applicant has not sufficiently shown that he has such lucrative trade, profession, or lawful occupation.⁸⁵ The question in *Karbasi*, however, is not the indispensability of such qualification, but rather whether or not it can be determined through a simplistic read-through on government data.⁸⁶ The Supreme Court, in this case, answered in the negative.⁸⁷ A perusal of past cases reveals some of the reasons which led the Supreme Court to consider an applicant to be lacking this particular qualification — dependence on another person for support, extraordinary expenses that would render the applicant's income insufficient, or existence of a risk which might render the applicant's livelihood unstable and volatile.⁸⁸ In *Karbasi's* case, there are many indicators that led the RTC to conclude that he did, in fact, possess a lucrative trade, profession, or lawful occupation. *Karbasi* had been able to put up his own repair shop, he was a vocational and college degree holder, and his wife testified that she considered him a good provider, among others.⁸⁹ When the OSG's mere use of government data was put up against the totality of the indicators that *Karbasi* had in his favor, the Supreme Court ruled that it was clear that the former must yield to the latter.⁹⁰

84. *Id.* (citing *Republic v. Ong*, 673 SCRA 485, 499 (2012); *Tan v. Republic*, 13 SCRA 663, 667 (1965); & *In the Matter of the Petition of Ban Uan*, 55 SCRA 594, 596 (1974)).

85. *Id.* at 375.

86. *Karbasi*, 764 SCRA at 377.

87. *Id.*

88. *Id.*

89. *Id.* at 378.

90. *Id.*

Further, an acceptance of the OSG's logic would have created a dangerous precedent that compliance with this particular requisite could be made to depend merely on the result of research.⁹¹ Although such research is often reliable and applicable in many cases, it cannot be the sole basis for the determination of a lucrative trade, profession, or lawful occupation.⁹² Moreover, the Supreme Court pointed out the fact that Karabsi was a refugee who had been able to create a livelihood after having come to the Philippines with almost nothing.⁹³ He is thus a self-made entrepreneur, able to support his family, and unlikely to become a public charge.⁹⁴

2. The Irreproachable Conduct Requirement

The OSG had cited the case of *Lim Eng Yu v. Republic*,⁹⁵ in which the applicant, at the eleventh hour, refuted his ITRs, so he could prove that he had a lucrative trade or occupation.⁹⁶ In that case, the Supreme Court, taking into account particular circumstances, ruled that the applicant had initially tried to conceal his income to evade the payment of lawful taxes.⁹⁷

Karbasi's case is different in that he did not try to deny the discrepancies in his ITRs, but instead admitted a procedural lapse on his part.⁹⁸ Karbasi did not deny that he had rendered services that had earned him a considerable sum.⁹⁹ In fact, he admitted such earnings, and sufficiently explained that the lapse was due to the mistaken belief that the lawful taxes due had been withheld at source.¹⁰⁰ The Supreme Court further clarified that its objective was not to allow ITR irregularities to be justified by "mistaken belief."¹⁰¹

91. *Id.*

92. *Karbasi*, 764 SCRA at 378.

93. *Id.* at 379-80.

94. *Id.* at 380.

95. *Lim Eng Yu v. Republic*, 17 SCRA 1058 (1966).

96. *Id.* at 1061-62.

97. *Id.*

98. *Karbasi*, 764 SCRA at 381.

99. *Id.* at 382.

100. *Id.* at 369.

101. *Id.* at 381.

But Karbasi's one lapse was not so morally depraved as to completely disqualify him from obtaining citizenship.¹⁰²

3. Reciprocity

Having settled the matter on the income requirement and the irreproachable conduct requirement, the Supreme Court then touched briefly on the issue of the reciprocity requirement.¹⁰³

As a general rule, the Revised Naturalization Law disqualifies citizens or subjects of a foreign country whose laws do not grant Filipinos the right to become naturalized citizens or subjects.¹⁰⁴ This is provided for in Section 4 of the Revised Naturalization Law, to wit —

Section 4. *Who are disqualified.* [—] The following cannot be naturalized as Philippine citizens:

...

- (h) Citizens or subjects of a foreign country other than the United States whose laws do not grant Filipinos the right to become naturalized citizens or subjects thereof.¹⁰⁵

There is, however, an exception to this rule. The requisite does not apply to a petitioner who has been granted refugee status because, in such a case, the Philippine's obligations under the 1951 Refugee Convention come into play,¹⁰⁶ in this wise —

Article 7. *Exemption from reciprocity* —

- (1) Except where this Convention contains more [favorable] provisions, a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally.
- (2) *After a period of three years' residence, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States.*
- (3) Each Contracting State shall continue to accord to refugees the rights and benefits to which they were already entitled, in the absence of

102. *Id.* at 382.

103. *Id.*

104. *Karbasi*, 764 SCRA at 382 (citing Revised Naturalization Law, § 4 (h)).

105. Revised Naturalization Law, § 4 (h).

106. *Karbasi*, 764 SCRA at 382.

reciprocity, at the date of entry into force of this Convention for that State.

- (4) The Contracting States shall *consider [favorably] the possibility of according to refugees, in the absence of reciprocity, rights and benefits beyond those to which they are entitled according to paragraphs 2 and 3, and to extending exemption from reciprocity to refugees who do not fulfil the conditions provided for in paragraphs 2 and 3.*
- (5) The provisions of paragraphs 2 and 3 apply both to the rights and benefits referred to in [A]rticles 13, 18, 19, 21[,] and 22 of this Convention and to rights and benefits for which this Convention does not provide.¹⁰⁷

Additionally, Article 34 provides —

Article 34. *Naturalization* — The Contracting States shall *as far as possible facilitate the assimilation and naturalization of refugees.* They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.¹⁰⁸

Karbasi's petition and supplemental pleadings revealed that he had successfully established his refugee status upon arrival in the Philippines.¹⁰⁹ Thus, the Supreme Court ruled that “the Naturalization Law must be read in light of the developments in international human rights law[,] specifically the granting of nationality to refugees and stateless persons.”¹¹⁰

All told, the Supreme Court ruled that the RTC and the CA did not err in granting Karbasi's application for naturalization.¹¹¹

107. 1951 Refugee Convention, *supra* note 1, art. 7 (emphases supplied).

108. *Id.* art. 34 (emphasis supplied).

109. *Karbasi*, 764 SCRA at 382.

110. *Id.* at 384.

111. *Id.*

III. SOME INSIGHTS ON *KARBASI*: GAINS AND DEFICITS IN THE SYSTEM*A. Liberalizing the Naturalization of Refugees and Durable Solutions*

In the first lines of his *ponencia* in *Karbasi*, Justice Jose C. Mendoza quoted Article 34 of the 1951 Refugee Convention, which provides, “The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.”¹¹² As such, the decision was framed as refugee case law.¹¹³ It also declared that the Philippines is a signatory to the 1951 Refugee Convention.¹¹⁴

Article 34 of the 1951 Refugee Convention is not the only provision of the treaty that the Supreme Court interpreted. With much emphasis, the Supreme Court also quoted Article 6 of the Convention which deals with the obligation of Contracting States to exempt refugees from laws that require reciprocity in certain cases.¹¹⁵

Karbasi is technically not the first refugee who was naturalized in the Philippines. From December 1937 to January 1938, following the so-called “Rape of Nanjing,” when Japanese troops killed around 200,000 to 300,000 people, Chinese citizens and nationals of the Hong Kong Special Administrative Region of the People's Republic of China fled China.¹¹⁶

112. *Id.* at 356 (citing 1951 Refugee Convention, *supra* note 1, art. 34).

113. *Id.*

114. *Id.* at 382.

115. *Karbasi*, 764 SCRA at 382-83 (citing 1951 Refugee Convention, *supra* note 1, art. 6). Article 6 of the Convention provides —

For the purposes of this Convention, the term ‘in the same circumstances’ implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfil[] for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.

1951 Refugee Convention, *supra* note 1, art. 6.

116. Tricia Aquino, PINOY PRIDE | 9 times the Philippines welcomed refugees from 1923-2000, *available at* <http://www.interaksyon.com/lifestyle/pinoy->

Others arrived in the Philippines, and a few thousands remained throughout the Second World War and became naturalized Filipinos in 1946.¹¹⁷ Their children acquired Filipino citizenship as well.¹¹⁸ It happened as then President Manuel L. Quezon issued Proclamation No. 173¹¹⁹ to extend aid to refugees.¹²⁰

Karbasi is also not the first to be granted citizenship through judicial naturalization under the general law on naturalization in the Philippines.¹²¹ According to the UNHCR, in 2006, there were about 40 refugees — mainly from Africa, Democratic Socialist Republic of Sri Lanka, and the Middle East — whom it was helping to gain citizenship.¹²²

1. Why a Liberalization?

Various meanings are ascribed to liberalization. One meaning regards it as the “process through which some restrictions, mainly on economic and social policy of the [] government[,] can be relaxed.”¹²³ *Karbasi* has liberalized the naturalization of refugees. This is because the 1951 Refugee Convention was applied in favor of a refugee’s naturalization after relaxing

pride-9-times-the-philippines-welcomed-refugees-from-1923-2000 (last accessed Aug. 31, 2016).

117. *Id.*

118. *Id.*

119. Office of the President, Enjoining all Branches, Subdivisions, Agencies, and Instrumentalities of the Commonwealth Government to Extend Their Cooperation in Rendering the Necessary Aid to the Refugees from China and Prohibiting, as an Emergency Measure, the Raise in House Rentals and Prices of Foodstuffs and Other Prime Necessities of Life, Proclamation No. 173, Series of 1937 [Proc. No. 173, s. 1937] (Aug. 21, 1937).

120. Aquino, *supra* note 116.

121. Rico Salcedo, Iranian businessman becomes first refugee to get Philippine citizenship, *available at* <http://www.unhcr.org/news/latest/2006/9/4517df6f4/iranian-businessman-becomes-first-refugee-philippine-citizenship.html> (last accessed Aug. 31, 2016).

122. *Id.*

123. Finance Maps of World, Liberalization, *available at* <http://finance.mapsofworld.com/economy-reform/elements/liberalization.html> (last accessed Aug. 31, 2016).

some otherwise stringent qualifications under Sections 2 and 4 of the Revised Naturalization Law. This comes as jurisprudence had been traditionally strictly applied in favor of the sacrosanct nature of Philippine citizenship, which is not to be given lightly to anyone.¹²⁴

It bears stressing that much of the liberalization came from a direct authoritative invocation of the 1951 Refugee Convention, which the Philippines, as State-party, has an obligation to implement.¹²⁵ Remarkably, there is no domestic law in the Philippines which transforms or incorporates the Convention. This means that *Karbasi* belongs to the tradition of domestic cases which have directly quoted applicable treaty provisions, although the import of the said provisions are not found anywhere in domestic legislation.

The Supreme Court's invocation of the 1951 Refugee Convention is encapsulated in the following excerpt of the decision —

True, the Naturalization Law disqualifies citizens or subjects of a foreign country whose laws do not grant Filipinos the right to become naturalized citizens or subjects. A perusal of *Karbasi*'s petition, both with the RTC and the CA, together with his supplemental pleadings filed with the Court, however, reveals that *he has successfully established his refugee status upon arrival in the Philippines. In effect, the country's obligations under its various international commitments come into operation.*¹²⁶

As part of binding case law, *Karbasi* may be cited in future cases to support similarly situated naturalization petitions of refugees. It carved out an exception to deeply-held strict rules in naturalization. While judicial restraint may be a separate question of inquiry, it needs to be most importantly pointed out here, however, that he was not naturalized because of the fact that he was a refugee.¹²⁷ Instead, naturalization was made available to him through other less refugee-specific mechanisms in the law on naturalization.¹²⁸ It was not his status which opened doors for naturalization; rather, his status of being a refugee made his naturalization easier.¹²⁹ In the

124. See, e.g., *Lim Eng Yu*, 17 SCRA at 1058 & *Ong*, 673 SCRA at 485.

125. States Parties to the 1951 Convention relating to the Status of Refugees, *supra* note 22.

126. *Karbasi*, 764 SCRA at 382 (emphasis supplied).

127. *Id.*

128. *Id.*

129. *Id.* at 383-84.

words of the Supreme Court, it “facilitated” the process,¹³⁰ although the status is not among the special qualifications in Section 3 of the Revised Naturalization Law, which shortens the period of required residence to five years.¹³¹

This mirrors the observed trend on citizenship and naturalization policies in other parts of the world.¹³² In Europe, approaches have become more inclusive as well.¹³³ For example, in 1999, the Federal Republic of Germany liberalized its conservative *jus sanguinis* laws with a “more liberal” *jus soli* policy.¹³⁴ The trend toward liberalizing citizenship and naturalization is seen

130. *Id.* The Court reiterated that the earnest obligation of contracting parties of the 1951 Convention was to, as far as possible, “facilitate the assimilation and naturalization of refugees,” which meant that an individual’s status as a refugee must “end with the attainment of Filipino citizenship.” *Id.* at 384.

131. Revised Naturalization Law, § 3. Section 3 provides —

Section 3. *Special qualifications.* The [10] years of continuous residence required under the second condition of the last preceding [S]ection shall be understood as reduced to five years for any petitioner having any of the following qualifications:

- (1) Having honorably held office under the Government of the Philippines or under that of any of the provinces, cities, municipalities, or political subdivisions thereof;
- (2) Having established a new industry or introduced a useful invention in the Philippines;
- (3) Being married to a Filipino woman;
- (4) Having been engaged as a teacher in the Philippines in a public or recognized private school not established for the exclusive instruction of children of persons of a particular nationality or race, in any of the branches of education or industry for a period of not less than two years; [and]
- (5) Having been born in the Philippines.

Id.

132. Greta Gilbertson, *Citizenship in a Globalized World*, available at <http://www.migrationpolicy.org/article/citizenship-globalized-world> (last accessed Aug. 31, 2016).

133. *Id.*

134. *Id.*

in countries with formerly restrictive naturalization policies.¹³⁵ Classic high-immigration countries, such as the United States of America (U.S.) or the French Republic have comparatively liberal naturalization policies.¹³⁶

2. Interface of Naturalization with Local Integration as a Durable Solution

Refugee status is supposed to be transitory, ephemeral, and temporary in nature.¹³⁷ As such, the ultimate goal of any refugee advocate has always been to create solutions that will reduce the number of refugees as persons of concern.¹³⁸ But, by 2015, a large portion of the refugee population has remained in 33 protracted refugee situations, defined as those in “which refugees continue to be in exile for five years or more after initial displacement.”¹³⁹ A study by the U.N. Office of Internal Oversight Services (OIOS) revealed that owing largely to conflicts, there has been less success overall in recent years in achieving solutions to international displacement.¹⁴⁰

Solutions in the refugee context have to be “durable” or long-lasting and enduring.¹⁴¹ Otherwise, they are not solutions at all, but are temporary humanitarian accommodations.

Solutions have traditionally been divided into three categories: (1) voluntary return or repatriation to countries of origin, (2) resettlement to a third country, and (3) integration into the host country or country of

135. *Id.*

136. James F. Hollifield, Ideas, Institutions, and Civil Society: On the Limits of Immigration Control in France (A Paper Prepared for a Workshop on Immigration in Europe for the University of Bologna, Italy), *available at* <https://migration.ucdavis.edu/rs/more.php?id=70> (last accessed Aug. 31, 2016).

137. Human Rights Watch, Commentary on Australia’s Temporary Protection Visas for Refugees, *available at* <https://www.hrw.org/report/2003/05/13/human-rights-watch-commentary-australias-temporary-protection-visas-refugees> (last accessed Aug. 31, 2016).

138. *Id.*

139. U.N. Econ. & Soc. Council, Committee for Programme and Coordination, *Report of the Office of Internal Oversight Services*, at 5, U.N. Doc. E/AC.51/2015/5 (Mar. 18, 2015) [hereinafter *Report of the Office of Internal Oversight Services*].

140. *Id.* at 11.

141. *Id.* at 5.

asylum.¹⁴² The U.N. OIOS pointed to voluntary repatriation as the most common solution.¹⁴³ However, with the increasingly protracted nature of conflicts, the number of returns is declining.¹⁴⁴ For instance, in 2014, only 126,000 refugees went home — the lowest number since 1983 and a significant drop from 415,000 in the previous year.¹⁴⁵ Similarly, a slight change in resettlement activities was recorded in 2014.¹⁴⁶ Only a little over 105,000 refugees were resettled.¹⁴⁷

In 2014, the U.N. General Assembly strongly reaffirmed the fundamental importance and “non-political character” of the functions of UNHCR, which include seeking durable solutions to refugee problems.¹⁴⁸ In October 2011, the U.N. Secretary-General adopted a “Decision on Durable Solutions” that affirmed the primary role of the State in addressing displacement.¹⁴⁹ Much earlier, there had been a number of soft law instruments that recognized the notion of durable solutions.¹⁵⁰

Finding the fit and applicable solution to a refugee problem can be problematic in itself. States may not feel the need to integrate refugees when such is not a declared policy, and there are contesting social, economic, cultural, and legal factors that could intervene or be considered in the policy-making process.¹⁵¹ Return may not happen when such would not be in

142. *Id.* at 1.

143. *Id.* at 11.

144. Integrated Regional Information Networks, Durable solutions for refugees prove elusive, *available at* <http://www.irinnews.org/report/101735/durable-solutions-refugees-prove-elusive> (last accessed Aug. 31, 2016).

145. *Id.*

146. *Id.*

147. *Id.*

148. G.A. Res. 69/152, ¶ 29, U.N. Doc. A/RES/69/152, (Feb. 17, 2015).

149. UNHCR, et al., Joint Strategies to Support Durable Solutions for Internally Displaced Persons (IDPs) and Refugees Returning to Their Country of Origin (A Preliminary Operational Guide to the U.N. Secretary General’s Decision on Durable Solutions to Displacement) 9, *available at* <http://www.refworld.org/docid/57441d774.html> (last accessed Aug. 31, 2016).

150. *Id.*

151. Integrated Regional Information Networks, *supra* note 144.

safety and in dignity.¹⁵² As we know, many places where refugee movements originate are still plagued by severe armed conflict situations.¹⁵³ Thus, return becomes an inviable option.¹⁵⁴ Otherwise, refugees would face a number of uncertainties — perhaps even death. Likewise, resettlement has been largely dependent on the willingness and ability of third-party States to accommodate refugees in their societies.¹⁵⁵ It is heavily viewed as a burden-sharing activity.

The policy focus on repatriation is not a viable solution for a large number of refugees today. Resettlement is only an option available to a very small minority. It is logical for local integration to be more widely encouraged and pursued.¹⁵⁶ This is why local integration as a solution is extremely important for a large number of refugees in the world and for the present and future refugees in the Philippines. Since the mid-2000s, UNHCR has been advocating for local integration through the policy of “alternative to camps” and programs that support city-based refugees.¹⁵⁷

Rosa da Costa of the UNHCR provides the following definition of local integration —

Local integration in the refugee context is the end product of a multi-faceted and on-going process, of which self-reliance is but one part. Integration requires a preparedness on the part of the refugees to adapt to the host society, without having to forego their own cultural identity. From the host society, it requires communities that are welcoming and responsive to refugees, and public institutions that are able to meet the needs of a diverse population. As a process leading to a durable solution for refugees in the country of asylum, local integration has three inter-related and quite specific dimensions.¹⁵⁸

152. *Id.*

153. *Id.*

154. *Id.*

155. *Report of the Office of Internal Oversight Services*, *supra* note 139, at 19.

156. *See* Fielden, *supra* note 25.

157. Integrated Regional Information Networks, *supra* note 144.

158. Rosa da Costa, *Rights and Refugees in the Context of Integration: Legal Standards and Recommendations* (A Legal and Protection Policy Research Series of the UNHCR) 8, available at <http://www.unhcr.org/44bb90882.pdf> (last accessed Aug. 31, 2016) (citing UNHCR, *Global Consultations on International Protection*, U.N. Doc. EC/GC/02/6, ¶¶ 14-17 (Apr. 25, 2002)).

There are other definitions of refugee integration. For instance, the European Council on Refugees and Exiles regards it as a dynamic two-way process, beginning from day one when a refugee arrives in the new host society.¹⁵⁹ It is a continuous process enabling refugees and their communities to live in harmony within the host population.¹⁶⁰ Integration is a process of change that is two-way, dynamic, long term, and multi-dimensional.¹⁶¹

Jenny Phillimore succinctly opined that the debate in the academe about what constitutes integration has “rumbled on since the 1930s with emphasis either on interactions, values and identity [] or functional integration indicators such as wage parity and equal opportunity to access education and housing [].”¹⁶² Some scholars, such as Dr. Steven Vertovec, have argued abandoning the term because it has become too assimilationist.¹⁶³

According to Alexandra Fielden, local integration as a durable solution combines three dimensions.¹⁶⁴ First, it is a legal process in which refugees attain a wider range of rights in the host State.¹⁶⁵ Second, it is an economic process of establishing sustainable livelihood and a standard of living that is comparable to those enjoyed by the host community.¹⁶⁶ Third, it is a socio-cultural process of adaptation and acceptance wherein the refugee is able to

159. European Council on Refugees and Exiles, *Towards the Integration of Refugees in Europe (A Paper on Europe's Role in the Global Refugee Protection System)* 5, available at <http://www.refworld.org/pdfid/42fa1d8a4.pdf> (last accessed Aug. 31, 2016).

160. Phillimore, *supra* note 11.

161. European Council on Refugees and Exiles, *supra* note 159, at 14.

162. Phillimore, *supra* note 11 (citing Alastair Ager & Alison Strang, *Understanding Integration: A Conceptual Framework*, 21 J. REFUGEE STUD. 166, 169–71 (2004) & Sunil Bhatia & Anjali Ram, *Theorizing Identity in Transnational and Diaspora Cultures: A Critical Approach to Acculturation*, 33 INT'L J. INTERCULTURAL REL. 140, 141 (2009)).

163. *Id.* (citing Steven Vertovec, *Towards post-multiculturalism? Changing communities, conditions and contexts of diversity*, 61 INT'L SOC. SCI. J. 83, 83–95 (2010)).

164. Fielden, *supra* note 25, at 1.

165. *Id.*

166. *Id.*

both contribute to the social life of the host State and live without fear of discrimination.¹⁶⁷

As a narrow conception, “the process becomes a durable solution only at the point when a refugee becomes a naturalized citizen of his or her asylum country.”¹⁶⁸ Needless to say, it is desired that more refugees become naturalized citizens in the asylum country in order to achieve solutions. Naturalization is the point when one can argue that his or her refugee status or condition has ended or ceased.¹⁶⁹ But it must be stressed that naturalization is not the be-all and end-all of local integration.¹⁷⁰ Refugees could be naturalized or become citizens of the State, and yet still experience discrimination or not enjoy rights and fundamental freedoms on the same level as other naturalized citizens of the State.¹⁷¹

More importantly, following a broader and multi-dimensional conception, it is established that there is a possibility for a refugee to acquire the above elements of local integration without actually being naturalized. Refugees could remain indefinitely in their country of asylum and find a solution to their plight in that State.¹⁷²

Naturalization is not explicitly a “prescribed solution” to the problem of refugee movements in the 1951 Refugee Convention and its 1967 Protocol. On the one hand, there is a view that local integration, with a legal process as one of its elements, is firmly established in international refugee law via Article 34 of the 1951 Refugee Convention.¹⁷³ The Convention is largely about the integration rights of refugees.¹⁷⁴ On the other, one view holds that none of the durable solutions has binding basis in international refugee

167. *Id.* (citing Jeff Crisp, The local integration and local settlement of refugees: a conceptual and historical analysis (A Paper Prepared for the Evaluation and Policy Analysis Unit of the UNHCR) 1, available at <http://www.unhcr.org/407d3b762.pdf> (last accessed Aug. 31, 2016)).

168. *Id.* (citing Crisp, *supra* note 167, at 2.)

169. *Id.* at 18.

170. Fielden, *supra* note 25, at 18.

171. *Id.*

172. *Id.* at 1-2 (citing Crisp, *supra* note 167, at 3).

173. *Id.*

174. da Costa, *supra* note 158, at 14.

law.¹⁷⁵ The core documents in refugee law do not contemplate such mandatory norms.¹⁷⁶

In the Philippines, where refugees have lived and have *de jure* or *de facto* integrated into the fabric of the Filipino nation, Karbasi is a much-welcome development in the landscape of local integration. Notably, the State does not have a mass policy of returning refugees to countries of origin where it is already safe and possible. It had not also participated actively in the recent resettlement initiative. With this, local integration of refugees — who are small, in relative numbers¹⁷⁷ — becomes a necessary national policy, and this demands an enabling environment both in law and policy.

B. Negotiating a Space in Law for Refugee Naturalization

It has to be emphatically noted that the domestic laws of the Philippines do not contain a naturalization procedure, whether judicial or administrative, that is specifically designed for refugees and other forced migrants like stateless persons. The legal landscape consists mainly of a general naturalization law and a law on administrative naturalization. Both accommodate voluntary and forced migrants as immigrants. While this may be an all-encompassing, accommodative, and inclusive framework, it highlights a grave deficit in the legal system — the lack of a mechanism specific to refugee naturalization that takes into account the realities of refugee movements.

This has ramifications on the way refugees are naturalized, and ultimately bears an impact on the success or failure of the refugee protection project of the country, and potentially, of the entire ASEAN region, taking into consideration the fact that only the Philippines and Cambodia are parties to the 1951 Refugee Convention.¹⁷⁸

First, in *Karbasi*, there was a need for the Supreme Court to consider the qualifications and disqualifications relating to judicial naturalization. Then it explained why Karbasi possessed all of the qualifications and none of the disqualifications. As a refugee, Karbasi contended with the requirements that economic migrants needed to comply with.

175. *Id.*

176. André de Lima Madureira & Liliana Lyra Jubilut, Durable Solutions: 5 Implementation Challenges and Possible Pathways for Improvement, *available at* <http://refugeereseearchblog.org/durable-solutions-5-implementation-challenges-and-possible-pathways-for-improvement> (last accessed Aug. 31, 2016).

177. Wahab, *supra* note 9.

178. *Id.*

Here, we find a glaring deficiency in the domestic legal system. While Karbasi was a refugee, he was put by our domestic naturalization law on the same litmus test of naturalization as others who are mainly economic migrants.¹⁷⁹ The struggles, pains, and problems related to the local integration of refugees are not yet taken into account by the Philippine laws on naturalization. It should also be underscored here that, internationally, a different regime of law applies to refugees, and they ought not to be treated as mere economic migrants who are under the protection of international migration law.

Thus, it is not surprising that it became imperative for the Supreme Court to argue Karbasi's compliance with all the requirements, especially good moral character and irreproachable conduct, and lucrative income, using local jurisprudence that are more liberal in temperament. It was also essential for the Supreme Court to declare that he was exempted from the reciprocity requirement (i.e., from the need to prove that Iran also naturalizes Filipino citizens)¹⁸⁰ by directly using the provisions of the 1951 Refugee Convention.

While the Supreme Court alluded to liberalizing the provisions of the 1951 Refugee Convention, it also had to justify that Karbasi's lucrative income cannot be fairly determined through "a simplistic read-through on government data"¹⁸¹ on annual income and expenditure in Western Mindanao, in order to prove Karbasi's compliance with the lucrative income requirement.¹⁸² The Court added that the cases that the OSG cited had circumstances that were not at all attendant in Karbasi's situation.¹⁸³

The Supreme Court's reasoning below should likewise be noted —

To accept the OSG's logic is a dangerous precedent that would peg the compliance to this requirement in the law to a comparison with the results

179. This is very much evident in the *Karbasi* decision, which, for the most part, relied heavily on the Revised Naturalization Law and The Administrative Naturalization Law of 2000 in validating the decision to affirm that Karbasi was indeed worthy of becoming a Filipino citizen. The portions referring to the 1951 Convention sometimes appear to be mere supplemental arguments rather than the main rationale for granting citizenship to Karbasi. See *Karbasi*, 764 SCRA at 370-84.

180. *Id.* at 382-83.

181. *Id.* at 377.

182. *Id.*

183. *Id.* at 378-79.

of research, the purpose of which is unclear. This is not to say that the data produced by government research are inappropriate, or much less irrelevant in judicial proceedings. The plain reliance on this research information, however, may not be expected to produce the force of logic which the OSG wants to attain in this case. Besides, had the law intended for government data on livelihood and income research to be used as a gauge for the 'lucrative income' requirement, it must have stated the same and foreclosed the Court's power to assess existing facts in any given case. Here, the Court opts to exercise this power and delve into a judicious review of the findings of the RTC and the CA and, as explained, to rule that Karbasi, possesses a lucrative income and a lawful occupation, as required by the Naturalization Law.¹⁸⁴

Additionally, the Supreme Court, citing *Republic v. Court of Appeals*,¹⁸⁵ and *Uy v. Republic*,¹⁸⁶ argued that "it does not at all seem likely that Karbasi, in his current circumstances, will ever become a public charge."¹⁸⁷ He was a refugee "who had nothing when he came to the Philippines"¹⁸⁸ and he "refused to be the object of charity by working hard to graduate from college and to eventually engage in business to give his family support and comfort."¹⁸⁹ In the words of the CA, he was a "self-made entrepreneur."¹⁹⁰

Anent the contention of the OSG that even if Karbasi indeed has lucrative means of earning, his alleged under-declaration of income in his ITR reflected adversely on his character, the Supreme Court displayed a spirit of liberalization in favor of Karbasi.¹⁹¹ It rejected the "rigidity" of other rulings, and accepted the sincerity in Karbasi's explanation that he committed a procedural lapse.¹⁹² The following words from the decision are enlightening —

Like the CA, the Court is inclined not to apply the rigidity of the ruling in *Lim Eng Yu* to the present case. Unlike *Lim Eng Yu*, Karbasi *did not deny* the charge of the OSG and instead admitted a procedural lapse on his part.

184. *Id.* at 378.

185. *Republic v. Court of Appeals*, 167 SCRA 86 (1988).

186. *Uy v. Republic*, 12 SCRA 182 (1964).

187. *Karbasi*, 764 SCRA at 379.

188. *Id.* at 379-80.

189. *Id.* at 380.

190. *Id.*

191. *Id.* at 380-82.

192. *Id.*

Here, there is no showing that the income earned by Karbasi was undeclared in order to benefit from statutory tax exemptions. To clarify, this does not intend to downplay the requirement of good moral character in naturalization cases. It bears stressing that the granting of applications for naturalization still necessitates that only those who are deserving may be admitted as Filipino citizens. The character of the applicant remains to be one of the significant measures to determine entitlement to Filipino citizenship. Nonetheless, the tenor of the ground used for the denial of the application in *Lim Eng Yu* is not akin to what happened in this case.

Clearly, in *Lim Eng Yu*, the petitioner altogether intended to evade the payment of taxes by abusing the benefits granted by tax exemptions. In this case, Karbasi did not deny that he gained income through his transactions with Daewoo and Kolin. He even presented, as evidence, the contracts of service he had entered into with the companies[,] including a Summary of Accounts paid to his repair shop. He *did not disclaim* that he had rendered services to these companies and that he had earned a considerable sum therefrom. Instead, he explained the cause of his lapse and acknowledged his mistaken belief that his earnings from these transactions need not be declared in his ITRs as these were withheld already.¹⁹³

These justifications were all necessary and useful, for there is no law specific to the cause of refugee naturalization that may accommodate refugee experiences; hence, and hopefully, these provide requirements that are more in keeping with humanitarianism.

Second, it is noteworthy that the country's discourse on naturalization is still couched in immigration-related language. The matter is tied to the regulation of immigration as a national policy.¹⁹⁴ It is not a truly "open border," after all.

This means that refugee naturalization is not viewed as an act of humanitarianism or compliance with international obligation by our domestic laws. While the State is, of course, the one which decides on who would be its citizens, there has to be a shift in mindset when it comes to the plight of refugees, as this is positively dictated by the 1951 Refugee Convention. This means that certain requirements in the national law, such as residence (which was required to be for a continuous period of not less

193. *Karbasi*, 764 SCRA at 381.

194. Department of Justice, Vision, Mission, Pledge, Mandate and Functions, available at <https://www.doj.gov.ph/vision-mission-and-mandate.html> (last accessed Aug. 31, 2016).

than 10 years in the case of *Karbasi*),¹⁹⁵ and some disqualifications such as polygamy or belief in the practice of polygamy,¹⁹⁶ may need to be revisited.

Karbasi represented a negotiation for a space in law for refugee naturalization. The judiciary is not to be faulted for this negotiation. Rather, it must be lauded for creating this accommodative space in jurisprudence which it gathered from the dictates of the 1951 Refugee Convention. However, the desirability of a domestic law on refugee naturalization is an undertone in the case, and a lesson that must be drawn from it. There needs to be an enabling law or a policy directive on the matter of refugee naturalization in preparation for possible future mass movements, regional integration, and other similar events.

C. Facilitating Naturalization up to what Extent? The Desirability of Limits

In *Karbasi*, the Supreme Court relied on Article 34 of the 1951 Refugee Convention as representing the “earnest obligation of contracting parties to ‘as far as possible facilitate the assimilation and naturalization of refugees.’”¹⁹⁷ As applied to the case, the Supreme Court added, *Karbasi*’s status as a refugee “has to end with the attainment of Filipino citizenship, in consonance with Philippine statutory requirements and international obligations.”¹⁹⁸ The law on naturalization must be read in light of developments in international human rights law on granting nationality to refugees and stateless persons.¹⁹⁹

The reasons behind the obligation to facilitate refugee naturalization are easy to find. Notably, migrants face difficulties in meeting naturalization requirements in various countries.²⁰⁰ It is said that best practices in Europe to facilitate the naturalization include waiving language proficiency requirements and reducing the number of years of lawful residence required prior to lodging a naturalization petition.²⁰¹ In Europe, Article 6 of the

195. Revised Naturalization Law, § 2, para. 3.

196. *Id.* § 4 (c).

197. *Karbasi*, 764 SCRA at 383-84.

198. *Id.* at 384.

199. *Id.*

200. da Costa, *supra* note 158, at 186.

201. *Id.* at 186.

European Convention on Nationality²⁰² has established that the period of residence requirement cannot exceed 10 years.²⁰³

This reasoning in the European setting also finds relevance elsewhere —

Although the integration of refugees is closely related to the situation of other migrants and resident third country nationals in European [S]tates, there are specific factors differentiating refugees from other migrant groups. Unlike other migrant groups, refugees are forced to migrate[,] and as such[,] have usually not planned their migration. Often they have experienced violence or survived torture — factors that may result in different integration needs. In addition, only refugees spend time going through an asylum determination procedure. The success of the integration of refugees is, therefore, intrinsically related to the quality and length of asylum determination procedure and the conditions of reception.²⁰⁴

1. Legal Import of Article 34 of the 1951 Refugee Convention

According to da Costa, Article 34 contains two distinct obligations, one general and one specific.²⁰⁵ In general, States-parties are to facilitate integration and naturalization as far as possible.²⁰⁶ Specifically, every effort must be made to expedite naturalization proceedings and reduce charges or costs of such proceedings.²⁰⁷

Based on the *Ad Hoc* Committee which drafted the Convention, the use of the term “assimilation” should be understood in the sense of integration into the economic, social, and cultural life of the country.²⁰⁸ It does not denote forced assimilation or coercion.²⁰⁹ Integration should, therefore, “promote[] acceptance and respect for a refugee’s way of life and culture, while also providing assistance for their functional and cultural adaptation into the host society.”²¹⁰ This Author notes that this lens should be reflected

202. European Convention on Nationality, art. 6, Nov. 6, 1997, E.T.S. No. 166.

203. *Id.*

204. European Council on Refugees and Exiles, *supra* note 159, at 9.

205. da Costa, *supra* note 158, at 25.

206. *Id.*

207. *Id.*

208. *Id.* at 24.

209. *Id.*

210. *Id.*

in Philippine naturalization law, and the qualifications or disqualifications therein have to also be revisited in this regard.

Aside from Article 34 of the 1951 Refugee Convention, Article 2 (e) of the Statute of the Office of the UNHCR calls upon governments to cooperate “with the UNHCR in the performance of his functions concerning refugees falling under the competence of his Office, especially by ... promoting the assimilation of refugees, especially by facilitating their naturalization.”²¹¹

However, it has to be pointed out that the 1951 Refugee Convention does not contain an obligation of results in relation to naturalization.²¹² This means that a State does not need to naturalize each and every refugee within its borders.²¹³ The obligation relates to a duty of facilitation.²¹⁴ Nonetheless, it is wiser if refugees are aided in finding solutions to their forced migration problem.²¹⁵

2. The Desirability of Limits

Under Article 34 of the 1951 Refugee Convention, other measures are also encouraged in order to facilitate refugee naturalization, and the ones listed therein are not exclusive.²¹⁶ These may include easing conditions for naturalization, such as reducing the required period of residence or not requiring proof of release from former nationality.²¹⁷ Also, the duty to facilitate includes the obligation to take decisions in good faith.²¹⁸

Because of the above measures that the State may choose to implement, there arises a need for the Philippines, as a State-party to the 1951 Refugee Convention,²¹⁹ to lay policy decisions in the law as to how it wants to

211. Statute of the Office of the United Nations High Commissioner for Refugees, G.A. Res. 428 (V), art. 2 (e), U.N. Doc. A/RES/428(V) (Dec. 14, 1950).

212. da Costa, *supra* note 158, at 184.

213. *Id.*

214. *Id.*

215. *Id.*

216. *Id.*

217. *Id.*

218. da Costa, *supra* note 158, at 184.

219. *Id.*

facilitate refugee naturalization. The following questions, among others, need to be answered — How long must refugees stay in the Philippines in order to entitle them to file naturalization proceedings? Is the State willing to waive all attendant costs? Can the language requirement be dispensed with?

In advanced asylum countries, a period of residency of five years is already considered the most reasonable length-of-stay requirement for refugees. A longer period may be questionable.²²⁰ The thought that marriage to a Filipino citizen should open doors for naturalization has also persisted throughout the years.²²¹ The Philippines needs to address this as an area of law reform. Further, stateless persons, who may or may not be refugees, have to be considered in policy. According to the UNHCR, a number of countries provide for shorter qualifying periods of naturalization for stateless persons.²²²

While *Karbasi* was notable in interpreting the duty to facilitate, its metes and bounds must still be defined by law.

IV. CONCLUSION

This Comment has been a case study of the decision in *Karbasi*. The case is the first in jurisprudence to directly quote and interpret the 1951 Refugee Convention. It is fitting that the first decision is not about refugee status determination, but about local integration, which is one of the most outstanding challenges to the Philippine legal system for refugee protection.

220. IRIN News, Government plans naturalization of refugees, *available at* <http://www.irinnews.org/report/95701/uganda-government-plans-naturalization-refugees> (last accessed Aug. 31, 2016).

221. See Community and Family Service International, CFSI and Urban Refugees in the Philippines in 2007: Nearly 26 Years of Cooperation between CFSI and UNHCR, *available at* [http://www.cfsi.ph/pdf/CFSI%20Phil%20Prog%20Urban%20Refugee%20Project%20\(30%20April%202007\).pdf](http://www.cfsi.ph/pdf/CFSI%20Phil%20Prog%20Urban%20Refugee%20Project%20(30%20April%202007).pdf) (last accessed Aug. 31, 2016).

222. These include Belgium, Bulgaria, Denmark, Estonia, Finland, Germany, Greece, Hungary, Italy, the Netherlands, Norway, Slovenia, Sweden, and Switzerland. UNHCR, UNHCR's Comments on the Proposed Amendments to the Nationality Act and the Immigration Control Act of the Republic of Korea (A Position Paper by the UNHCR) 8, *available at* <http://www.refworld.org/docid/509924e62.html> (last accessed Aug. 31, 2016).

The acquisition of citizenship is largely regarded as the “most potent measure of integration into a host society by foreign nationals.”²²³ It concludes the legal dimension of integration and leads to cessation of refugee status under Article 1 C (3) of the 1951 Refugee Convention.²²⁴ *Karbasi* is a remarkable step in liberalizing refugee naturalization as one of the elements of effective local integration. It is a solutions-driven approach to the refugee plight and movement in the Philippines, which has been home to thousands of refugees throughout the generations.

However, what is not immediately apparent in this Decision is equally crucial. The Decision represents the contradiction of a gain in local integration by exposing the inherent limits in the legal system. It promotes naturalization through liberalization, but it also exposes the deficits in the Philippine legal system when it comes to refugee naturalization.

There is an absence of a law or provision of law that spells out the policy on the naturalization of refugees. The naturalization of refugees, among the most vulnerable in the world, is still predominantly measured with the same yardstick as economic migrants who have moved voluntarily.²²⁵ Refugeehood is also not one of the special qualifications in Philippine law that shortens the required period of residency in naturalization cases. With the invocation of Article 34 in the Convention, there is a need to define the limits of the obligation to facilitate naturalization. These are outstanding gaps in legislation when it comes to naturalization. Addressing these gaps should be the next step for the Philippines, as the country continues to be the bright spot in the ASEAN region on refugee protection. This could be the Philippines’ humble and modest contribution to the current world refugee and migration crisis.

223. European Council on Refugees and Exiles, Position on the Integration of Refugees in Europe (A Paper on Integration of Refugees in Europe) 11, available at <http://www.refworld.org/docid/3f4e5c154.html> (last accessed Aug. 31, 2016) (citing Council of Europe, Comm. on Migration, Refugees & Demography, *Common policy on migration and asylum*, ¶ 72, Doc. 9889 (July 25, 2003) (by Michael Hancock)).

224. UNHCR, Note on the Integration of Refugees in the European Union (A Commentary by the UNHCR) 11, available at <http://www.unhcr.org/refworld/docid/463b24d52.html> (last accessed Aug. 31, 2016).

225. *Id.*