

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report
Universal Periodic Review: 3rd Cycle, 37th Session

RWANDA

I. BACKGROUND INFORMATION

Rwanda ratified the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* in 1980 (hereinafter jointly referred to as the *1951 Convention*). The *Organisation of African Unity Convention Governing the Specific Aspects to the Problems of the Refugees in Africa* was ratified in 1979 and Rwanda has signed and ratified the *2009 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa* (the “Kampala Convention”). Rwanda also acceded to the *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness* in 2006.

As of May 2020, Rwanda hosts nearly 149,000 refugees. This includes a large population of Congolese refugees, many of whom arrived in the country over 20 years ago, as well as Burundian refugees who began arriving in 2015 when the political situation deteriorated in Burundi. There are a total of six refugee camps, including three protracted Congolese camps, two additional Congolese refugee camps established during the 2012-14 influx, and one camp for Burundian refugees. In all six camps a majority of the refugees are highly dependent upon unsustainable humanitarian support. A total of nearly 11,516 refugees reside in urban areas (10,714 in Kigali and 802 in Huye) where they live largely independently of humanitarian assistance. Children make up 50 per cent of the refugee population (a total of 74,485 children). While women make up 51 per cent of the refugee population (a total of 75,018 females). Rwanda has also been receiving thousands of returnees over the years, in particular since the invocation of the Cessation Clause relating to Rwandan refugees in 2011.

The status and treatment of refugees is governed by *Law N° 13ter/2014 of 21/05/2014 Relating to Refugees*¹ (the *Law relating to Refugees*), which complies with international standards. The definition of, and protection against *refoulement*, are identical to the provisions of the *1951 Convention*. The asylum procedure outlined by the law is detailed, and the timeline for the referral process is clearly outlined. It also stipulates refugees' rights and obligations, including their right to naturalization should they qualified under the nationality law. The *Law relating to Refugees* is complemented by the Prime Minister's Order determining the organization and functioning of the National Refugee Status Determination Committee (NRSDC) and benefits granted to its members², which was adopted on 29 June 2015, as well as Ministerial Instructions No. 02/2016 Determining the

¹ *Rwanda: Law No. 13 ter/2014 of 21/05/2014 relating to refugees* [Rwanda], 30 June 2014, available at: <http://www.refworld.org/docid/53fb08cd4.html>.

² Prime Minister's Order determining the organisation and functioning of the National Refugee Status determination committee and benefits granted to its members, 29 June 2015, available at: http://minema.gov.rw/fileadmin/user_upload/iteka_rya_Minisitiri_w_Intebe_rishyiraho_Komite_Ishinzwe_Gutanga_Sitati_y_Ubuhunzi.pdf.

Management of Refugees and Refugee Camps³.

In 2016, the Government of Rwanda made four commitments to integrate refugees through: 1) a joint economic inclusion strategy; 2) inclusion in the national systems for education; 3) inclusion in national health insurance scheme, and 4) providing them with documentation. Under the Comprehensive Refugee Response Framework (CRRF) both the Government of Rwanda and UNHCR envision a comprehensive solutions approach for refugees in the country which includes access to all durable solutions.

In 2019, the Government of Rwanda made additional pledges during the Global Refugee Forum (GRF), which builds on previous pledges from the Leader's Summit in 2016, to improve refugees': 1) education; 2) access to jobs and livelihood; 3) energy, infrastructure and environment; 4) protection and solutions; and, 5) health. During the same year, the Government of Rwanda has made 8 pledges to eradicate statelessness by 2024 and established a national taskforce for that purpose. There is no currently identified population of stateless persons in Rwanda. In 2020, the Government of Rwanda, represented by its national taskforce on statelessness, has anticipated the roll out a district survey to identify stateless persons/persons at risk of statelessness, reform its nationality legislation and explore solutions.

UNHCR is working with its line Ministry, Ministry of Emergency Management (MINEMA) on all refugees related issues.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendation no. 133.47: *Continue the current practice of hosting asylum seekers and refugees and consider steps (Republic of Korea); and UPR recommendation no. 133.48:* *Further continue enhancing support for new refugees from its neighbours (Ethiopia).*

Since the 1990s, Rwanda has maintained an open door policy towards refugee influxes from the neighbouring countries. There is a general respect for the principle of non-refoulement and no cases were known to be deported in the past few years. During the COVID-19 situation, rejected asylum-seekers, who exhausted the asylum process, were allowed to remain on the territory until the borders are open. However, with the closure of borders, no new asylum-seekers were allowed entry. Nevertheless, the Government of Rwanda showed its willingness to receive new arrivals from Burundi, in case of an influx due to the 2020 Presidential election. All preparations were put in place to screen, quarantine and transfer new arrivals in transit centres in line with the national health and refugee protection principles and in close coordination with UNHCR.

Further, as mentioned above, the Government of Rwanda has made several commitments in different international forums between 2016 and 2019 to improve

³ Ministerial Instruction No. 02-2016 of 1 06 2016 determining the management of refugees and refugee camps, available at: http://minema.gov.rw/fileadmin/user_upload/MINISTERIAL_INSTRUCTION_N.02-2016_OF_01-06-2016_DETERMINING_THE_MANAGEMENT_OF_REFUGEES_AND_REFUGEE_CAMPS.pdf.

refugees' conditions in Rwanda. Most notably on educationⁱ, documentationⁱⁱ, healthⁱⁱⁱ, and livelihoods^{iv} (see endnotes for further details).

Moreover, during the High-Level Segment in October 2019, Rwanda made eight strong pledges to eradicate statelessness by 2024.⁴ The pledges are in line with UNHCR Global Plan of Action (GAP) 2014-2024.

In December 2019, the Government of Rwanda successfully established a national taskforce that is currently working to finalise the national plan of action on the implementation of pledges. UNHCR has provided capacity building on statelessness to the national taskforce and working closely with them on the implementation of the pledges, most notably on issuance of birth certificates to all refugees, to ensure they are not at risk of statelessness and on districts' survey that will provide preliminary findings on the stateless population and population at risk of statelessness.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Access to Justice for Kiziba Refugees

In February 2018, about 700 Congolese refugees resident in Kiziba camp in Rwanda marched towards Karongi town and ended up camping outside the UNHCR Karongi Field Office. Two days later, the Rwandan police fired live ammunition on refugees killing at least 12 people outside the UNHCR Field Office in Karongi and in Kiziba refugee camp. The refugees were protesting outside a UNHCR building against a 25 percent cut in food rations.

Between February and May 2018, 77 refugees, including three minors and three females, were arrested following this incident. They were charged with participating in illegal demonstrations (Art. 685 PC), violence against public authorities (Art. 540 PC), rebellion (Art. 530 PC), disobeying enforcement of law (Art. 464 PC). In total, 29 refugees were released: 2 of them after having already served their sentence of one year and six months, seven (including three minors) after the court suspended their penalty of two years and six months, one proven not guilty and 18 released with no charges.

Five refugees, including four identified as leaders of the refugee camp's Executive Committee were charged with "spreading false information with intent to create a hostile international opinion against the Rwandan state" (Art. 451 PC), "inciting insurrection or trouble amongst the population (Art. 463 PC). One refugee was sentenced to 15 years on 21 October 2018 for the following charges (Spreading false information with intent to create a hostile international opinion against Rwandan State

⁴ **Pledge No. 1:** Establishment of a national taskforce on statelessness by Feb-2020; **Pledge No. 2:** Preparation & adoption of a national action to eradicate statelessness by May 2020; **Pledge No. 3:** Enacting the nationality legislation to facilitate access to naturalization for stateless persons by June 2020; **Pledge No. 4:** Including question on statelessness in the next national population and housing census foreseen planned in 2022 so that the results can be made available by 2023; **Pledge No. 5:** Grant or confirm the Rwandan nationality to all stateless persons and their descendants living in Rwanda no later than 2024; **Pledge No. 6:** Improve access to late birth registration for refugees born in Rwanda (by 2020); **Pledge No. 7:** Ensure that former refugees of Rwandan origin who opted for local integration in their respective host country are issued with nationality documentation no later than 2024; **Pledge No. 8:** Contribute to the adoption and subsequent ratification by Rwanda of the Protocol to the African Charter on Human and People's Rights on Specific Aspects of the Right to Nationality and Eradication of statelessness in Africa.

(Art. 451 PC); illegal demonstration or public gathering (Art. 685 PC); inciting insurrection or trouble amongst the population (Art. 463 PC). He is serving his sentence at Muhanga prison and has appealed, his date of the hearing has not been fixed yet (more than a year and a half later). The four refugees identified as leaders of the protest were charged with the same counts. A hearing on merit took place on 26 May 2020 and the pronouncement date is scheduled on 31 July 2020. One of them is under provisional release while the rest are in Nyarugenge prison.

In 2018, the National Commission for Human Rights (NCHR) published the findings of its investigation into the killing in March, which state that police responded to a “violent and organized attack” and used force as a last resort. This contradicts Human Rights Watch’s investigation⁵ into the events, which found that refugees were unarmed and that Rwandan police had used excessive force as well as UNHCR’s statement at the time, which states the use of “the disproportionate use force against refugees is not acceptable.”

UNHCR has been providing legal aid through its legal partners. However, the main concern is to ensure that fair trial standards are respected and that these cases, especially the leaders’ must not be politicized. UNHCR and its legal partner are also conducting regular detention monitoring for these refugees.

Recommendations:

UNHCR recommends that the Government of Rwanda:

- Ensure fair trial is offered to the four former refugee leaders. Court decision should take into consideration the reasons behind the march of refugees, which was purely to complain about their assistance, and not to distort the State’s image or incite violence.
- Consider setting an appeal date, as soon as possible, for the refugee who was sentenced to 15 years imprisonment in 2018.

Issue 2: Access to the national asylum system

The vast majority of refugees living in camps have been recognized on *prima facie* basis. However, refugees who arrive outside of the timeframe for *prima facie* recognition or of nationalities other than the Burundian, need to be recognized individually by the Government and face obstacles in accessing the RSD procedures.

The 2014 *Law relating to Refugees*, is fully compliant with international standards and sufficiently details the RSD procedures. The PM Order frames not only the composition of the NRSDC, but also contains provisions outlining access to the asylum procedure. While the legal framework is progressive, its implementation appears challenging in practice.

The NRSDC’s capacity needs to be built, with currently only one eligibility officer assessing all of the cases. UNHCR, despite its observatory role, is often not invited to attend the RSD- reviewing panel discussions. Basis of the RSD decisions, particularly rejection, are not known or properly explained including to the asylum seekers. Furthermore, the practice of appeal decisions being taken by the Minister of MINEMA poses questions as to the independency of the appeal process and could

⁵ Rwanda: A Year On, No Justice for Refugee Killings, 2019, Human Rights Watch, available at: <https://www.hrw.org/news/2019/02/23/rwanda-year-no-justice-refugee-killings#>

further result in bottlenecks once a larger number of applications needs to be processed. Moreover, Article 8 of the *Law relating to Refugees* states that the “local authority to whom the asylum seeker reports shall take him/her to the nearest immigration and emigration office within twelve (12) hours”. The Immigration Authority (DGIE) shall register the asylum seeker, grant temporary residence permit valid for 3 months and then submit the case to the Secretariat of the NRSDC within 15 days. In case the DGIE fails to submit the asylum application within the specified period, the NRSDC can take a decision upon request by the Minister (Article 8(2) of the *PM Order*). To date and despite the provisions in the *PM Order*, the NRSDC has never taken up a case that had not been referred by the immigration service and this despite intense and repeated advocacy by UNHCR at the level of the Minister of MINEMA. Some asylum seekers, i.e. LGBTI asylum seekers, continue to face challenges upon submission of their asylum requests to the immigration service, who verbally rejects their applications. UNHCR is concerned that such practices are subjecting asylum seekers to harsh living conditions as well as placing them at risk of detention and deportation.

Recommendations:

UNHCR recommends that the Government of Rwanda:

- During the COVID-19 lockdown, exercise flexibility in border management by allowing asylum-seekers entry into the territory and applying COVID-19 preventive measures upon entry;
- Ensure that all asylum-seekers are issued with temporary residence permits by the immigration authority and have their files transferred within 15 days to the Refugee Status Determination Committee, without restriction relating to nationality or profile of the claim;
- Strengthen the capacity of the Refugee Status Determination Committee to adjudicate and decide on the asylum claims within the legal timeframe, and to provide coherent and sufficient reasons for rejection of claims;
- Enable cooperation between the immigration authority, the Ministry of Emergency Management and UNHCR in order to screen foreign nationals residing in Rwanda prior to the expulsion or relocation in order to identify any protection needs.

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ⁱ Education: In 2016, the Government of Rwanda during the Leader’s Summit committed to include refugee children in the national primary and secondary education system. UNHCR supported in the construction of 399 classrooms in and around refugee camps to facilitate the inclusion of refugees and host communities alike in national schools. By May 2020, 40,881 out of 45,800 (90%) refugee children in primary and secondary were enrolled in national schools and study the national curriculum. All refugee students are awarded with national certificates equally as Rwandan children.

ⁱⁱ Documentation: The Government of Rwanda, with the support of UNHCR, has conducted a joint verification exercise in 2018-2019 for the entire refugee population. Following the exercise, refugees who are 16 years and above have been issued with refugee ID cards. The refugee ID card has so far

proven useful for refugees' movements, access to bank accounts and mobile SIM cards and registration of their business. This creates a greater need for all refugees 16 years and above to obtain these cards and thus, there will also be a need to come up with a sustainable mechanism for which refugee ID cards can be continuously produced by the Government as refugees turn 16 years. One of the ways would be through the integration of the Government BIMS partner server with the NIDA system and allocation of funds for yearly production of refugee IDs. Also, the Government of Rwanda is issuing refugees with Machine Readable Travel Documents (MRCTDs). As of November 2019, about 3,277 MRCTD were produced to refugees in all locations. The MRCTD enhanced refugees' mobility, education and self-reliance. Refugees apply and obtain the MRCTD within few days with flexible procedures and reduced fees. However, detailed and regular reports are not being shared with UNHCR. The absence of such reports affects the accountability and reporting of UNHCR to its donors. Civil registration, particularly birth registration, is accessible to refugees in camps and urban areas. More efforts are being planned for under the statelessness framework- in line with the Government's pledges on Statelessness made in 2019 and which aim to ensure that every refugee born in Rwanda has a birth certificate. UNHCR is in discussion with the National Identity Authority (NIDA) on including refugees in the national online civil registry and vital statistics system (CRVS). This will allow refugees to register all their CRVS instances in a live database and increase their access to different civil registration documents

ⁱⁱⁱ Health: The majority of Rwandan nationals are included in the subsidized national Community Based Health Insurance scheme (CBHI) , also referred to as Mutuelles des Sante, with a premium of RWF 7000 and free enrolment to the most vulnerable, categorized in Ubudehe category one. In implementation of the Government's commitment on inclusion of urban refugees in the national health insurance made in the 2016 Leaders' Summit, UNHCR signed an MoU with the Ministry in Charge of Emergency Management (MINEMA) and Rwanda Social Security Board (RSSB) in September 2019. This allowed urban refugees and students in boarding schools to have full access to the national health services from primary health care to secondary and tertiary. Refugees in camps have access to camp-based health centres that are integrated in the national health care system.

^{iv} Livelihoods: The Government of Rwanda pledged to enhance refugees' self-reliance during the 2016 Leaders' Summit and 2019 GRF. In 2016, MINEMA and UNHCR launched a joint strategy on Economic Inclusion of Refugees in Rwanda (2016-2020). Most notably, in 2019, MINEMA released the Strategic Plan for Refugee Inclusion (2019-2024) which builds on the GoR's commitments on inclusion of refugees and translates them into strategic actions. The Government made good efforts in the implementation of the strategy, partnering with private partners and supporting refugee youth entrepreneurs. To support refugees' access to agriculture activities, one of districts availed 100 hectares of marshland to be used for agricultural livelihood project benefiting refugees in Mugombwa camp and the surrounding host community. Given the success of the project and its contribution in improving refugees and Rwandan livelihood, additional 100 hectares of marshland have been identified to extend the project. Nevertheless, some challenges continue to limit refugees' self-reliance. For instance, camp-based refugees are required to apply for a permission to leave the camp. The complex procedures and time spent in applying for and approving the permission as well as the short validity of these permissions, maximum of three months, have led some refugees to lose their jobs and others who left the camp without valid permissions to be at risk of arrest. Also, despite the GoR's position towards allowing refugees the right to work, many employers and government officials are unaware of the legality of refugees' employment. Many refugees' reported being asked by employers to bring a national ID card for them to be hired, while their refugee ID card does not seem to be widely recognized by employers.