

**Submission by the United Nations High Commissioner for Refugees
for the Office of the High Commissioner for Human Rights' Compilation Report
- Universal Periodic Review:**

GABON

I. BACKGROUND INFORMATION AND CURRENT CONDITIONS

Gabon is a State party to the *1951 Convention Relating to the Status of Refugees* and its *1967 Protocol (the 1951 Convention)*, as well as to the *1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (1969 OAU Convention)*. Gabon also has ratified the *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention)* in February 2011.

Refugee issues are governed by Law 5/98 of 5 March 1998 (the Refugee Law). Whereas the Refugee Law includes both the refugee definition contained in the *1951 Convention*, as well as in the *1969 OAU Convention*, it does not list the rights of refugees. The Refugee Law also provides that the National Commission for Refugees (NCR) is the responsible government institution in charge of refugee protection. The Refugee Law is further complemented by Decrees 645, 646 and 647 of 19 July 2000.¹

Gabon has, in general, complied with the *non-refoulement* principle and has expressed its continued commitment to ensure the respect for the rights of persons in need of international protection in the country.

In December 2010, the Gabonese Government decided to consider the cessation of refugee status for some 9500 Congolese refugees. The cessation process was carried out from February to November 2011 and concluded the Congolese refugee situation in the country.

As of December 2011, a total of 1773 refugees and 2368 asylum-seekers were registered by UNHCR in collaboration with the Gabonese authorities. The majority originated from Chad, the Democratic Republic of Congo (DRC), the Republic of Congo (RoC), Rwanda and Angola. There were also 8651 other persons of concern to UNHCR, namely ex-Congolese (RoC) refugees and asylum-seekers who had opted for residency permits (3110) and those who did not choose

¹ Decree 646 relates to attributions, organization and functioning of the Eligibility Sub-Commission in charge of the examination at first instance of asylum claims. It further describes and defines asylum procedures, refugee ID cards and asylum seekers attestation as well as rights and obligations of refugees and asylum-seekers.

Decree 647 regulates attributions, organization and functioning of the Appeal Board in charge of the review of the appeal request introduced by the asylum-seekers who have been rejected by the Eligibility Sub Commission.

Decree 648 refer to attributions, organization and functioning of the National Commission for Refugees, which is the government entity in charge of refugee protection.

either option (approximately 5500) at the end of the cessation process for Congolese refugees. Persons of concern to UNHCR are predominantly settled in urban areas, as there are no refugee camps in Gabon, and scattered throughout 9 provinces.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

UNHCR welcomes the following positive steps undertaken by the Gabonese Government:

1. The ratification by Gabon on 21 February 2011 of the *Kampala Convention*, signed in October 2009.
2. In the context of the application of the group cessation for RoC refugees, the noted willingness by the Government to extend the validity of refugee status to those still in need of international protection in compliance with Article 1C(5) of the *1951 Convention*. 10 out of the 84 applications registered had their status extended by the Eligibility Sub-Commission.
3. The implementation of resolution 19/83 by the Government in September 2011, which provided free medical care to persons testing HIV positive living in Gabon, including refugees. Medical care consisted of free access to ARVs, free prenatal care and delivery to all pregnant HIV positive women.
4. The fact that Section 177 of the Fair Labour Standards Act sets the minimum age for employment at 16 years.
5. The abolition of the death penalty on 15 February 2010.
6. The establishment of a National Commission of Human Rights on 14 September 2011.

III. CHALLENGES, CONSTRAINTS AND RECOMMENDATIONS

Issue 1: National legal asylum framework

The NCR has been experiencing difficulties for almost three years and has not been fully operational.

With the exception of the decisions in August 2011, the NRC has not conducted any eligibility session since 2009. This has resulted in delays in the adjudication of asylum claims and in the issuance and renewal of identity documents for refugees and asylum-seekers. Furthermore, there is a need for a presence of the NCR in the two main locations of residence of refugees and asylum-seekers (Franceville and Tchibanga).

Recommendations:

Restructure the NCR and review the decrees determining attributions, organization and functioning of the Eligibility Sub-Commission and the Appeal Bureau. Establish a more efficient and expedient asylum procedure.

Issue 2: Local integration of refugees and asylum-seekers

Law No.05/86 of 16 June 1986 provides for “the regime of admission and stay of foreigners in the Republic of Gabon.” This law is implemented through Decree 6/86 of 18 June 1989 “for the establishment of a special fund for immigration” and Decree No. 999/PR of 31 July 1986 “regulating the modalities of issuance of residence permit.” The residency permit is valid for two years and is renewable. The law is applicable to foreigners and stateless persons who are visiting Gabon for less than three months, as well as those who wish to reside for a period longer than three months. Decree 999/PR of 31 July 1986 regulates the conditions for applying for the residency permits, which vary for each category of residence (residents, contractors, independent workers, owners, lessees or pensioners, as well as family members of a resident).

According to Article 10 of the Refugee Law, refugees are entitled to the same treatment as nationals with respect to access to education, registration fees at school and at university, and to access to basic social services. Article 11 stipulates that regarding access to and conditions of employment, refugees will be treated in the same manner as foreigners. Refugees are issued with renewable refugee ID cards free of charge, which are valid for two years. However, under Decree 646, asylum-seekers are not allowed to work in Gabon.

With the transformation of refugee status to a foreign resident status in Gabon,² in the absence of any specific statutory instrument for refugees, the only existing relevant law is Law No. 05/86. The law provides “the regime of admission and stay of foreigner in the Republic of Gabon,” as well as for conditions and rights attached to residency permits in Gabon. The treatment that is reserved to a foreign resident by Law No. 05/86 of 16 June 1986 is not the same as that reserved to refugees under the Refugee Law. Furthermore, asylum-seekers who are not authorized to work by virtue of Decree 646 experience difficulties in acquiring residency permits, as employment is one of the pre-conditions for granting residency in Gabon under Law 05/86 . Given the fact that cessation will be declared for Angolan and Rwandan refugees and asylum-seekers in 2012 and 2013, respectively, UNHCR is concerned that these asylum-seekers will face similar difficulties.

A number of refugees are married to Gabonese nationals and have children born in Gabon. The Nationality Code (Law No. 37/98 of 20 July 1999) sets out conditions and modalities for the eligibility for nationality either by origin (birth, filiation and recognition) or acquisition (marriage, adoption, naturalization and reintegration). Furthermore, nationality can be easily accessed by those children born from mixed marriage, whereby either parent has Gabonese nationality, or those foreigners married to Gabonese nationals. Acquisition of Gabonese nationality through naturalisation is less accessible and is a lengthy and costly procedure. No measures have been taken to facilitate naturalization procedures for refugees, even though Article 34 of the 1951 Refugee Convention provides that the Contracting States shall make every effort to expedite naturalization proceedings for refugees and to reduce, as far as possible, the charges and costs of such proceedings.

Recommendations:

Amend Decree 646 to allow asylum-seekers to work in Gabon and take necessary administrative and legislative changes to ensure that asylum-seekers who are not allowed to work by virtue of

² The transformation of refugee status to a foreign resident status in Gabon, was an option foreseen in the context of the comprehensive durable solutions strategy for the Congolese refugees in the framework of cessation of their status.

Article 6 of Decree 646 are exempted from the requirement to present proof of employment in order to be able to acquire residence permits in Gabon. Facilitate naturalization for those refugees who fulfil the residency requirements of the Code of Nationality, as well as refugee children born in Gabon.

Issue 3: The right to a nationality

Gabon is not a State party to the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) or the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*). However, there is a Department for Refugees and Stateless Persons in the “General Directorate for Documentation and Immigration” of the Ministry of Interior.

In order to obtain a birth certificate, a birth declaration must be presented to the civil registration authority at the municipal level within 30 days following the child’s birth. Beyond this time, a “jugement supplétif” (auxiliary judgment) must be obtained in a Court. This document is now free of charge, but until 2011 it had cost 20,000 CFA. Nevertheless, the procedure remains cumbersome. Moreover, in the absence of valid identity documents of the parents, no birth certificate can be issued.

Accession to the *1954 Convention* is important because the *Convention* ensures minimum standards of treatment of stateless persons with respect to a number of fundamental rights. These include, *inter alia*, the right to identity and travel documents, administrative assistance, education, employment, housing, and public relief. The *1961 Convention* establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth. Stateless persons often are discriminated against in their enjoyment of fundamental rights. An increase in the number of States parties to these conventions is essential to strengthening international efforts to prevent and reduce statelessness.

Recommendations:

Assess the scope of statelessness in Gabon and determine its causes; for instance, include questions on statelessness in the 2013 population census. Ensure easy and effective access to birth registration of all children born in Gabon. Reform the Nationality Code to ensure that citizenship is granted to all children born in Gabon who would otherwise be stateless and to prevent the renunciation by Gabonese nationals of their nationality without first mandating they hold another nationality or have assurances that they will acquire another nationality. Accede to the *1954 Convention relating to the Status of Stateless Persons* and to the *1961 Convention on the Reduction of Statelessness*.

Issue 4: Detention and recognition of documentation

In 2011, some 83 refugees were reported to have been arrested, mostly at check points. These persons were normally released after the imposition of fines for lack of valid documents. In some instances, refugee ID cards and asylum-seekers’ attestations were not recognized and confiscated by law enforcement authorities. A few male refugees stated they received humiliating treatment.

Mechanisms for monitoring cases of arrest and arbitrary detention were strengthened through community networks of refugees and partnerships formed with the various units of the security forces. The direct involvement of the “General Directorate for Documentation and Immigration,” through the Department of Refugees and Stateless Persons, contributed to the effectiveness of the protection network and to the awareness of the authorities of the conditions and rights of

refugees.

Recommendations:

Ensure the recognition of official refugee ID cards and asylum-seekers' attestations by law enforcement authorities. Continue training and awareness-raising activities to promote the respect for the rights of refugees.

Issue 5: Right to health

The cost of health care in Gabon is very high due to the recent implementation of health insurance, which does not yet incorporate all groups of vulnerable people, including refugees. The dispersion of refugees throughout the country and the scarcity of health facilities are further obstacles to the effective access to primary health care and to essential medicines.

Despite the fact that refugees are legally entitled to benefit from the National Health Insurance Fund and Social Guarantee, "*Caisse Nationale d'Assurance Maladie et de Garantie Sociale*" (CNAMGS), in practice they continue to face problems in having their medical expenses covered.

Recommendations:

Create local health facilities throughout the country that refugees can access and ensure sufficient supplies of medicines in rural zones. Extend the coverage of CNAMGS to refugees and asylum-seekers, as provided by law, and cover the costs of laboratory tests for persons with HIV.

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