

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review:

2nd Cycle, 26th Session

TOGO

I. BACKGROUND INFORMATION

Togo has been a party to the *1951 Convention relating to the Status of Refugees* and its *1967 protocol* (hereinafter collectively referred to as the *1951 Convention*) since 1962. Togo has not ratified 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*). At the regional level, Togo ratified the *1969 African Union Convention Governing Specific Aspects of Refugee Problems in Africa* (the *OUA Convention*) in 1970 and the *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa* (the *Kampala Convention*) in 2011.

At the national level, the Togolese Constitution states in Article 50 that the rights and duties enshrined in the *Universal Declaration of Human Rights* and in international instruments on human rights ratified by Togo, are an integral part of it. Beyond that, several national instruments incorporate international standards in the Togolese legal order. Additionally, a new national *Law on the Status of Refugees* was adopted on 3 March 2016 and an updated penal code was adopted by the National Assembly on November 3, 2015.

Since 1992, Togo had a ministry specifically responsible for human rights. However, following the last political turnover in June 2015, these ministerial powers, duties and functions were subsumed under the Ministry of Justice. The National Commission for Human Rights (CNDH) has also reinforced its role in the promotion and protection of human rights in Togo. UNHCR has often worked with the National Commission of Human Rights on the issue of statelessness. UNHCR and the CNDH have prioritized the goal of conducting a study at the national level to identify statelessness or statelessness risk situations in Togo.

As of 31 December 2015, Togo had 22,705 refugees within its borders. 4,241 of these refugees were located in Togo's urban centers, while 18,464 were in rural areas. Currently, information on populations at risk of statelessness in Togo is unavailable.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Achievements and positive developments

Since its last UPR in 2011, Togo initiated the ratification process for the *1954 Convention*. Togo adopted a law on accession to the *1954 Convention* in May 2012. However, the Togolese Head of State has yet to promulgate this law.

Furthermore, Togo began reviewing its asylum laws resulting in a new national *Law on the Status of Refugees* which was adopted on 3 March 2016. Efforts were also taken to ensure that the principle of non-refoulement was fully respected and that refugees could enjoy many of the same rights as nationals. This was accomplished through regional collaboration between UNHCR, the National Coordination of Assistance to Refugees (CNAR) and the National Commission for Refugees (CNR).

Legal assistance has also been provided to refugees in Togo and refugees have been able to enjoy many other rights, including access to health centres and hospitals.. Legal assistance is provided free of charge by the CNAR to asylum seekers in the refugee status determination procedure (RSD). Legal assistance is also given to cases of refugees in detention. The right to education has been guaranteed for refugee students in general and particularly for those in primary school. Primary school is both free and accessible to refugees.

The issuance of 1185 secure identity cards and 210 travel documents to refugees in 2015 allowed them to further enjoy their fundamental rights such as freedom of movement, access to employment and access to financial institutions.

Finally, refugee children born in Togo have access to birth certificates. A birth certificate must be issued within 30 days from the date of birth of the child. If the birth is not registered within this period, a court document serving as a substitute birth certificate is issued. This court document is equivalent to a regular birth certificate.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Asylum procedures

Togo's new *Law on the Status of Refugees* brings Togo into greater compliance with international standards on RSD. In addition, a training (by UNHCR) took place in October 2015 on RSD, which sought to help members of the National Eligibility Commission better understand asylum procedures. The training also sought to teach members how to better instruct immigration officers border posts with the aim of eliminating the risk of *refoulement*, and to facilitate the entry of asylum seekers.

Despite these positive steps, more could be done to improve the protection of refugees in the asylum procedure. For instance, currently, a review board does not yet exist to which asylum-seekers can appeal first instance decisions.

Recommendations:

UNHCR recommends that the Government of Togo:

- Ensure that the new Togolese national law provides for an independent body of appeal for decisions of eligibility for refugee status.

Issue 2: Naturalization procedures

In order to bring domestic legislation into greater compliance with international standards, Togo should initiate a review of its *Nationality Code* with the aim of simplifying naturalization procedures for refugees. The *Nationality Code* provides for the granting of nationality on requests made after a regular 5-year residency period on the territory. Ultimately, the naturalization decision is made by decree in a Council of Ministers. The process of naturalization by decree presents procedural obstacles for all persons seeking to naturalize, including refugees, and can result in long delays before a decision is made. One solution which could simplify these procedures would be to allow nationality decisions to be made by the Minister of Justice, with the endorsement of the Head of State Secretary.

Togo should take steps to allow long-term refugees to acquire Togolese nationality by naturalization, if they wish. Additionally, as the law currently stands, Ghanaian refugees in Togo do not possess official status for the purposes of the 5-year residency requirement as they are not formally recognized as refugees by the Tongolese authorities. Thus they are currently ineligible for naturalization.

Recommendations:

UNHCR recommends that the Government of Togo:

- Initiate a review of the *Nationality Code* to simplify naturalization procedures for all persons, including refugees.

Issue 2: Statelessness

UNHCR has continued to advocate in Togo for the completion of the ratification process of the *1954 Convention* and for ratification of the *1961 Convention*.

States are responsible for conferring nationality and ensuring the right of every child to acquire a nationality. Discharging this responsibility requires the establishment of safeguards against statelessness in nationality law. The *1961 Convention* establishes a range of standards to prevent statelessness at birth and later in life, in particular that States shall grant their nationality to children who have ties with these States through birth on the territory or descent and who would otherwise be stateless.

Stateless persons who satisfy the refugee definition contained in the *1951 Convention* are afforded the necessary international protection associated with that status. However, the international refugee protection regime does not specifically address the rights of non-refugee stateless persons who are in need of international protection. In many countries, stateless persons are subject to discrimination, in particular where they do not enjoy a legal status in any country. The *1954 Convention* is an important instrument to ensure enjoyment of human rights by stateless persons. The Convention establishes an internationally recognized status for stateless persons. It also recognizes a number of key rights such as freedom of religion; freedom of association; access to courts; freedom of movement; identity documentation and; internationally recognized travel documents.

As such, ratification of the *1954* and *1961 Conventions* would provide valuable safeguards against statelessness and further assist in ensuring the protection of stateless persons in Togo.

Recommendations

UNHCR recommends that the Government of Togo:

- Complete the ratification of the *1954 Convention* and ratify the *1961 Convention*; and
- Conduct a study at the national level to identify stateless persons and persons at risk of statelessness in Togo.

Human Rights Liaison Unit
Division of International Protection
UNHCR
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ANNEX

Excerpts of Recommendations from the 1st cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedure mandate holders

TOGO

We would like to bring your attention to the following excerpts from the 1st cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Togo.

I. Universal Periodic Review

Recommendation ¹	Recommending State	Position ²
Refugees and asylum-seekers		
101.23. Codify existing policies regulating the granting of asylum and refugee status.	United States of America	Supported ³
Discrimination against women		
100.35. Accelerate its programme to eliminate discrimination against women;	Democratic Republic of the Congo	Supported
100.36. Take policies and legal measures to ensure equality between men and women ;	Brazil	Supported
100.37. Adopt and implement efficient measures with a view to eliminate the discrimination against women, including pursuing appropriate public awareness-raising campaigns against the customary social stereotypes;	Slovakia	Supported
100.38. Pay attention to the recommendations made by the Human Rights Committee in 2011, on the legislative reforms to be adopted to guarantee legal equality between men and women, in particular the new Criminal Code, and the Code of the Person and Family;	Chile	Supported
100.39. Increase efforts to incorporate into domestic law international legal norms aimed at eliminating cultural or traditional gender-based discrimination, as indicated in the national report;	Niger	Supported
100.40. Take measures to amend or to eliminate cultural or traditional customs and practices, which discriminate against women;	Republic of Moldova	Supported

¹ All recommendations made to Togo during its 1st cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review: Togo," (14 December 2011) [A/HRC/19/10](#).

² Togo's views and replies can be found in: *Addendum*, (6 March 2012) [A/HRC/19/10/Add.1](#).

³ This recommendation enjoyed the support of Togo and was considered already implemented or in the process of implementation.

100.41. Strengthen efforts to fulfil its obligations under the Convention on the Elimination of all Forms of Discrimination against Women, including by adopting and implementing legislation prohibiting female genital mutilation ;	Australia	Supported
100.42. Develop policies and actions aimed at modifying or eliminating customs and practices that promote violence and/or discrimination against women, covering family, marital, social and working areas;	Mexico	Supported
100.43 Adopt all necessary measures to eradicate and eliminate practices and customs that discriminate against women, in particular forced and early marriage, discriminatory practices in the area of widowhood, the levirate, slavery and female genital mutilation. At the same time, develop awareness and education programmes on the harmful effects of such practices ;	Uruguay	Supported
100.44. Deepen the efforts, including through international cooperation, aimed at eradicating all practices that violate the rights of women, with a particular emphasis on female genital mutilation and any form of gender based violence, and continue to implement measures, which tend to provide the legal recognition of civil, political, economic and social rights among women and men;	Argentina	Supported
Gender-based violence		
100.56. Adopt the draft bill on the criminal code, which includes and sanctions gender-based violence;	Algeria	Supported
100.57. Conduct appropriate public awareness-raising campaigns with a view to eliminate female genital mutilation and other harmful traditional practices;	Slovakia	Supported
100.58. Adopt a law prohibiting domestic violence and adopt the necessary measures to ensure its implementation, including inter alia through an information and awareness-raising campaign amongst the population ;	Canada	Supported
100.59. Take necessary measures to effectively combat violence against women and girls and enact legislation on domestic violence;	Republic of Moldova	Supported
100.60. Complete necessary legislative reforms towards the criminalization of domestic violence;	Slovakia	Supported
100.61. Speed up legislative reforms to make acts of violence against women such as domestic violence and marital rape offenses under the criminal code;	Brazil	Supported
100.62. Adopt the revised Persons and Family Code; criminalize domestic violence and intensify the fight against traditional practices, which discriminate against women or are detrimental to them;	Cape Verde	Supported
Trafficking		
100.63. Take additional measures to prevent and combat trafficking in women in an appropriate way;	Republic of Moldova	Supported

100.64. Continue to effectively fight against child trafficking and access to education of children with disabilities, and especially girls;	Turkey	Supported
100.65. Increase efforts to convict and punish trafficking offenders, with sufficiently stringent penalties, under existing legislation and complete and enact draft legislation prohibiting the forced labour and forced prostitution of adults;	United States of America	Supported
101.12. Include sale and abduction of children in the data collection system of the National Commission for the Care and Social Reintegration of Child Victims of Trafficking with a view to guarantee the operational continuity and effectiveness of the commitments undertaken through the cooperation agreements to combat trafficking in children;	Mexico	Supported
Child protection		
100.28. Adopt the text on national policy to protect children, completed in 2008, and intensify the fight against trafficking in children and labour affecting children	Cape Verde	Supported
100.66. Adopt all necessary measures to eradicate child abuse, labour and sexual exploitation of children, as well as violence against children, paying particular attention to cases of children who are killed because they were born with disabilities, malformation, without pigmentation or because their mother died during childbirth;	Uruguay	Supported
101.13. Take adequate measures to counter the worrying increase of violence against, abuse and sexual exploitation of children, by ensuring the implementation of applicable laws including through awareness and education programmes targeting more particularly parents, teachers, correctional officers and other relevant professionals	Canada	Supported ⁴
LGBTI		
103.7. Amend legislation to ensure that sexual orientation and gender identity are included as prohibited grounds for discrimination;	Canada	Noted
103.8. Strengthen the measures aimed at prohibiting discrimination based on sexual orientation;	Argentina	Noted
103.9. Repeal legislation criminalising homosexuality, and introduce policies aimed at ending discrimination against homosexuals;	Australia	Noted
103.10. Consider decriminalizing sexual relations between consented adults of the same sex;	Brazil	Noted
103.11. With respect to the situation of the rights of Lesbian, Gay, Bisexual and Transgender people, adopt policy and legislative measures to establish a specific framework for the protection against discrimination based on sexual orientation, together with the suppression of penal provisions which criminalize sexual relations between consented adults of the same sex and; launch public awareness-raising campaigns on this issue;	Spain	Noted

⁴ This recommendation enjoyed the support of Togo and was considered already implemented or in the process of implementation.

II. Treaty Bodies

Committee against Torture

Concluding Observations, 49th session (11 December 2012) [CAT/C/TGO/CO/2](#)

Non-refoulement

16. The Committee regrets that incomplete information was provided in the report on the procedures and measures introduced by the State party to fulfil its obligation of complying with the principle of non-refoulement pursuant to article 3 of the Convention (art. 3).

The Committee recommends that the State party should:

- (a) **Respect the principle of non-refoulement in accordance with article 3 of the Convention, and in particular the obligation to check whether there are substantial grounds for believing that the asylum seeker would be in danger of being subjected to torture or ill-treatment if expelled, including by systematically conducting individual interviews to evaluate the personal risk incurred by applicants;**
- (b) **Introduce in the Criminal Code the right to an appeal with suspensive effect against expulsion decisions, and respect all guarantees in the context of asylum and expulsion procedures pending the outcome of appeals.**

Committee on Economic, Social and Cultural Rights

Concluding Observations, 50th session (03 June 2013) [E/C.12/TGO/CO/1](#)

Birth registration

21. The Committee is concerned that the difficulties involved in obtaining civil status certificates prevent many individuals in the State party from exercising their economic, social and cultural rights (art. 10).

The Committee requests that the State party expedite the registration of the births of persons who do not have identity papers and to ensure that civil status services are made available across the country.

Committee on the Elimination of Discrimination against Women

Concluding Observation, 53rd session (1 – 19 October 2012)
[CEDAW/C/TGO/CO/6-7](#)

Trafficking and exploitation of prostitution

24. While welcoming the existence of programmes to prevent human trafficking and ensure reintegration of victims, the preparation of a draft law on human trafficking and a draft decree on the establishment of a national commission to fight trafficking, the Committee is concerned about reports that Togo remains a State of origin, transit and destination for trafficking. The Committee is also concerned by the absence of a strategy aimed at combating human

trafficking. Further, it is concerned about the preparation of a draft law that increases the scope of incrimination and sanctions for sex workers in cases of soliciting.

25. The Committee recommends that the State party:

- (a) Carry out a study to investigate the scope, extent and causes of human trafficking and forced prostitution, particularly of women and girls, including through the collection and analysis of data on trafficking and exploitation of women in prostitution, and provide information on the results of the study, along with data disaggregated by sex, in its next periodic report;**
- (b) Finalize and adopt the law on human trafficking and ensure that it fully complies with article 6 of the Convention so as to strengthen mechanisms for the investigation, prosecution and punishment of trafficking offenders; adopt the draft decree on the establishment of a national commission to fight trafficking and ensure that it has a wide mandate and sufficient resources;**
- (c) Increase international, regional and bilateral cooperation with countries of origin, transit and destination to prevent trafficking through information exchange and to harmonize legal procedures aimed at the prosecution and punishment of traffickers; and**
- (d) Address the root causes of prostitution of women and girls, including poverty, in order to eliminate the vulnerability of women and girls to sexual exploitation and trafficking; undertake efforts for the rehabilitation and social reintegration of victims and withdraw the draft legal provisions incriminating and sanctioning sex workers in cases of soliciting.**

Nationality

28. While welcoming that the new Code of Persons and Family grants women equal rights with men to retain the Togolese nationality in case of divorce (art. 149), the Committee remains concerned about the delay in withdrawing from the 1978 Code of Nationality the discriminatory provisions preventing women from retaining Togolese nationality in case of divorce (art. 23.3) and Togolese women from passing their nationality to their child (art. 3) or to their foreign husband (art. 5).

29. The Committee recommends that the State party:

- (a) Amend its Code of Nationality to grant women equal rights with men regarding the retention of the Togolese nationality in case of divorce (art. 23.3) and the transmission of the Togolese nationality to their children (art. 1) or to their spouses of foreign nationality (art. 5); and**
- (b) Consider acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.**

Committee on the Rights of the Child

Concluding observations, 59th session, (16 January–3 February 2012), [CRC/C/TGO/CO/3-4](#)

Birth registration

39. The Committee welcomes the efforts made by the State party to improve birth registration, including the adoption in 2009 of Act No. 2009-10 on the organization of the civil registry system. The Committee is however concerned that 50 per cent of children are not registered at birth, due, inter alia, to the insufficient number of birth registration centres in the

country, the high cost of birth registration and the insufficient information provided to parents on the positive effects of birth registration. The Committee is even more concerned that children without birth certificates cannot obtain identity documents and access to education, and that a large number of them are not authorized to sit national end-of-year examinations in primary education.

40. The Committee urges the State party to ensure that all children are properly registered at birth and that birth registration is free and compulsory in practice. To this aim, the State party should:

- (a) Adopt the decrees and measures contained in the law on the organization of the civil registry system concerning birth registration, and provide adequate resources for its implementation;**
- (b) Increase the number of birth registration facilities, including mobile birth registration units, at the local, community and village levels;**
- (c) Urgently enforce the provisions of the law relating to the organization of the civil registry system in order to regulate and reduce the costs of birth certificates;**
- (d) Conduct awareness-raising campaigns, with the active support of community leaders, to promote birth registration for all children; and**
- (e) Guarantee that children without a birth certificate are not deprived of access to education, health care and other social services.**

III. Special Procedures

Report of the Special Rapporteur on the situation of human rights defenders, (26 February 2014), [A/HRC/25/55/Add.2](#)

Defenders working for the rights of lesbian, gay, bisexual and transgender persons

77. The lesbian, gay, bisexual and transgender (LGBT) community is a new group that the Special Rapporteur identified during her follow-up visit. Many of those working on LGBT issues have only organized themselves in recent years, often around HIV-AIDS and other health-related issues. The working environment for defenders is often difficult and hostile owing not only to pressure from society and families but also the existing legal framework.

78. The Special Rapporteur was informed that one important element contributing to this difficult environment is that same-sex relations between consenting adults are, under article 88 of the Criminal Code, a criminal offence punishable by one to three years of imprisonment and a fine.

79. The Special Rapporteur also expresses her concern at the use of certain legal provisions by law enforcement officials without proper investigation of facts in the case of unsubstantiated accusations against defenders and activists. She was informed that some activists have faced accusations of rape and abuse of minors that have not always been properly investigated by the police owing to the prevailing stigma surrounding the work of these defenders, assumptions about their sexual orientation and deeply-rooted discriminatory attitudes and stereotypes.

80. This group of defenders also faces threats, intimidation and harassment in their own communities in connection with their activities and their own sexual orientation. Such incidents

are not always reported for fear of criminal charges and social stigma. The coverage of the issue by certain media seems to have contributed to exposing these defenders to more risks.

81. The Special Rapporteur urges the authorities to do their utmost to ensure that defenders may work in a safe and enabling environment, publically support their work, and consider revising the relevant legal framework