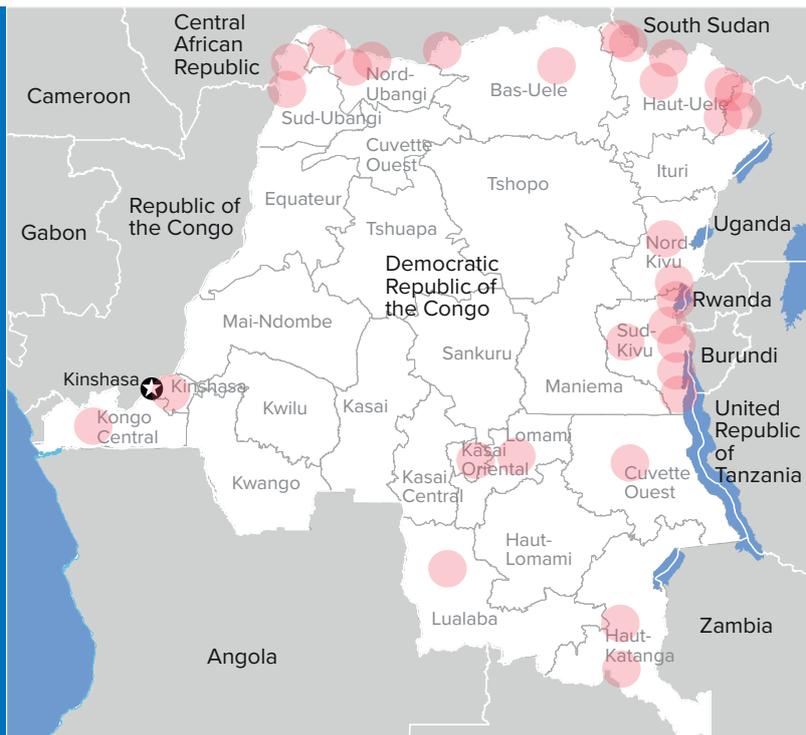


## THE DEMOCRATIC REPUBLIC OF THE CONGO

The Democratic Republic of the Congo offered protection to 528,364 refugees and asylum-seekers from 22 countries in 2020. Most of these came from Rwanda, the Central African Republic, South Sudan and Burundi. Most registered Rwandan refugees arrived in the Democratic Republic of the Congo around 1995, fleeing the 1994 Rwanda genocide. Refugees from the latter three countries arrived in waves from 2016 onwards due to conflict and targeted abuses in their home countries.

The Democratic Republic of the Congo is a fragile, low-income country, with an estimated 5,502,059 internally displaced nationals in 2020 as a result of ongoing conflict within its own borders. In addition, an estimated 941,755 of its citizens are currently refugees in neighbouring countries. Despite its own challenges, the country commonly pursues an open-border policy regarding refugees.



An estimated 73.6 per cent of refugees in the Democratic Republic of the Congo live among local communities in hosted and rental arrangements. This includes registered Rwandan refugees, the majority of whom live among local communities in North and South Kivu in the east of the country while a minority live in Kasai-Central province. Around 25.2 per cent of the refugee population in the Democratic Republic of the Congo lives in 10 planned settlements (camps) in the north (mainly comprising refugees from the Central African Republic), north-east (South Sudanese) and east (Burundians). About 1.2 per cent of the refugee population lives in Kinshasa and Lubumbashi.

### KEY POPULATION DATA

**525,586**  
Refugees

**2,778**  
Asylum-seekers

**0.61%**  
of the country's population (86,790,567 )  
are refugees and asylum-seekers

IDA 18 RSW / IDA 19 WHR ELIGIBILITY:  
NOVEMBER 2018

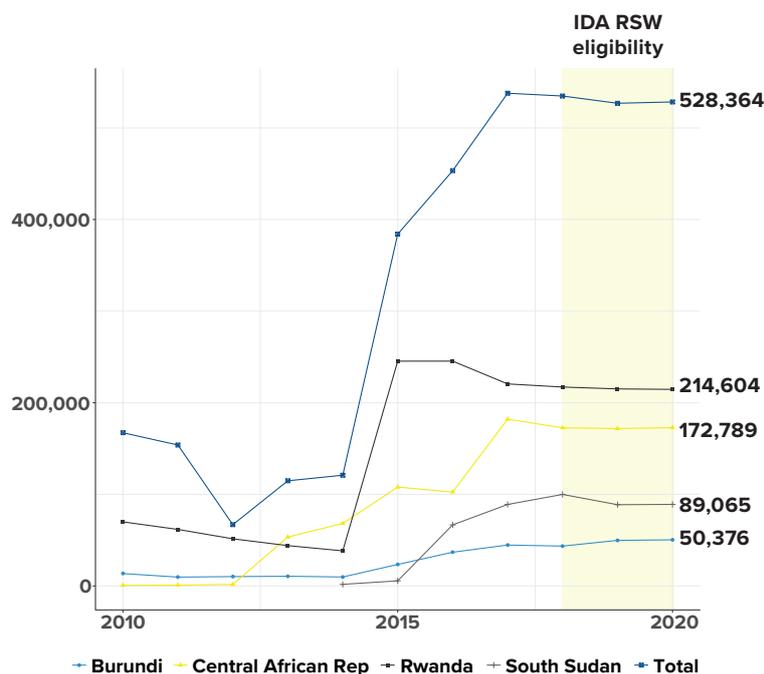


Figure 1: Number of refugees and asylum-seekers of the largest refugee population groups

## OVERVIEW OF REFUGEE POLICY ENVIRONMENT (JULY 2017–JUNE 2020)

The policy and institutional framework of the Democratic Republic of the Congo is inclusive towards refugees, reflecting a tradition of hospitality based on which the country had been treating refugees and nationals equally long before the country ratified the 1951 Convention Relating to the Status of Refugees (hereafter referred to as the 1951 Convention). Nonetheless, the forced displacement context in the Democratic Republic of the Congo is complex and includes policy priorities relating to internally displaced persons, stateless populations and returnee (former refugee) nationals, many of whom currently reside in the same areas as refugees and experience the same economic, social, civil and security challenges. Many refugees have also been displaced multiple times inside and outside the Democratic Republic of the Congo, sometimes causing them to commute involuntarily between host communities and their country of origin depending on fluctuations in the security situation.

Refugee policy developments should be understood against this policy context. They should also be understood in an overall national context in which substantial governmental changes took place following elections in December 2018, in a country that is generally affected by immense challenges related to fragility, conflict and violence. As set out in more detail in the respective policy dimensions sections below, key refugee policy developments at the national level in the period from July 2017 to 30 June 2020 include:

- The administrative instruction issued by the Central Bank of the Democratic Republic of the Congo in 1 February 2018, which confirmed recognition of the refugee ID to access financial services and allowed refugees to open bank accounts. UNHCR observed relative improvements in access to banking services for refugees notably in Kinshasa since the issuance of this administrative instruction. Some banks are however still reluctant to recognize and accept refugee ID cards. CNR continues advocating for the recognition of the refugee ID cards by all banks in the Democratic Republic of the Congo.
- The partnership between the Office of National Employment (ONEM) and UNHCR signed in September 2019, which enabled registration of job-seeking refugees in ONEM's employment-matching services database in the same manner as nationals.

The Government has also made significant policy pledges and commitments at the international level between July 2017 and 30 June 2020 which are yet to be implemented. During the UN Human Rights Council Universal Periodic Review (UPR) in May 2019, the Government committed to expedite finalization of the Action Plan to Combat Trafficking in Persons, to ratify and implement the 2014 Protocol to the 1930 ILO (International Labour Organization) Forced Labour Convention (which would reinforce the policy base for the protection of rights at work including for refugees), and to guarantee effective measures allowing access to free primary education for all children, including refugees.

The Government also committed at both the UPR in May 2019 and the [High Level Segment on Statelessness](#) in October 2019 to ratify the two conventions on statelessness and strengthen the civil registration system and issuance of national identity documents to all populations living in the Democratic Republic of the Congo, including refugees.

Finally, the Government committed at the Global Refugee Forum in December 2019 to: i) offer the 200,000 Rwandan refugees who have opted to remain in the Democratic Republic of the Congo after the termination of their status a residence permit valid for 10 years; ii) print 1,000 biometric travel documents by 2021 to contribute to the mobility of refugees and their admission to third countries; iii) focus on the development of refugee return areas and the reactivation of tripartite commissions with Congo, Rwanda, Burundi, Tanzania, Zambia and Uganda for the dignified and safe return of refugees wishing to repatriate; and iv) ratify the Kampala Convention on IDPs in 2020.

The Democratic Republic of the Congo became eligible for the IDA 18 Refugee Sub-Window (RSW) in November 2018.

## POLICY DIMENSIONS (AS AT 30 JUNE 2020)

### 1 Host Communities

#### 1.1 Support for communities in refugee-hosting areas

The 2011 Public Finance Law provides that provisional credits can be allocated to cover spending linked to unforeseen circumstances, including the reception of foreign persons, within the envelope allocated in the yearly budget or, if this is insufficient, through a request to the parliament as per Article 129 of the Constitution. The 2019 Public Expenditure and Financial Accountability report (PEFA) on the evaluation of efficiency in public finance management in the Democratic Republic of the Congo highlights that 10 of the 15 billion CFA (27.6 million USD) voted through in 2018 was disbursed for humanitarian and social actions. In addition, although Articles 218 to 222 of the 2011 Public Finance Law define the modalities for allocating national revenues to the provinces, little of the funds thus transferred in fact reached the provincial budgets. Furthermore, potential refugee inflows are not explicitly included in the national and subnational development plans and as such are not necessarily budgeted for.

In 2017, the Government adopted a comprehensive National Social Protection Policy to provide social protection to vulnerable nationals which includes qualified members from the host communities. An ensuing strategy and action plan were elaborated based on findings from analytical work, including (i) a social safety nets assessment; (ii) an institutional diagnostic of the Ministry of Social Affairs (MINAS); (iii) a review of targeting mechanisms; (iv) a feasibility study for delivery systems; and (v) a public expenditure review. However, in practice social protection is limited, including for host communities. The Democratic Republic of the Congo does not have yet a national social protection system to identify and register vulnerable people. In the absence of a national registry, safety net programmes remain fragmented. They cover just 2 per cent of the country's population, below the five percent average for Central Africa (World Bank 2018). The unit cost for delivering social safety nets is high due to limited physical and technological infrastructure, while access to vulnerable populations is constrained by insecurity and a lack of national delivery mechanisms. Total spending on social safety nets is low even by regional standards: only about 0.7 percent of GDP is invested in social safety nets, virtually all of which are funded by international organizations through emergency programmes (World Bank 2019).

#### 1.2 Social cohesion

Various national laws and policies exist that can be applied to identify, prevent and mitigate potential social tension and risks of violence in refugee-hosting areas. [Law No 021/2002 on the status of refugees \(hereafter referred to as the 2002 Refugee Law\)](#) sets out refugee rights but also obligations for refugees to be bound by the rule of law and public order. Other relevant laws and policies include the [Constitution](#) and the [Penal Code](#), which set out responsibilities for citizens to promote the rule of law, tolerance and mutual respect. Similarly, the [2018–2022 National Strategic Development Plan \(PNSD\)](#), which is yet to be implemented, sets out an inclusive approach to development and proposes a large number of social development, good governance and peacebuilding interventions that are relevant in terms of reducing social tensions and risks of violence. Although these policies do not directly refer to refugees and host communities, in conjunction with the [Refugee Law](#) and the [2018 Global Compact on Refugees](#), they also apply to these groups and can be implemented in refugee-hosting areas to the benefit both populations.

Nevertheless, implementation of policies relating to social cohesion is generally limited as relevant subnational institutions tend to receive little financing and have limited capacities. In practice, refugees are generally welcomed by the communities with which they interact and relations are amicable. However, suspicion of the unknown, caution over security risks, competition over resources and ethnic divisions do exist within both refugee and host communities and have an impact upon attitudes. Social tensions and the risk of violence in refugee-hosting areas are also intrinsically intertwined with the ongoing armed conflicts in the Democratic Republic of the Congo and violence between the various local communities (see also section 2.5 on Justice and Security). In this context, isolated cases of violence and harassment against refugees do occur, particularly against Rwandan refugees in the East and in Kasai, due to the

serious violence in the Democratic Republic of the Congo attributed to the Rwandese national armed forces.

As part of the local governance systems in the Democratic Republic of the Congo, informal and formal local mechanisms are in place that promote peaceful coexistence, dialogue, joint activities and citizen engagement. There are no policies specifying that the membership of such mechanisms should include both refugee and host community representatives, but this happens in practice in some refugee-hosting areas. In some instances, such mechanisms are supported by development and peacebuilding partners and the inclusion of refugees is promoted as part of this support. For instance, Decree No 13/041 of 16 September 2013 establishes local neighbourhood security committees (comités locaux pour la sécurité de proximité – CLSPs). These are supported by international development and peacebuilding partners in various locations. In 2020, collaboration was established between the authorities, supporting partners and UNHCR to include refugee representatives in the CLSPs of the refugee-hosting localities of Bahunde, Bwisha and Bwito.

Similarly, refugee leadership committees and sector-specific committees are established in the camps based on the refugee camp regulations issued by the National Commission for Refugees (Commission Nationale pour les Réfugiés, or CNR) and UNHCR in 2013. Among the sector-specific committees, there is one committee that deals with peaceful conflict resolution. This committee includes refugees and host community members as a matter of practice and is chaired by the local authority. In refugee-hosting areas outside the camps, there are loose refugee community-based governance structures that are not as well established and not policy-based. UNHCR and its implementing partners also support peaceful coexistence programmes that bring together refugees and host communities, but these programmes are generally not formally embedded into national policies and institutional frameworks.

National policies formally protect refugees from discrimination. The [Constitution](#) promotes non-discrimination between the four national languages, prohibits discrimination against women and stipulates that everyone on national territory has access to education without discrimination. The [2002 Refugee Law](#)—in conjunction with the [1951 Convention](#), the [1969 Organization of African Unity \(OAU\) Convention](#) and other international and regional instruments signed up to by the Democratic Republic of the Congo—protects refugees from discrimination based on race, religion, nationality, membership of a particular social group or political opinions, sex, age, disability, sexuality or other prohibited grounds of discrimination. In practice, discrimination may occur in some situations for both refugees and nationals, for instance in relation to ethnicity and/or nationality of origin.

### 1.3 Environmental management

Although there are no specific national policies to mitigate the potential negative environmental impacts of hosting refugees, relevant policies do exist that apply nationwide and can be implemented in refugee-hosting areas to the benefit of both host communities and refugees.

Law No 11/009 of 9 July 2011 on the environment aims to promote the sustainable management of natural resources and protect the environment. The law sets out the responsibilities of the State, the provinces and the decentralized territorial entities as regards waste management and the conservation and management of forest ecosystems. Law No 11/2002 of 29 August 2002 on forestry details the obligations incumbent upon any party causing deforestation to compensate for their actions through reforestation. Neither law has yet been implemented in refugee-hosting areas. The refugee inflow and associated population growth are causing particular environmental concerns in areas that are hosting South Sudanese refugees, including environmental damage in Garamba National Park.

Law No 15/026 of 31 December 2015 on water gives the government competence to define the nation's policy for the rational and sustainable management of water resources. In rural areas, the National Rural Water Service (SNHR) initiates projects for access to drinking water. In urban areas, multiple actors are managing access to water, including management committees, the Drinking Water Users Association, religious associations and companies. Despite these efforts, access to water is a serious problem in the

Democratic Republic of the Congo for refugees and host communities alike. Among the refugee-hosting areas, the situation is most dire in Nord Ubangi and Sud Ubangi where refugees from the Central African Republic are hosted where water points are lacking.

No relevant laws or policies were identified that could provide for access to sanitation in refugee-hosting areas.

## 1.4 Preparedness for refugee inflows

The Democratic Republic of the Congo does not have dedicated national preparedness policies in place to respond to increased or new refugee inflows in ways that minimize short- and medium-term socioeconomic impacts on hosting regions. That said, by granting refugees the right to access the territory, asylum and social, economic and cultural rights, the [2002 Refugee Law](#) provides crucial elements for such a framework. In terms of institutional mechanisms, the [2002 Refugee Law](#) and [Decree No 03/014 of 2003 on the organization and functioning of the CNR and the Appeals Commission \(hereafter referred to as Decree 03/014 on the CNR\)](#) charge CNR with responsibility for managing all inflows of asylum-seekers and refugees into the Democratic Republic of the Congo.

In practice, UNHCR and CNR draw up short-term contingency plans on an ad hoc basis when new refugee inflows are expected based on the situation in surrounding countries. These contingency plans are not embedded in national systems. They are commonly fully financed by humanitarian aid and implemented largely by UNHCR, international humanitarian partners and local NGOs. At subnational level, coordination meetings are held by humanitarian organizations to address specific refugee situations. In Kinshasa this happens on an ad hoc basis.

## 2 Regulatory Environment and Governance

### 2.1 Normative framework

The Democratic Republic of the Congo has been a State Party to the [1951 Convention Relating to the Status of Refugees](#) since 1965. No reservations have been made. It is also a State party to the [1967 Protocol relating to the Status of Refugees](#), the [1969 OAU Convention Governing Specific Aspects of Refugee Problems in Africa](#) and other relevant [international and regional instruments](#), and endorsed the Global Compact on Refugees. Refugee-related commitments in these instruments are implemented through the [2002 Refugee Law](#) in conjunction with the [Constitution](#), which explicitly reconfirms the right to asylum, and national laws and policies. The 2002 Refugee Law stipulates in an overarching article that the law complies with the 1951 and 1969 Refugee Conventions and is indeed in line with international and regional norms and standards. Nonetheless, some national laws and policies are not fully in line and would require harmonization, and there are significant shortcomings in the implementation of the refugee policy and institutional framework (see respective Policy Dimensions).

The [2002 Refugee Law](#) has not been broadly and effectively disseminated in the appropriate languages spoken by nationals of the Democratic Republic of the Congo and the refugee populations. UNHCR observations, self-assessments and surveys conducted among border authorities and law enforcement personnel reveal that there are gaps in their awareness of asylum procedures, non-refoulement principles and how to refer a person to the appropriate services. UNHCR also observes gaps in awareness among other State institutions, private sector entities, civil society and refugees themselves regarding applicable refugee policies.

The [2002 Refugee Law](#) and [Decree 03/014 on CNR](#) establish the framework for refugee status determination (RSD). The overall responsibility for RSD implementation is given to CNR and the Appeals Commission. The procedures as outlined, including those of the appeal process, are in line with international and regional standards, but there are shortcomings in their implementation.

Refugees who arrived from the Central African Republic between 2013 and 2017 received refugee status from CNR through a prima facie approach. All Central African Republic refugees arriving since then have had to go through a simplified interview procedures process conducted by CNR and the Appeals Commission. South Sudanese refugees are granted prima facie refugee status or group recognition. If there are any considerations that might exclude them from obtaining refugee status, they are referred to individual RSD procedures. All other nationalities go through individual RSD procedures.

Under Article 12 of the [2002 Refugee Law](#) and [Decree 03/014 on CNR](#), RSD should occur no later than six months after the date of the asylum application. In practice, although a simplified measure was put in place for prima facie cases, there is no equivalent for individual RSD cases. This further constrains the Government's capacity to process individual RSD procedures within the six-month time frame. Waiting times can amount to several years, resulting in a significant delay in providing asylum-seekers with the necessary documents. Reasons are not always provided for decisions to reject applications for refugee status, and the Appeals Commission has not met in years, which creates protracted asylum-seeker situations. Moreover, refugees are not always well informed about the appeal process, and mandatory attendance at this Kinshasa-based process is difficult for refugees living in the provinces.

### 2.2 Security of legal status

The [2002 Refugee Law](#) provides asylum-seekers with the right to stay in the country based on an asylum-seeker attestation that is provided by the Government upon application for asylum. The asylum-seeker attestation has the validity of a temporary residence permit and is valid for the duration of the RSD procedure. Once refugee status has been granted by CNR, whether through prima facie or individual RSD procedures, the law stipulates that refugees can stay in the country based on a refugee ID card that is valid for two years, renewable free of charge and has the same status as the residence permit provided to foreigners. In practice and depending on the hosting location, some refugees have a refugee ID card and others a refugee attestation. The renewal process for refugee ID cards and attestations is facilitated by UNHCR and the Ministry of the Interior as part of the refugee registration and verification exercises. Once regularized and implemented, the Government's pledge at the 2019 Global Refugee Forum to offer 200,000 Rwandan refugees a residence permit with a validity of 10 years following cessation of their refugee status, as well as to facilitate access to civil status documents for Rwandan children born in the Democratic Republic of the Congo and former Angolan refugees who have not returned home, is expected to improve legal security for these populations.

The [Constitution](#) and the [2002 Refugee Law](#) also grant refugees the right to seek asylum and clearly set out the principle of non-refoulement in line with international standards. The 2002 Refugee Law also sets out that in the event of a deportation order against a refugee, the refugee should be referred to the CNR and that if the order is maintained, UNHCR should be engaged. Additional protection is provided by Order No 1983-033 of 1983 on policing foreigners (hereafter referred to as [the Foreigners Law](#)), which stipulates that a deportation order shall not be made against a foreigner who holds a residence card or who is a refugee unless the National Immigration Commission has given its opinion. In practice, refoulement has generally not been a significant threat to any refugee population in the Democratic Republic of the Congo, and UNHCR observes that law enforcement authorities generally refer asylum-seekers or refugees with expired or no asylum application receipts or refugee IDs to CNR and do not expel or deport them. However, in December 2019, the National Army expelled 2,000 individuals to Rwanda without due process, alleging that they were active fighters or their dependents. Among this group were at least 550 women and children recognized by the CNR as refugees. This incident of expulsion occurred in the context of a military operation in North and South Kivu that was designed to put an end to the operations of various militia. There is no indication that similar imminent risks exist for refugees from the Central African Republic, Burundi or South Sudan.

### 2.3 Institutional framework for refugee management and coordination

The [Refugee Law and Decree 03/014 on CNR](#) provide the National Commission for refugees (CNR) with the institutional responsibility for refugee affairs under the overall authority of the Ministry of Interior (MoI).

These policies stipulate that CNR consists of one representative of each of the Ministries of Interior, Foreign Affairs, Defence, Justice, Human Rights, Social Affairs, Health, Labour and Social Security, as well as one representative of the Intelligence Agency, the National Police and the Directorate of Migration, one CNR Permanent Secretary and an observer seat for UNHCR, which may be consulted. CNR membership does not include representatives from the refugee, host or donor communities, nor are there any formalized connections with other coordination structures such as those linked to development planning.

The aforementioned legislation also stipulates that CNR is: chaired by the Ministry of Interior, which also provides its Secretariat; convenes at least once a month; has one or more subnational level structures; and that its operating costs should be included in the subsidiary State budget complemented where needed with international aid, donations and gifts. CNR responsibilities explicitly include collaboration and coordination with concerned Ministries in their respective areas of responsibility, including food, health, housing and education. There are no specific provisions or other policies that articulate how this collaboration and coordination should be operationalized among the various government entities. In practice, national and subnational CNR coordination meetings are ad hoc, and coordination processes are not well established. When CNR convenes, its focus is mostly on the adjudication of RSD decisions and less on the other refugee management responsibilities assigned to CNR. The full CNR budget, including operating costs relating to RSD, is financed by UNCHR.

Refugee leadership committees established in line with camp regulations serve, inter alia, to obtain refugee input and feedback on decisions taken by the Government (see also section 1.2 on social cohesion). The committees are functional in camp settings and meet with CNR, UNHCR and other national and international humanitarian organizations on a regular basis. The camp regulations set out that refugees are elected for one year and that the election takes place in line with international standards and with respect to gender and diversity considerations. This is also happening in practice.

Refugees have so far not been included in the national population census in the Democratic Republic of the Congo, which is also not regularly implemented (the most recent census dates back to 1984). First steps have been taken by some national entities to include refugees in administrative data collection systems at sectoral level. The Office National de l'Emploi (ONEM) for instance registers job-seeking refugees in its database in the same manner as nationals, based on a memorandum of understanding signed between ONEM and UNHCR in 2019. Similarly, initial steps have been taken to include refugees in national survey data. The Institut National de la Statistique (INS) has been conducting a socioeconomic household survey among refugees living in Kinshasa and Lubumbashi in 2019 and plans to conduct a similar survey among Burundians in South and Nord Kivu in 2021. This is a first step of sensitizing the INS to refugee statistics and integrating them into methodologies used for national statistics.

## 2.4 Access to civil registration and documentation

[The 2002 Refugee Law](#) provides that all registered asylum-seekers should be issued with an asylum-seeker attestation, and that all recognized refugees should be issued with a refugee ID card attesting to their identity and a travel document for the purpose of travel abroad. The law also stipulates that the Ministry of Interior is responsible for issuing the refugee ID cards.

In practice, although CNR leads the registration process on behalf of Ministry of Interior and signs off on asylum-seeker attestations and refugee ID cards, UNHCR provides significant support. CNR has taken on more responsibility for registration and is expected to take the lead in initial registration in 2021. Currently, 100 per cent of registered asylum-seekers are in possession of attestation documents and 16 per cent of all recognized refugees are in possession of refugee ID cards.

However, national and subnational authorities, law enforcement entities, and the private sector do not always effectively recognize asylum-seeker attestation or refugee ID cards.

[The 2002 Refugee Law](#) grants recognized refugees and their family members the right to obtain a birth, death, marriage or other civil status document under the same conditions as nationals. The [Family Code](#) as amended in 2016 details the relevant procedures and administrative requirements. Under this policy

framework, registration of vital events should take place within 30 days and is free of charge. Oral translations and copies of acts can be supplied free of charge if they are needed for administrative purposes. In practice, implementation of the policy and institutional framework for vital events registration is limited and as a result, both refugees and nationals lack access to civil documentation. In rural areas, there are no civil registrars or documentation services. As such, to a certain extent, refugees and host communities living in and around refugee camps in rural areas might have better access than nationals living in other rural parts of the Democratic Republic of the Congo, since UNHCR and humanitarian partners tend to facilitate such services in the camps for both population groups.

## 2.5 Justice and Security

There are no reliable datasets that compare levels of security, justice or gender-based violence (GBV) between refugees and nationals of the Democratic Republic of the Congo. However, based on UNHCR observations, the level of security, justice and GBV experienced by refugees is comparable to that enjoyed by nationals living in the same areas, albeit with some differences as set out below.

[There are various applicable laws, policies and action plans in relation to refugee access to justice and security and the prevention and deterrence of GBV. The 2002 Refugee Law](#) grants refugees the same rights to access to courts and tribunals as nationals, and grants asylum-seekers the right to free legal counsel and, at the asylum-seekers own expense, an interpreter to support them during the asylum process. The [Constitution](#) and the [Penal Code](#) grant all persons in the Democratic Republic of the Congo access to civil and criminal justice, regardless of their asylum-seeker or refugee status. This includes the right to free legal aid in criminal matters. They place a strong obligation on the State to protect physical security and eliminate and criminalize any violence, including sexual violence, committed against any person in the Democratic Republic of the Congo regardless of refugee status. Relevant policies and plans include the National Justice Reform Policy [2017–2026](#) (hereafter referred to as the Justice Reform Policy), the Five-year Police Reform Action Plan 2020–2024 (hereafter referred to as the Police Reform Plan), the [2009 National Strategy to Combat Gender-based Violence in the Democratic Republic of the Congo](#) (hereafter referred to as the GBV Strategy), and sector-specific GBV action plans such as the Three-year Police Action Plan to Combat Sexual Violence in the Democratic Republic of the Congo 2018–2022. Although these policies and plans do not explicitly refer to refugees and host communities, they do also apply to them in conjunction with the [2002 Refugee Law](#), the [Constitution](#) and the [Penal Code](#), and can be implemented in refugee-hosting areas to the benefit of both population groups.

Implementation of the policies and action plans relating to justice, security and GBV is, however, severely constrained, mostly because they are barely resourced. Implementation is also challenged by insecurity and the limited capacities and country coverage of the police, justice, health and psychosocial sectors. This is also recognized in the policies themselves; for instance, the [Justice Reform Policy](#) states that although the right of access to a court of law is recognized by positive law, its exercise cannot be guaranteed for the most deprived; it also states that legal aid is currently not granted systematically and without discrimination to litigants because it is mainly financed by the international partners in specific regions and for certain categories of vulnerable people. Traditional dispute resolution mechanisms are more easily accessible and can be accessed by refugees and host communities alike, especially in the refugee-hosting areas outside the camps.

In practice, with over 120 armed groups on the territory of the Democratic Republic of the Congo, insecurity, lack of access to justice and GBV are significant concerns for all people living in the country. In the eastern region, where most of the South Sudanese and Burundian refugees reside, there are protracted ongoing armed conflicts, including severe cases of GBV committed by both armed groups and national armed forces. Transitional justice is rarely applied and impunity is widespread, in particular by members of the security forces and armed groups (see also [2015 Peacebuilding and Reconstruction Polls: Eastern Democratic Republic of the Congo, Harvard, MONUSCO, UNDP](#)). In North and South Kivu, where Rwandan refugees and Congolese Rwandophones have lived for decades, there has been significant insecurity and fighting over the past year. Refugees from the Central African Republic and host communities who live in the relatively peaceful north of the country are better protected from insecurity. However, GBV and

domestic violence in particular, as well as livelihood-related injustices, are still high among refugee and host communities alike.

There are some differences between refugee and host communities in terms of the security, justice and protection from GBV that they enjoy. In refugee camps, for example, refugees might enjoy more access to law enforcement and higher levels of security than nationals because police officers are assigned to secure the camps, while they are absent in most of the surrounding host communities. At the same time, refugees might be more vulnerable to suspicion related to membership of armed groups as well as abduction and other threats coming from their countries of origin as many camps are too close to borders to be safe. This is of particular concern at some South Sudanese and Burundian camps.

## 3 Economic Opportunities

### 3.1 Freedom of movement

The [Refugee Law](#) allows refugees to move freely within the Democratic Republic of the Congo on the same basis as nationals, subject to administrative restrictions applicable to foreigners residing in the country. [The Foreigners Law](#) grants foreigners the right to reside and move freely but obliges them to produce documents and papers authorizing their stay on the request of any law enforcement officials. The Foreigners Law also stipulates that asylum-seekers must live in areas designated by the territorial administrative authority until refugee status has been granted. Additional policy restrictions exist for refugees in the form of the 2013 refugee camp regulations, which stipulate that refugees living in camps must obtain an exit permit when they move outside the camp. They also stipulate that this permit shall be issued free of charge by the camp administrator and that the refugee is in an irregular situation if their exit permit has expired.

In practice, these restrictions are not strictly adhered to. In some locations, refugees move freely in and out of camps without a permit, while in others permits are required. For instance, Burundian refugees living in Lusenda refugee camp can travel up to 20 km without a permit, and further afield with permission from CNR. Regardless of the possession of a permit or refugee ID card, Burundian refugees are also generally at a higher risk of GBV, harassment and extortion by law enforcement personnel when they move beyond the areas where they are best known.

### 3.2 Right to work and rights at work

The 2002 Refugee Law grants recognized refugees the same treatment as nationals as regards their right to exercise a professional activity. This includes the right to open a business and register it in one's own name, worker protections and the right to practice a liberal profession in the case of refugees who hold diplomas recognized by the competent authorities. Employers usually consider refugees as they would do with normal foreigners and apply the normal administrative restrictions applicable to all other foreigners. However, in practice, refugees face serious difficulties in being recruited for paid employment.

Law No 015/2002 of 16 October 2002 implementing the Labour Code (hereafter referred to as the Labour Code) sets out the legal framework for the right to work and rights at work in the Democratic Republic of the Congo. The Code applies to all workers and employers in the public and private sector, as well as to small and medium-sized enterprises and small and medium-sized industries in the informal sector and to social, cultural, community and philanthropic organizations using paid workers. As per the Labour Code, foreigners can only exercise their right to work if they are in possession of a work permit provided by the Commission Nationale de l'Emploi des Etrangers for a fee. This fee and the procedural and administrative requirements for obtaining the work permit are further detailed in [Interministerial Order 032 of 10 March 1994 establishing the work permit fee for foreigners](#) and the Budget and Instruction 056/93 of 10 November 1993 on the processing of foreigner work permit application files. Ministerial Order No 121/CAB.MIN/TPS/112/2005 of 2005 sets maximum permitted percentages for foreign workers in enterprises, which is an additional restriction on foreigners' access to work.

However, the Democratic Republic of the Congo has established a strong legal practice whereby it does

not apply the foreigner requirements to refugees and truly treats them as per the laws applicable to nationals. That said, the Labour Code does not give national women the ability to work in the same kind of jobs as men. The Code stipulates that a doctor should verify that work for which women are responsible does not exceed their strength and that if a job is found to be beyond a woman's strength, then she should be given a different assignment (the same applies in the case of children and persons with disabilities). If reallocation is not possible, the contract must be terminated. These restrictions also apply to refugee women.

In practice, high levels of unemployment in the Democratic Republic of the Congo make access to formal and informal employment difficult for refugees and host communities alike. The situation is particularly dire for refugees living in Kinshasa and Lubumbashi. In rural areas, most refugees are farmers and either work for members of the host community or, less frequently, have access to arable lands generously made available by local authorities. While verifiable data is not available, UNHCR estimates that less than 1 per cent of the refugee population is formally employed. Some employers are hesitant to hire refugees formally because of work inspectors who do not recognize refugees' right to work. However, once refugees are registered in the ONEM database for employment matching services, they receive the official job-seekers card (*carte de demandeur d'emploi*) issued by ONEM, in the same way as nationals. This might help to assuage employers' fears.

In 2012, the Government of the Democratic Republic of the Congo created a one-stop shop (*Guichet Unique*) to facilitate the procedure for legally registering and opening a business for nationals and other entitled persons. This procedure takes three days, and no additional administrative restrictions or barriers for refugees are identified in the relevant regulations (Decree No 12/045 of 1 November 2012 on the creation, organization and operation of the one-stop shop for business creation; 035/CAB/MIN/J&DH/2013 of 4 March 2013 on the manual of procedures for the one-stop shop for business creation). In practice, although reliable statistics are not available, UNHCR is not aware of any refugees having used the one-stop shop to register businesses.

In November 2017, UNHCR organized a workshop on refugee employment in Kinshasa in partnership with the Ministry of Labour, Employment and Social Welfare. The objective of this workshop was to inform the participants about refugees' right to work and to provide a framework for reflection, debate and analysis regarding the problems of access to employment for refugees, in order to identify clear actions in terms of alternative ways of promoting refugees' access to decent jobs and work-related documents. At the end of this workshop, it was noted that procedures needed to be adopted for application of the Labour Code and the [2002 Refugee Law](#), in order to improve the inclusion of refugees in the labour market, which has not been the case during the period under review.

The Labour Code prohibits child labour and stipulates that under equal conditions of work, professional qualifications and performance, wages must be equal for all workers, regardless of their origin, sex and age. In practice, most refugees accept work for less money than would be paid for a national and child labour does exist, particularly in relation to mining work and the mineral supply chain.

To date, no data has been made available regarding any restrictions, in policy or practice, on the right of refugees holding diplomas recognized by the competent authorities to practise a liberal profession.

### 3.3 Land, housing and property rights

As per the [Constitution](#), the state owns all land in the Democratic Republic of the Congo. The government has the authority to grant concessions on land and other resources. Permanent concessions can only be granted to nationals. Foreigners can obtain ordinary concessions, which are granted for a renewable period of 25 years (Constitution and Law 73-021 73-021 of 20 July 1973, as amended by Law No 80-008 of 18 July 1980, hereafter referred to as the land and property law). The 2002 Refugee Law does not explicitly grant refugees the right to land, nor does the 1951 Convention regulate their right to land. While the 2002 Refugee Law contains a general clause that does grant refugees the same social, cultural and economic rights as nationals, it does not explicitly mention the right to land and consequently does not clarify whether or not refugees can obtain permanent land concessions.

In practice, access to agricultural land for the 25 per cent of refugees who live in the camps is negotiated by CNR with local authorities. In the areas hosting refugees from South Sudan and the Central African Republic, as well as in some areas hosting Burundian refugees, land is available for refugee-host farming collectives. Even around Lusenda, where land is scarcer and refugees more numerous, Burundian refugees have partnered with their neighbours to improve farming yields. There is insufficient land to support independent livelihoods, but kitchen gardens supplement rations.

The 2002 Refugee Law, in conjunction with the 1951 Convention, grants refugees the right to purchase, lease or use housing and immovable property in accordance with the most favourable treatment granted to foreigners. There are no public/social housing programmes in the Democratic Republic of the Congo.

### 3.4 Financial and administrative services

Refugees can open bank accounts and access traditional financial services based on an administrative regulation issued by the Central Bank in 2018 that allows refugees to access these services on the basis of their refugee ID cards. Refugees have not reported any challenges relating to recognition of the refugee ID card by commercial banks. However, refugees living in rural areas are isolated from financial services and in practice only a few refugees access them. The majority of the population of the Democratic Republic of the Congo is also financially excluded, as only 2.3 million adults (12 per cent of the adult population) have a bank account (Making Access Possible: Report on the Diagnosis of Financial Inclusion, 2016).

Although there is no policy basis on the subject, in practice, refugee ID cards are also recognized as legal proof of identity for registering SIM cards and opening mobile money accounts, as are national ID cards, passports and voter cards from refugees' home countries. Refugees have not reported any challenges relating to recognition of the refugee ID card by mobile phone providers and do exercise these rights in practice ([UNHCR, Displaced and Disconnected](#)).

By presenting the required documents including their refugee ID cards, refugees can obtain key administrative documents or certification recognizing foreign academic and vocational qualifications and driving licences as well as vocational skills and other professional training. However, there are some additional requirements, such as fees, that can be difficult to meet for refugees and nationals alike. As such, in practice, few refugees and nationals routinely avail themselves of these rights.

## 4 Access to National Public Services

### 4.1 Education

The 2002 Refugee Law, in conjunction with the 1951 Convention, the Constitution and the [2014 Education Law](#), accords recognized refugees the right to enrol in primary, secondary and tertiary schools under the same conditions as nationals. Under the Constitution and the 2014 Education Law, primary education is free for all children in the Democratic Republic of the Congo. The national legal and policy framework provides for specialized education services as per Framework Law No 14/004 of 11 February 2014 on national education. The [2016–2025 National Education Development Plan](#) exists to operationalize these rights but lacks financing and its implementation is limited.

In practice, most national and refugee children do not have access to quality education. Almost all schools, including primary, within the national system require one or several co-payments, although there is no legal basis, including for teacher salaries, courses, books, school inspections by the provincial ministry, exams and infrastructure. School infrastructure and supervision are poor. During the reporting period, UNHCR built and financed some schools in hosting areas through collaboration with specialist NGOs and the provincial ministries and in accordance with the National Development Plan. However, the refugee populations are so spread out that many fall into other areas where no additional schools have been built. While refugee children are welcomed despite poor conditions and overcrowding, the presence of additional pupils does not of course improve the quality of education received in already overcrowded classrooms. As a result, the dropout rate is high, such that most school-aged children be they nationals or

refugees do not attend any school. During the UN Human Rights Council's Universal Periodic Review, the Government supported a recommendation made to guarantee effective measures allowing access to free primary education for all children, including children with disabilities, those living in rural areas and migrant children.

### 4.2 Healthcare

The 2002 Refugee Law grants recognized refugees the same treatment as nationals as regards the right to health, and the [2008 health law](#) provides nationals, and thus refugees, with access to reproductive and sexual health services and financial protection to ensure access to health care. [The 2019–2020 National Health Development Plan](#) exists to operationalize these rights but lacks financing and its implementation is limited. In practice, most national and refugee children do not have access to quality health care provided by the publicly financed health-care system, which is of poor quality and almost non-existent in rural areas. No national public health insurance system or similar financial protection mechanism has yet been established. UNHCR and its partners procure medicines and medical inputs to support local health centres and hospitals and provide other health services in refugee-hosting areas. However, this support is not sufficient to cover all the needs of refugee and host communities and is unsustainable.

### 4.3 Social protection

The 2002 Refugee Law grants recognized refugees the same treatment as nationals as regards the right to social assistance. The 2017 National Social Protection Policy and Strategy exist to operationalize these rights and provide social protection to vulnerable nationals but lack financing and their implementation is limited (see also section 1.1). In practice, vulnerable refugees might actually have greater access to social protection than nationals because they receive more support from humanitarian organizations.

A Social Protection Donor Group, co-led by the World Bank and UNICEF, is part of the international development aid architecture in the Democratic Republic of the Congo. This group could provide a platform for dialogue between the government and international partners with a view to gradually aligning aid, social protection systems and support for refugees and host community members with specific needs. However, the group is currently dormant.

### 4.4 Protection for vulnerable groups

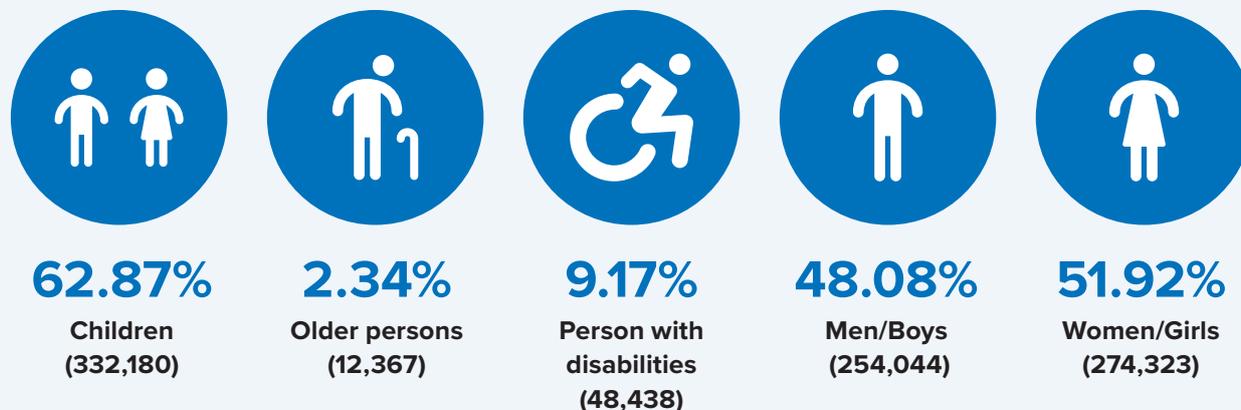
The [2009 Law on the protection of children](#) includes a specific provision on refugee children, which stipulates that refugee children and children seeking refugee status, whether or not accompanied by their parents, close relatives or any other person, have the right to protection, care and humanitarian assistance and that the State will ensure exercise of their rights. Implementation is limited in practice, due to a lack of resources and capacities and the limited presence of relevant institutions. Policies are also in place for the protection of national children, including unaccompanied and separated children and survivors of gender-based violence. The 2002 Refugee Law, in conjunction with the 1951 Convention, the Constitution and relevant international instruments, applies these protections to refugees in the same situation. See section 2.5 for GBV-related policies and implementation challenges.

The Democratic Republic of the Congo currently has no national framework on trafficking in persons. However, at the 2019 UN Human Rights Council's Universal Periodic Review, the Government supported recommendations to expedite finalization of the Action Plan to Combat Trafficking in Persons and provide for its immediate implementation.

## 5 Cross Sectors

### Characteristics of registered refugees and asylum-seekers in total refugee population\*

as at 30 June 2020



### 5.1 Gender

There are differences or restrictions in terms of policies and/or their implementation related to gender in the majority of policy sub-dimensions. The most consequential ones in terms of socioeconomic development for refugees and host communities are as follows:

- i. **Land, housing and property rights**, because of more difficult access to land rights for women and girls, mainly due to traditional and customary practices;
- ii. **Social cohesion**, because of the lack of women's participation and empowerment in both host and refugee communities and community based governance structures;
- iii. **Right to work**, related to discriminatory provisions regarding women's right to work;
- iv. **Access to civil documentation and registration**, because of the implementation of legal reforms initiated in the Family Code;
- v. **Justice and security**, because of weak access to justice for women and girls and impunity for perpetrators of GBV.

### 5.2 Social inclusion

The most consequential differences or restrictions applying to refugees with particular characteristics in terms of socioeconomic development are as follows:

- i. **Social cohesion**, because of existing biases held against nationals from Rwanda.
- ii. **Civil registration and documentation**, because of delays and administrative hurdles in issuing documentation and legal identity that create risks of statelessness for refugees and other populations;
- iii. **Security of legal status**, because of suspicions related to memberships of armed groups;
- iv. **Justice and security**, because of high levels of GBV affecting women, girls and boys.

\* The refugee numbers reported here do not fully match the numbers on the front page because demographic characteristics are not available for all refugees (e.g., pre-registered refugees, etc.).

## Annex on Key International and Regional Instruments ratified or adhered to

- [Additional Protocol to the Geneva Conventions of 12 August 1949 \(Protocol I\)](#)
- [Additional Protocol to the Geneva Conventions of 12 August 1949 \(Protocol II\)](#)
- [African Charter on Human and Peoples' Rights, 1981](#)
- [African Charter on the Rights and Welfare of the Child 1990](#)
- [Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984](#)
- [Convention Governing Specific Aspects of Refugee Problems in Africa \(the OAU Convention\), 1969](#)
- [Convention on the Elimination of All Forms of Discrimination Against Women, 1979](#)
- [Convention on the Rights of Persons with Disabilities, 2007](#)
- [Convention on the Rights of the Child, 1989](#)
- [Convention relating to the Status of Refugees 1951 \(Ratification date: 19 Jul 1965\)](#)
- [Fourth Geneva Convention relative to the Protection of Civilian Persons of 1949](#)
- [ILO Abolition of Forced Labour Convention, 1957 \(No 105\)](#)
- [ILO Discrimination \(Employment and Occupation\) Convention, 1958 \(No 111\)](#)
- [ILO Equal Remuneration Convention, 1951 \(No 100\)](#)
- [ILO Forced Labour Convention, 1930 \(No 29\)](#)
- [ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 \(No 87\)](#)
- [ILO Labour Inspection Convention, 1947 \(No 81\)](#)
- [ILO Minimum Age Convention, 1973 \(No 138\)](#)
- [ILO Right to Organise and Collective Bargaining Convention, 1949 \(No 98\)](#)
- [ILO Social Security \(Minimum Standards\) Convention \(the ILO Social Security Convention\), 1952<sup>1</sup>](#)
- [ILO Tripartite Consultation \(International Labour Standards\) Convention, 1976 \(No 144\), 1976](#)
- [ILO Worst Forms of Child Labour Convention, 1999 \(No 182\)](#)
- [International Convention for the Protection of all Persons from Enforced Disappearance, 2006](#)
- [International Convention on the Elimination of All Forms of Racial Discrimination, 1965](#)
- [International Covenant on Civil and Political Rights \(ICCPR\), 1966](#)
- [International Covenant on Economic, Social and Cultural Rights, 1966](#)
- [Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Organized Crime \(2000\)](#)
- [Protocol relating to the status of refugees, 1967](#)
- [Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003](#)

### Reservations/declarations:

1 Part I (general provisions); Part IV (unemployment benefits); Part XI (standards to be complied with by periodical payments); Part XII (equality of treatment of non-national residents); Part XIII (common provisions); Part XIV (miscellaneous provisions); Part XV (final provisions).