

# **PROTECTION REGIME FOR ASYLUM APPLICANTS AND REFUGEES IN LAW 10/15 OF JUNE 17, LAW ON THE RIGHT OF ASYLUM AND THE REFUGEE STATUS IN ANGOLA**

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## **Introduction**

Law 10/15 of June 17, the Law on the Right to Asylum and the Status of Refugees in Angola, was approved in a context of peace and political, economic, and social stability. The law came into force at a time when the number of refugees and asylum seekers in the country was growing. Political instability, war, and ethnic violence in neighboring countries such as the Democratic Republic of Congo (DRC) led to the flight of nationals of that country to Angola. In 2016, more than 40,000 Congolese refugees fled ethnic atrocities in Kasai and Central Kasai provinces to seek protection in Angola, joining others who were already welcomed in the country. The majority came from the Republic of the Congo, Rwanda, Burundi, the Ivory Coast, Sierra Leone, the Central African Republic, and Liberia. The reception of these individuals was, and still is, supported by the Angolan Constitution (CRA), which guarantees every foreign citizen or stateless person the right to asylum (CRA, art. 71).

To guarantee this constitutional right, the need to incorporate it into the national legal system arose, with Law 10/15 of June 17 being the result of this work. The law comprises four chapters totaling sixty-three articles. Law 8/90 of May 26, the Refugee Status Law, predates Law 10/15 and was adopted

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in 1990 in the context of the civil war. Law 8/90 did not contemplate the reality of “environmental refugees”; that is, people who left their traditional habitat as a result of a natural disaster. Nor did it respond to the drama of individuals who were forced to leave their place of origin because of their sexual orientation. Therefore, it was inadequate to the challenges that the country and the world faced after the armed conflict. Thus, the previous law was repealed and Law 10/15 was passed. In addition to being a supposed constitutional law, Law 10/15 derives from international agreements to which Angola is a party, namely the 1951 Geneva Convention — on refugee status — its additional protocol, the 1967 New York Protocol, and the 1969 African Convention regulating the specific aspects of refugee problems in Africa.

Throughout this article we intend to identify the aspects relating to the protection of asylum seekers and refugees who fall under Law 10/15. Law 10/15 presents itself as a regime that evokes the political, economic, social, and cultural rights of asylum seekers and refugees in Angola. The law also recalls their duties and obligations. As a first step, we will present an overview of the situation of asylum seekers and refugees in Angola. We will then move on to a brief and critical analysis of Law 10/15. In the last section, we will review the main issues regarding the protection of asylum seekers and refugees in Angolan legislation. To address these issues in detail and rigorously, we will use a methodology of document review in conjunction with the application of the participant observation technique and in-depth interview. Both are part of the qualitative methodology. The interviews were conducted from June to July 2018 with Angolan experts on asylum and refuge (*Table 1*). To preserve their identity, we have simplified their names.

**Table 1: Experts interviewed for this work**

Name	Work Environment	Interview Date
EC	Social Worker	26/06/2018
BM	Lawyer	10/07/2018
DS	Lawyer	08/06/2018
L	Refugee/Salesperson	28/06/2018
PZ	Lawyer	08/06/2018

Source: Made by the Author.

## Situation of asylum seekers and refugees in Angola

The tradition of welcoming asylum seekers and refugees is not so recent in the Angolan panorama. During the civil war that ravaged Angola between 1975 and 2002, the country welcomed a total of 92,200 refugees from neighboring nations (United States Department of State 1985, 15). These were from Namibia (70,000), the DRC, at the time Zaïre (13,200), and South Africa (9,000) (United States Department of State 1985, 15). Congolese refugees were leaving the country because of political violence, corruption, and human rights violations led by President Mobutu Sese Seko (Chazal 2016, 57). Among the refugees were the Katangese soldiers who fought for the independence of the Congolese region of Katanga. The Namibian refugees, including soldiers from the SWAPO movement fighting for independence from Namibia (Doria 2002, 20), as well as South African refugees were fleeing the atrocities of the apartheid regime (Cobban 2007, 8). Like South Africa, Namibia was not exempt from the brutality of the apartheid regime. SWAPO supporters were among the most persecuted and tortured by the South African racial regime (Nghidinwa 2008, 83).

However, the numbers of asylum seekers and refugees that Angola was hosting were insignificant, as the country did not offer security to these individuals. In fact, at that time the Angolans themselves were forced to leave the country in search of protection. Among the closest nations that welcomed the more than 500,000 Angolan refugees are: the DRC, the Republic of the Congo, Zambia, and Namibia (Péclard 2012, 150). These countries, especially the first three, had already played a leading role in Angola's war of independence by hosting the first military and guerrilla bases of the national liberation movements that fought against Portuguese colonial rule (Vega 2013, 75). However, Angolan asylum seekers and refugees also went as far as Europe and America (*Table 2*).

**Table 2: Angolan refugees and asylum seekers (1995-2000)**

Country	Residents	Asylum Seekers	Refugees	Total
Germany	-	-	-	7.362
Austria	183	20	9	212
Belgium	3.216	50	132	3.398
Denmark	53	3	-	56
Finnland	319	60		379

Country	Residents	Asylum Seekers	Refugees	Total
Greece	3	-	-	3
Netherlands	116.819	55		116.874
Italy	1.631	-	-	1.631
Latvia	1	1	-	2
Lithuania	-	3	-	3
Malta	4	-	--	4
Norway	313	21	-	334
Portugal	32.728	-		32.728
United Kingdom	4.000	6.979	-	10.979
Sweden	661	19	-	680
Switzerland	2.439	130	1.820	4.389
USA	1.137	289	129	1.555

Source: Made by the Author based on Tinajero (2010, 87).

After the civil war, which culminated in 2002, Angola began to receive refugees and asylum seekers on a large scale (Table 3). The issue of granting asylum and refugee status, which was dormant, is once again on the State's political agenda. In other words, according to lawyer PZ, "after adhering to international conventions, on June 23, 1981, the first national law regulating refugee status in Angola was passed in 1990". This refers to Law 8/90 of May 26, and afterward to Law 10/15 of June 17. Both legislations express the Angolan State's concern to answer the question of asylum seekers and refugees that the country was beginning to receive. The political instability in neighboring countries and in others was the basis for this collective's flight to Angola. In 2013, Angola welcomed 23,783 refugees and 30,143 asylum seekers (UNHCR 2015). Over the years, these numbers have increased. The largest group of refugees comes from the DRC with 35,345 individuals. Others come from the Ivory Coast (4,183), Guinea Conakry (4,562), Rwanda (458), Somalia (1,353), Sudan (1,555), Mauritania (2,257), Liberia (184), Sierra Leone (446), the Congo (241), and Sudan (281). The country also welcomes refugees from Burundi, Mali, Eritrea, Ethiopia, Guinea Bissau, Equatorial Guinea, Syria, and Zambia.

**Table 3: First waves of asylum seekers and refugees in Angola**

	2007	2008	2009	2010
Asylum seekers	3.515	3.936	3.034	5.568
Refugees	12.343	10.537	10.696	10.618

Source: Made by the Author based on Milagres and Lutina (2018, 97-105).

As political tension in the DRC, especially in the provinces of Kasai and Central Kasai, intensified between 2015 and 2016, some 40,000 refugees crossed Angola's borders. Among these were women and children who made up to 75% of the group. These refugees were based in the Lóvua camp, located in Lunda Norte province. Among the difficulties they faced, and continue to face, were the problem of basic sanitation, the lack of a medical post, adequate food for the children, and their educational insertion. Given the poor conditions the camp was facing, and other adverse situations, in 2019 many were calling for a return to the DRC. By February 2020, more than 14,000 refugees had returned to the Congo, supported by the Voluntary Return Program (UN News 2019). A similar situation is experienced by Rwandan, Liberian, and Sierra Leonean refugees, whose status is in the final stages. In addition to the voluntary return, this group is contemplating the passage to the general regime of foreigners to those who wish to settle in Angola. But since that decision was made, no significant progress has been made. Thus, Angola welcomes 95,600 refugees and asylum seekers (UNHCR 2020). To this figure must be added the 22,000 Congolese refugees who are still in the Lóvua camp (UNHCR 2019).

Unlike the 'confined' refugees in Lóvua camp, the reception system for asylum seekers and refugees happens "out of camp". Law 8/90 of May 26 endorsed this paradigm. However, the new law, Law 10/15 of June 17, as we will see later, does the opposite. The legislator contemplates the creation of a Reception Center for Refugees and Asylum Seekers (CARRA) (art. 13). CARRA is a kind of "cloistered camp" where the right to mobility and economic and social independence of asylum seekers and refugees are

systematically vulnerable<sup>2</sup>. Uganda, the African country that hosts the largest number of refugees on the continent, around 1.4 million (UNHCR 2020), profiles itself as a leader in the adoption of the “out-of-camp”<sup>3</sup> system. Thanks to this, it has achieved significant results in integrating these individuals. Uganda grants portions of land to the refugee population so that they can work and support themselves economically and socially (Kaiser 2006, 599). This paradigm or approach allows for the integration of refugees and facilitates their coexistence with the local population.

However, in practical terms, Angola continues to apply the “out of camp” method, since CARRA has not yet been created. As a result, 95% of refugees and asylum seekers live in their own homes or their families’ in urban areas (Soares 2015, 299). At the global level, about 60% of the current 26 million refugees live in urban areas and 73% sought protection in a neighboring country (UNHCR 2020). Unlike other realities, where refugees settle in several cities in the country, Angola is concentrated in Luanda. Some 73% of refugees and asylum seekers are “entrenched” in the capital city. This scenario extends to nationals who also prefer to settle in Luanda: the latest census indicates that Luanda province has 6,945,386 inhabitants (INE 2016, 32). This figure corresponds to 27% of Angola’s total population. The reasons

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<sup>2</sup> In the era of Covid-19, settlement camps can become foci for the spread of the virus. That is why, on April 2, 2020, 20 positive cases of Covid-19 were diagnosed among Syrian refugees settled in the Ritsona camp in Greece. The hygiene conditions, lack of sanitation and social distance, as well as overcrowding are among the causes of the infections. In Angola, the Lóvua refugee camp also calls for basic services, health care, hygiene, and adequate food for children. The agglomeration is another difficulty the camp faces. For this reason, the UNHCR has just created the conditions in the camp so that the refugees can observe the quarantine, keep the proper distances and thus prevent Covid-19 from taking over the settlement. It is also training community workers to prevent and screen cases that may arise in the camp. At the government level, more forceful measures have been taken that extend to the entire population living in Angola. First, by means of a Provisional Presidential Decree 1/20 of March 18, all borders were closed, school activities suspended, and travel between provinces and interprovincials prohibited. Second, the Presidential Decree 81/20 of March 25 reinforces these measures, since in its first article it declares a State of Emergency. With this decision, the confinement of the entire population is approved. Staying at home is on the agenda. Finally, to ease social and economic constraints, by Presidential Decree 142/20 of May 25, a situation of public calamity was declared throughout the country. This legislation, which is in force until now, allows the reopening of shops, bars and restaurants and street sales on Mondays, Tuesdays, and Saturdays. Moreover, with the exception of Luanda and the municipality of Cazengo (Province of Kwanza Norte), which are under sanitary isolation, interprovincial mobility for commercial purposes is already allowed.

<sup>3</sup> Em Uganda, a população refugiada foi-se sediando não só na cidade de Kampala, mas também em Arua, Kyaka II, Kyriandongo, Kyangwali, Moyo, Nakivale, Oruchinga, Rwamanya, Yumbe e Adjumani.

for choosing Luanda are obvious: (i) Luanda offers a better context of respect to constitutional freedoms; (ii) the services refugees and asylum seekers need are carried out in Luanda; (iii) civil society organizations dedicated to asylum and refugee issues have their headquarters in Luanda; (iv) work opportunities are in Luanda; (v) diplomatic services, including the coordination of refugees, operate in Luanda, in the Bairro Popular. The contact maintained with the state authorities is best done in Luanda.

We have already alluded to the fact that most asylum seekers and refugees settle in the informal sector. Although they enjoy the same rights as nationals in accessing work, in practice there are many obstacles to exercising this right. One of them has to do with language, prejudice, and discrimination. There are refugees who take more than twenty years in Angola and cannot find a formal job. The refugee card also shows them little help. On the contrary, it serves to discriminate against them. As lawyer DS posits:

There are many refugees with abilities; however, circumstances do not allow them. In fact, we have had doctors and other highly qualified refugees who would have contributed to the growth of the country's economy. The difficulty lies in giving them the opportunity to get involved in the formal sector. The refugee card does not help them much when it comes to accessing the labor market. They never tire of looking for work. Among them are those who have completed university education, doctors, and economists. But they don't find any opportunities.

As a consequence, most asylum seekers and refugees are concentrated in the informal sector (Table 4). The presence of refugees, especially immigrants from West Africa, has led to a proliferation of canteens. They are similar to the so-called "empas" (people's stores), which in the 1980s were scattered in the country's main cities and municipalities. These stores were controlled by the state and sold the products of the basic basket (Tvedten 1997, 73). However, they disappeared after the Bicesse peace agreements (1991)<sup>4</sup>. Nevertheless, as the flow of migrants to Angola increased, the canteens reappeared. Many Angolans, especially women, also seek to support

<sup>4</sup> These agreements were signed in Portugal, in the village of Bicesse, between the Angolan government, led by the Popular Movement for the Liberation of Angola (MPLA), and the National Union for the Total Independence of Angola (UNITA). Sixteen years had passed since the beginning of the civil war, so these agreements represented a huge gain. Nevertheless, a year later, Angola plunged back into a bloody civil war that culminated in 2002. For more information on the Bicesse agreements, read: Issau Agostinho. 2018. "Angola: formation and democratization of the state". Rome: Edizioni Nuova Cultura; Fernando Emídio. 2012. "Jonas Savimbi: on the wrong side of history". Alfragide: Don Quixote Publications.

their families in the informal sector. This is not only generating competition, but also rivalry. The strategies that native “zungueiras” use to frighten away or marginalize their foreign rivals consist of: (i) arguing with them, with no reason to do so; (ii) asking them to raise the prices of their products and goods; (iii) encouraging them to seek another space where they can sell; (iv) and expelling them from the markets or place of sale. The Angolan State does little or nothing to avoid these situations. In reality, its greatest pretension is to put an end to the “zunga”; that is, the street sales (Chico 2019, 234).

**Table 4: Main activities performed by refugees**

Activity	Characterization
Canteen	Food sales & school kit
Beauty salon	Aesthetic and haircut “Clinics”
Zunga	Street sales
<i>Kinguila</i>	Informal exchange of foreign currency
<i>Candongueiro</i>	Passenger transport
Mechanics	Automobile and motorcycle repair
Mobile phone rental	Phone calls
Gastronomy	Open air food sales ( <i>cabrité</i> )
Informatics	Copying, scanning, and binding
Mortuary agency	Sale of coffins and urns

Source: Made by the Author.

The integration of asylum seekers and refugees in Angola has not been successful. Besides the difficulty of access to work and arbitrary detention and expulsion, they do not enjoy the rights that the Angolan norm establishes for them. In 2017, when the country was at the peak of refugee influx, due to the deterioration of the political situation in the DRC, 8,414 refugees from the Congolese province of Kasai were expelled (UN 2017). This and other problems are shared by the refugees themselves and by the UN Special Envoy for the Human Rights of Migrants, François Crépeau. The words of L, a refugee from Guinea Bissau whom we had the opportunity to interview, are more than revealing: “I find myself well in Angola, without any problems. I do my business. However, the problem I face has to do with the

lack of documents. The government does not respect the right of refugees to an identification document". Crépeau visited Angola from May 03 to 10, 2016 at the invitation of the Angolan State. At the end of his stay, the UN representative reiterated:

I have been informed that asylum seekers and refugees are very often the target of harassment and intimidation by the police. I have been informed that asylum seekers are regularly arrested and detained in large numbers, including pregnant women and children, and that police use this as an opportunity to bribe undocumented migrants. Undocumented migrants are then arrested without access to legal information. I have also received information that those who defend the rights of irregular migrants may also be intimidated by police.

Crépeau's statements are very serious and should be investigated. The same goes for the situation evoked by the Guinean refugee that we interviewed for this work. Associated with the problem of issuing identification documents is the lack of statistics<sup>5</sup>. We have provided some data, but, as indicated by the lawyer DS,

It is very difficult to know the number of refugees who have arrived in recent years, since no documents are being issued. We have sent several asylum applications based on the reasons why people have left their countries of origin; however, we have had no response from the competent body so far. The applications reflect the reasons why refugee status is granted. Thus, we are creating a huge vacuum.

This situation raises a question in us: what does the norm for the protection of asylum seekers and refugees say about their rights, duties, and

<sup>5</sup> The Coordination of Refugees, an association founded on June 10, 2010 that brings together all refugees in Angola, has developed cards for identification of its members. Besides personal data, the cards contain national symbols (flag), as well as logos of the UNHCR, the Jesuit Refugee Service (JRS) and the Episcopal Commission for Migration (CEPAMI). Both JRS and CEPAMI are confessional organizations that assist refugees. With the cards, some refugees were able to open bank accounts and carry out operations through legal channels. However, the Criminal Investigation Service (SIC) has just become aware of the cards and an investigation process is underway. More than an attitude that can be typified as a crime, the development of these cards aims at identifying the members of the Coordination. Moreover, the Coordination responds to a blatant situation that the Angolan State seems to ignore. This situation consists in assigning identification documents to refugees and asylum seekers. If this matter is to be brought to an end, the State must fulfill its obligation to assign a valid document for the identification of refugees and asylum seekers. The document must enable them to carry out activities that contribute to their economic and financial independence.

obligations? The analysis of Law 10/15 of June 17 and other standards will help us to answer that question. Indeed, that is the purpose of this article.

## **Law 10/15 of June 17, Law on the Right to Asylum and the Refugee Status**

The first chapter of Law 10/15 of June 17 contains the general provisions. It defines the application of the law and some terms. The definition of a child and the migration authority are highlighted. A child is one who is under the age of eighteen, and the migration authority is responsible for implementing the country's migration policy. This refers to the Migration and Foreigners Service (SME), a body linked to the Ministry of the Interior. The SME was created in 1976 and since its creation has adopted different nomenclatures. The purpose of these changes was to adapt to the new migratory environments of the country and the world. The scope of application of Law 10/15 is described as follows:

The provisions of this Law shall apply to foreign citizens or stateless persons who request asylum and to refugees, without distinction of race, religion, nationality, affiliation to a certain social group or political opinion, in accordance with the provisions of international legal instruments relating to refugees to which the Republic of Angola has adhered or will adhere (Law 10/15, art. 2).

The second chapter presents the requirements for granting the right to asylum. Only a foreign citizen who has one or more nationalities or a stateless person persecuted or threatened on account of race, sex, religion, nationality, membership of a special social group or political opinion is entitled to apply for asylum (art. 5.b). However, the individual must be outside the country of which he/she is a national or in which he/she resides. People with more than one nationality may also apply for asylum when persecution or threat occurs in all countries of which they are nationals. The requirements - race, religion, nationality, social group or political opinion - are also covered by the texts of the Geneva Convention (art. 1) and the 1969 OAU. However, the difference between the Geneva text and the OAU, the novelty of the Angolan norm, which we will delve into later, is that it contemplates situations of natural calamities (art. 32), human rights violations, and foreign domination. It also includes persecution due to sex. Thus, to the traditional reasons of race, religion, nationality, social group or political opinion, Law

10/15 adds natural calamities and sex. People fleeing persecution by their countries of origin on the grounds of sex can be protected in Angolan law. But, in concrete terms, to what collective does the legislator refer?

The collective persecuted for their sexual choices or gender identity are gay, lesbian, bisexual, transgender, and intersex (LGBTI). Both the 1951 Geneva Convention and the 1967 New York Protocol, which profile themselves as classic instruments in refugee protection, do not contemplate this reality. For this reason, there is a gap in the international protection of LGBTIs. Several countries, especially in Africa and the Middle East, criminalize same-sex relations. Others go further by punishing them with the death penalty<sup>6</sup>. Although there are already individuals belonging to the LGBTI collective, Angola's norms do not recognize these relations. The countries with which Angola shares a border do not endorse them as well. Beyond prejudice, there are no reports of institutional persecution of these people, either in Angola or in neighboring countries. Most of the asylum seekers and refugees that Angola receives come from these countries and have fled because of war and ethnic violence. Thus, Angola puts its name among the nations dealing with the humanitarian protection of LGBTIs. Brazil is among the countries that most receive people who leave their homelands due to sex or sexual orientation. From 2010 to 2016, the National Committee for Refugees received 369 requests (Fisher 2019, 281). Nevertheless, Brazil also stands out as one of the most violent countries against the LGTBI collective, particularly transsexuals and homosexuals (Allen 2015, 45).

The places of reception of asylum applications, which can be verbal or written, are the border posts, diplomatic representations, and within the country (art. 7). At the borders, the application is addressed to the migration authority. Within the country, the request is addressed to any police or migration authority. The police authority that receives the request has forty-eight hours to channel it to the migration authority. The latter, in turn, calls the petitioner within eight days for the interview. The request must state the identity of the applicant and the facts supporting the asylum claim. The investigation phase lasts thirty days and it ends with a report that is channeled to the National Council of Refugees (CNR). The report contains the proposal to

6 According to the report of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), there are 70 countries that criminalize same-sex relations. Of these countries, 11 punish with the death penalty, 26 with penalties ranging from ten years to life imprisonment, 31 with penalties of up to eight years, and 2 criminalize any type of this practice. Countries that criminalize same-sex relations include: Afghanistan, Burundi, United Arab Emirates, Guinea, Iran, Mauritania, Pakistan, Syria, and Zimbabwe (ILGA 2019, 347-523).

grant or deny asylum. The NRC has fifteen days to suggest to the migration authority said proposal of approval or denial. In turn, the migration authority has another fifteen days to grant or deny the asylum application.

How long does one contemplate for the granting of refugee status? Looking at the maximum terms, Law 10/15 establishes a period of 70 days. The police authority has 2 days to refer the application to the migration authority, which has 8 days to summon the applicant. The instruction phase is 30 days. Then the request is channeled to the CNR, which will have 15 days to analyze it. Finally, the request is sent back to the migration authority, which has another 15 days to study the proposal of the NRC. In total, we will have just over two months. Two months does not seem too long, since there are documents that take longer. The issuance of passports, documents of recognition or homologation of studies issued by the National Institute of Evaluation, Accreditation and Recognition of Studies of Higher Education (INAARES) are just an example of procedures that take more time.

But in practical terms, the time limits that we have added together for the decision to grant or deny the asylum application are never met. There are requests made since the year 2016 that have not been decided up to the present. This situation extends to renewal processes, which also seem costly. As a consequence, many refugees and asylum seekers do not have identification documents and therefore do not have access to basic services such as education and health. Some are often arrested during police raids and taken to the Center for the Detention of Illegal Aliens (CDEI). Wellington Carneiro, UNHCR's head of protection in Angola, makes these observations: "the lack of documentation is one of the main problems faced by refugees in Angola. For this reason, many people seeking shelter in the country do not have access to basic services. The Angolan authorities recently arrested about 20 refugees from the Ivory Coast, Somalia, Sierra Leone, the Democratic Republic of Congo, Guinea Bissau, and Guinea Conakry, for allegedly presenting 'expired documents', which they had not been able to renew" (Cf. Ndomba, 2017). EC, asocial worker of an NGO working with refugees, reiterates the same regarding the lack of documents:

refugees go through difficult situations. Many cannot obtain documents to travel and take care of their health. They do not have access to a passport or another document that allows them to treat themselves abroad. The health system in Angola is weak. Despite the violence, many prefer to return to their homelands.

According to the lawyer PZ, this situation was already felt in the previous law; therefore, there was no improvement. The lawyer's words are more than forceful:

from the moment the asylum application was filed, the previous law established a period not exceeding three months for obtaining the first document. Between the reception of the first document and the determination of refugee status, Law 8/90 provided for a period of six months, that is, 180 days. However, in practical terms, things were different, as the person could wait five or ten years for the determination of refugee status. No one met the legal deadlines.

Law 10/15 grants some rights and duties to the asylum seeker. These rights are (art. 24-27): to stay in the country temporarily; have an interpreter; receive legal assistance; preserve family unit; enjoy medical care; lodge in the Refugee and Asylum Seeker Reception Center (CARRA); and file an appeal if the application is denied. The law gives special attention to the most vulnerable applicants, such as children, pregnant women, the elderly, victims of torture or abuse, and persons with disabilities. Individuals whose applications are approved are entitled to an identity document and temporary stay permit (art. 20.1). In return, the asylum seeker is obliged to respect the CRA and other national standards. Likewise, they are prohibited from interfering in Angola's political life and promoting activities that endanger national security and Angola's relations with other states. Finally, if the asylum request is denied, after the appeal is filed, the applicant has thirty days to leave the country (art. 20.2). Therefore, Law 10/15 covers the rights, duties, and obligations of asylum seekers. But the difficulty lies in putting these terms into practice.

We have already alluded to the difficulties of access to identification documents, basic services and arbitrary arrests. In this regard, the UN Special Envoy for the Human Rights of Migrants recommends: "to register all asylum seekers living in Angola, to conclude and implement the regulation on the issuance of quality identification documents for asylum seekers and refugees, and to commit to issuing documents for asylum seekers and refugees" (Crépeau 2016). On the "confinement" of asylum seekers in CARRA, François Crépeau stresses that "the Angolan authorities define a strategy by organizing and facilitating mobility rather than trying to resist it. Thus, the rights that Law 10/15 grants to asylum seekers still need legs to walk.

The third chapter is about the refugee status. Unlike the asylum seeker, who is still waiting for his petition to be resolved, the refugee has

already resolved and been granted it. As we have said before, in addition to political or ideological persecution, the law grants the refugee status to a group of people who are victims of natural disasters (art. 32.1). This is one of the great novelties of Law 10/15, since neither the texts of the 1951 Geneva Convention nor those of the 1969 OAU contemplate this reality. Many national laws also fail to recognize fugitive people due to environmental disasters. Worldwide, some 25 million people have left their homelands for ecological reasons (Myers 2002, 609). Of these, 9 million are in sub-Saharan Africa. For this reason, Law 10/15 takes a giant step forward in protecting these individuals. However, it only applies to victims of environmental disasters from countries bordering Angola. Thus, for the legislator, the country of origin is decisive and serves as a criterion for granting refugee status to victims of natural disasters.

While large-scale refugees are welcomed in camps or tents near the border and far from the common area of the country from which they come, others can be welcomed in the CARRA. Those who have secured economic conditions can live outside the CARRA. However, they are obliged to provide the migration authority with information regarding their home. In addition, they must present themselves periodically to said authority. Those residing in the CARRA cannot be absent without authorization. The rights of a refugee are: to have an identity document; to travel and move freely throughout the national territory; to have a temporary residence permit; to enjoy the education system; to have access to justice and housing; to engage in paid work and family reunification. Like the asylum seeker, the refugee must respect the CRA, administrative rules, and not interfere in the political life of the country. Failure to comply with these and other regulations will result in loss of the refugee status.

Among the rights of refugees that Law 10/15 highlights, we would like to examine the right to engage in paid employment. This has been one of the most violated and controversial rights. There is an executive decree from the Ministry of Commerce that has served as a pretext for police authorities to prohibit refugees from carrying out economic activities. Executive Decree 273/13 of August 26 states that “it is forbidden to grant a commercial license to citizens with refugee or asylum status” (art. 4.4). Although it predates Law 10/15, this Executive Decree has not been repealed and is therefore often invoked to ban refugees from engaging in economic activities for their livelihood. Those who conduct small retail businesses are also not spared by the authorities. The account of one of the lawyers we interviewed for this work supports our statements and, in the same way, highlights the alternatives that refugees seek in the face of this difficulty.

Angolan law decrees that these small businesses, i.e. canteens, should only be conducted by national citizens. What is happening is that lack of experience, lack of knowledge, and lack of mastery of financial tools is leading nationals to lose ground in this informal sector to refugees, including migrants. In fact, Angolans are the holders of commercial licenses. In this, the law is very objective. Nationals end up ceding their commercial rights to foreigners. If you go through the canteens, you can see that it is the foreigners who are involved in this activity. Nationals therefore earn their dividends by renting out their business licenses (BM).

EC, a social worker who deals with this reality in their day-to-day life, states that the situation is even worse when it comes to accessing a formal job.

I hope I don't run away from the issue, refugees don't have access to employment. There is no guarantee of employment for this group. Moreover, not all refugees inspire confidence in Angolans. There are cases of police officers hardening the lives of these gentlemen [refugees] who work in canteens. They have refugee cards, they are not in an irregular situation; however, they live difficult situations. It is very difficult. You talk to a refugee, he tells you, 'I'm from the DRC, I used to work in a company. But they fired me because they told me that they only hire nationals, not foreigners'. That saddens me. 'They [employers] say no foreigners, because they have refugee cards.'

With regard to Executive Decree 273/13 of August 26, of the Ministry of Commerce, the lawyer PZ comments that this is an unconstitutional document, since it concerns one of the essential aspects of human life: economic rights. Therefore, its discussion should be comprehensive, involving the National Assembly. In his words:

From the constitutional point of view, this Decree is unconstitutional. Why is it unconstitutional? Because it is not up to the President of the Republic to impose such a ban, since it concerns economic rights. The country's constitution states that the revocation of an economic right is reserved to the National Assembly. Why is that? Because it is a fundamental right. Article 57 of the Constitution states that the modification of any fundamental right is the responsibility of the National Assembly, not any other body. So if a body other than the National Assembly takes the initiative to amend or modify it, then it is a question that calls us to reflection. I don't think there was any need to do that. Why is that? Because the refugee who arrives in the country and dedicates himself to trade pays taxes and creates jobs that benefit the national citizens. Many national citizens who are unemployed work in warehouses run by refugees. In this way, the decree also ends up harming the nationals. It is necessary to review this measure.

Another aspect that the law determines, which we have already commented on at some point, has to do with access to the identity document. We emphasize the difficulties that refugees encounter at the moment of enjoying this right. However, the children of refugees born in Angola are also not exempt from the difficulties related to this issue. Many of these children face enormous problems at the time of registration. The civil registry offices do not seem to have a clear orientation in this regard<sup>7</sup>. As a result, in addition to running the risk of being stateless, a status which applies globally to between 3.2 and 4.2 million people per year (UNHCR 2020), these children will have difficulties, as they already have, in studying and accessing other basic services. The words of EC are illuminating for the understanding of this theme.

When we go to register a child born to refugee parents, they think that registration is equivalent to taking away Angola's wealth. I follow some cases, unfortunately that's the feeling you get. We have to write many letters, do this, do that...; we have to do many things just to register a child born in Angola. Angola has assumed the eleven commitments, has adhered to international conventions. Children are not guilty of having 'undocumented' parents. Even if the parents don't have documents, there are neighbors to testify. The vaccination card provided at the maternity ward also serves as a witness. So many barriers are created, so many difficulties.

The registration of a child of foreign parents born in Angola does not imply obtaining Angolan nationality. The Law 2/16 of April 15, Nationality Law, is clear in this respect. This rule is governed by the principle of *ius sanguinis* (right of blood), not by *ius soli* (right of land or soil). In other words, only children born in Angola or outside Angola are Angolan if one of their parents is an Angolan citizen. The child of foreign parents born in Angola (*ius soli*) is not *per se* Angolan. The registration of birth of such child or acquisition of a personal ballot does not imply obtaining nationality. However, there are strong possibilities that this child will become Angolan: at the age of 18 he or she may manifest the will to acquire nationality (art. 9). Therefore, according to the Legal Regime of Foreigners in Angola, these "Angolan foreigners" cannot be expelled from the country (Law 13/19, art. 36). The Nationality Law contemplates other modalities for obtaining Angolan

<sup>7</sup> With efforts undertaken by UNHCR and the Jesuit Refugee Service (JRS), an organization committed to free legal assistance for refugees and asylum seekers, the Ministry of Justice and Human Rights issued a document indicating to civil registry offices that they should register children whose parents were refugees. But the situation has not been completely resolved, as some difficulties have arisen.

citizenship: nationality acquired through filiation, adoption, marriage, and naturalization (art. 11-14).

Finally, the last chapter of Law 10/15 refers to the final and transitional provisions. The reference to registration, the principle of confidentiality, and the speed or urgency of the procedures for recognition of the right to asylum and the granting of refugee status are highlighted. As far as registration is concerned, the law provides for the creation of a computerized and manual file containing “all facts relating to the processes of recognition and loss of refugee status” (art. 58.1). This information is confidential. In a country where the practice of bribery and ‘gasosa’ is recurrent, the law clarifies that “the procedures for recognizing the right to asylum, granting refugee status and deportation, are free of charge and urgent” (art. 59). With this assumption, the practice of ‘gasosa’ is discarded. This practice consists of bribing or giving some money in exchange for a favor or having a problem solved in record time. Finally, the law states that decisions regarding the granting of asylum and the loss of refugee status must be published in the *Diário da República* (art. 60).

Despite the difficulties that Law 10/15 brings to the lives of asylum seekers and refugees, residential neighborhoods and living with nationals become platforms for integration and social cohesion. This manifests itself through mixed marriages, friendly welcoming, and the growing awareness of belonging to the human family. Proof of this is that there is no record of conflict or organized violence against the refugee population as in other countries. L, a Guinean refugee, confirms this: “With my neighbors I have no problem. They are good. I already feel like an Angolan. If someone comes to offend or insult me, the neighbors come out to defend me”. EC, social worker, shares the same position:

Many marriages take place between young Angolans and foreigners. In this respect, Angolans have no problems. Except for some who are confronted with the cultural issue. But in general I don't see any kind of discrimination.

In this way, integration policies will come from “below”, that is, from neighborhoods and residences, because that is where the patterns of adaptation, coexistence, inclusion, incorporation, and management of diversity manifest themselves.

## Conclusion

Law 10/15 has the merit of addressing situations to which the previous rule, Law 8/90 of May 26, could no longer answer. Law 8/90 was approved in a context of war and, therefore, of fragile refugee protection. The country was in civil war, which is why it was not the ideal place for individuals seeking a safe and stable environment. As a result, there were few applications for asylum during this period. In contrast, Law 10/15 already reflects the current context of peace, characterized by immense flows of migrants, asylum seekers, refugees, and cross-border workers. Among the strengths of Law 10/15 in its focus on protecting the rights of asylum seekers and refugees is the principle of *non-refoulement*. No one should be deported, expelled or repatriated to a country where their life or freedom is in danger. Angola shares more than 2,500 km of border with the DRC. The principle of non-return seems important to safeguard the lives of Congolese fleeing the conflicts affecting this country. The approximately 22,000 Congolese refugees from the Kasai and Central Kasai region that the country continues to host in the Lóvua camp were covered by this principle. Law 10/15 also has the merit of privileging the protection of vulnerable people: children, pregnant women, the elderly, and the disabled.

However, in its concern to protect asylum seekers and refugees, Law 10/15 poses several challenges in their lives. Although freedom of mobility is highlighted, the law seems to restrict it. It encourages the creation of the CARRA instead of implementing the “out-of-camp” policy as it used to. This policy involves keeping refugees out of camps so that they can integrate into the ordinary life of the country. Those who live in the CARRA, whether they are asylum seekers or refugees, must communicate and request permission whenever they want to leave. On the other hand, those who live outside the CARRA must report periodically. Thus, there seems to be a retrograde step in relation to Law 8/90 which, besides not contemplating the creation of the CARRA, granted *ipso facto* the temporary residence permit to asylum seekers, and the right to exercise remunerated economic activity to refugees (Law 8/90, art. 13).

If, in the previous legislation, the asylum seeker enjoyed temporary residence, the refugee obtained permanent residence (Law 8/90, art. 19.1). Thus, it seems that Law 10/15 has a defensive character and seeks to avoid the “invitation effect”. Therefore, approved applications are limited to being granted sixty days, extendable for thirty more days, to asylum seekers, and temporary residence permits to refugees. But, as has been made clear

throughout this article, since 2015, when the new law was passed, asylum applications as well as the renewal of the refugee ID card are pending. In other words, since its passing, Law 10/15 of June 17 has never been applied. Many asylum seekers have their applications pending, and refugees are still waiting for renewal of their identity documents.

The right to work is another issue that Law 10/15 seems to be careful and safeguarded. The asylum seeker and refugee have the right to work. The previous rule, Law 8/90, also provided for this right (art. 13). The refugee has the right to work and to access the social security system under the same conditions as the national citizen. However, Executive Decree 273/13 of August 26 forbids refugees and asylum seekers from obtaining a business license. This is the document that allows them to carry out an economic activity. According to this decree, "it is forbidden to grant a commercial license to citizens with refugee or asylum status" (art. 4.4). This measure affects the subsistence of those concerned. As a consequence, many asylum seekers and refugees are confining themselves to the informal sector. For this reason, Executive Decree 273/13 does not help these people achieve economic autonomy.

The involvement of other authors who defend and remind the authorities of the application of the terms of Law 10/15 would be of great help. Among the points to be reminded are: (i) encouraging the State to keep alive its responsibility to respect the rights of asylum seekers and refugees, with emphasis on the right to work and social security; (ii) ensuring that these individuals enjoy these rights under the same conditions as nationals, as stipulated by the standards of the country; (iii) obliging the State to promote initiatives that help the population to refrain from discriminatory behaviour; (iv) establishing mechanisms to help the children of parents of asylum seekers and refugees have access to the rights set forth in Law 10/15: civil registration, education, healthcare, and adequate nourishment; (v) preventing the State from promoting social inclusion as well as actions that reduce the poverty line among refugee families; (vi) ensure compliance with the principle of non-refoulement and pay greater attention to situations that lead to the exploitation of asylum seekers and refugees. However, it is necessary that these authors are organized.

There are already initiatives to bring together national and international civil society organizations. It is intended that these organizations use the same language that ensures the protection of the rights of asylum seekers and refugees in national legislation. In 2016, with the unconditional impulse of the Episcopal Commission for the Pastoral Care of Migrants and Itinerants from Angola and São Tomé (CEPAMI), the Migrant and Refugee

Protection Network was created. The network integrates different civil society organizations: CEPAMI, Caritas of Angola, Jesuit Service to Refugees (JRS), Law Research Center (CID/FDUCAN), Episcopal Commission for Justice and Peace, International Volunteer for Development (VIS), Salesians of Don Bosco (SDB), UNHCR, Episcopal Commission for Social Communication of CEAST, Scalabrinian Missionary Sisters, International Organization for Migration (IOM), OMUNGA Association, Society of the Divine Word, and Radio Ecclesia. Thus, the foundations are in place and it is up to them to assume the commitment to ensure the protection of asylum seekers and refugees.

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## ABSTRACT

After the civil war, Angola has welcomed asylum seekers and refugees from various parts of Africa. To protect these individuals, a number of laws have been passed. Among them is the constitution (CRA 2010) which emphasizes the principle of equal treatment and the enjoyment of the same rights between nationals and foreigners who are in Angola. Law 10/15 of 17 June is also outlined. This standard was analyzed in this article. Law 10/15, the law on asylum and refugee status, assigns rights and duties to asylum seekers and refugees: the right to education, identity document, interpreter, justice, work and accommodation. In turn, they have an obligation to respect the rules of Angola and not to meddle in the country's political affairs. But, many of these rights are not respected. Asylum seekers and refugees do not need an identification document and therefore cannot access work. As a result, many are in the informal sector, others are systematically violated. Hence, the protection regime needs to be implemented.

## KEYWORDS

Angola; Asylum seekers; Refugees; Law; Protection.

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