

REGIONAL DEVELOPMENTS

REFUGEES WITH ALBINISM IN AFRICA

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1 Introduction

In June 2022 the Office of the UN Independent Expert on the enjoyment of human rights by persons with albinism published a report entitled 'People with albinism on the move'.¹ This report highlighted the human rights situation of persons with albinism who are migrants, refugees, asylum seekers, migrant workers, and internally displaced persons (IDPs). It drew attention to the invisibility of this group in migration literature and the aggravated forms of discrimination and human rights violations that are often experienced by this group in migration contexts.

This commentary draws from and builds on research undertaken between January and July 2022 by the authors for the above report. While the UN report covers a broad category of migrants with albinism and has a global focus, this commentary solely focuses on refugees with albinism in refugee and settlement camps in Africa. According to the UNHCR, 'Refugee camps are a form of settlement in which refugees or IDPs reside and receive centralised protection, humanitarian assistance, and other services from host governments and humanitarian actors.' A defining characteristic of camps is that they often limit the rights of refugees, including their freedom of movement and right to choose where to live or work, cultivate land and restrict their access to protection and services.

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1 UN General Assembly 'People with albinism on the move – Report of the Independent Expert on the enjoyment of human rights by persons with albinism' UN Doc A/77/199 (2022)

While the term refugee camp is often used interchangeably with refugee settlement, the latter is often seen as providing greater freedom of movement; more integration into local communities for refugees including for income-generating activities; and general greater enjoyment of rights.

The commentary makes use mainly of documented experiences of refugees in Uganda, Malawi, and Kenya to paint a picture of the human rights challenges experienced by refugees with albinism in Africa in refugee camps and settlements and outlines the regional and international legal framework that can be used to strengthen protection of their rights.

2 International and regional human rights framework for the protection of refugees with albinism

2.1 Refugee status determination

2.1.1 Refugee status determination under international law

The Universal Declaration on Human Rights recognises the right of everyone to, ‘seek and to enjoy in other countries asylum from persecution’.² Under the United Nations Convention relating to the Status of Refugees³ and its Protocol (UN Refugee Conventions)⁴ a person may seek asylum if,

owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, [they are] outside the country of [their] nationality and [are] unable or, owing to such fear, [are] unwilling to avail [themselves] of the protection of that country.⁵

While the UN Refugee Conventions were not initially interpreted as guaranteeing the right to asylum for persons with albinism fleeing persecution, there is a growing body of literature now confirming such a right.

2 Art 14 of the UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III) <https://www.refworld.org/docid/3ae6b3712c.html> (accessed 23 November 2022).

3 UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, United Nations, Treaty Series, vol 189, p 137 <https://www.refworld.org/docid/3be01b964.html> (accessed 23 November 2022).

4 UN General Assembly, Protocol Relating to the Status of Refugees, 31 January 1967, United Nations, Treaty Series, vol 606, p 267 <https://www.refworld.org/docid/3ae6b3ae4.html> (accessed 23 November 2022).

5 Convention Relating to the Status of Refugees (n 3) art 1(2).

The United Nations High Commissioner for Refugees (UNHCR) has interpreted 'persecution' within the context of the Conventions to include persecution by non-state actors.⁶ It has further clarified:

Where serious discriminatory or other offensive acts are committed by the local populace, they can be considered as persecution if they are knowingly tolerated by the authorities, or if the authorities refuse, or prove unable, to offer effective protection.⁷

Therefore, the physical attacks against persons with albinism, as well as serious discriminatory acts may constitute persecution if carried out by State actors, or where the State is unwilling or unable to effectively protect them from it. Being subjected to stigma and discrimination, even in the absence of an attack, was recognised as a ground for granting asylum in the case of a Nigerian child with albinism seeking asylum in the UK.⁸

In relation to the enumerated grounds for persecution, albinism has been found to meet the 'protected characteristics' approach to membership of a social group, which requires, 'an immutable characteristic or ... a characteristic that is so fundamental to human dignity that a person should not be compelled to forsake it'.⁹ It has also been seen to meet the 'social perception' approach, requiring a group to share a common characteristic which makes them a cognizable group or sets them apart from society at large.¹⁰ In the case of *Makatengkeng v Alberto R Gonzales, Attorney General*, for example, a US court held that, '[a]lbinism is an immutable characteristic that [one] is incapable of changing. It clearly identifies [one] on sight'.¹¹ This position has also been adopted by the European Asylum Support Office¹² and several cases internationally where persons with

6 UN High Commissioner for Refugees (UNHCR) *Handbook on procedures and criteria for determining refugee status and guidelines on international protection under the 1951 convention and the 1967 protocol relating to the status of refugees* (April 2019) HCR/1P/4/ENG/REV.4, para 35 <https://www.refworld.org/docid/5cb474b27.html> (accessed 23 November 2022).

7 UNHCR (n 6) 23.

8 *JA (child – risk of persecution) Nigeria* [2016] UKUT 00560 (IAC), para 8, 24 and 26 <https://tribunalsdecisions.service.gov.uk/utiac/2016-ukut-560> (accessed 23 November 2022).

9 UN High Commissioner for Refugees (UNHCR), *Guidelines on international protection 2: Membership of a particular social group within the context of article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees* (7 May 2002) HCR/GIP/02/02, para 6, <https://www.refworld.org/docid/3d36f23f4.html> (accessed 24 November 2022).

10 UNHCR (n 9) para 7.

11 *Makatengkeng v Alberto R Gonzales, Attorney General* No 06-1630, United States Court of Appeals for the Eighth Circuit, 3 August 2007 https://www.refworld.org/cases,USA_CA_8_5492b47e4.html (accessed 3 March 2020).

12 EASO Practical Guides Series *EASO Guidance on membership of a particular social group* (March 2020) 26 <https://euaa.europa.eu/sites/default/files/EASO-Guidance-on%20MPSG-EN.pdf> (accessed 23 November 2022).

albinism have been granted refugee status.¹³ Persons with albinism fleeing serious discrimination or attacks therefore may qualify for refugee status under the UN Refugee Conventions.

2.1.2 *The right to refugee status under African regional law*

At the African regional level, seeking and obtaining refugee status is explicitly mentioned as a right.¹⁴ The OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Refugee Convention)¹⁵ provides the same definition of a refugee as provided under the UN Conventions.¹⁶ Given this, it would be logical to assume that the same interpretation of refugees discussed above, which recognises that persons with albinism could qualify as refugees, would also apply under the OAU Refugee Convention.

In addition, the OAU Refugee Convention contains what has become known as the expanded definition of refugee. This provision defines a refugee as,

every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.

There is little accessible jurisprudence on how this definition has been interpreted. However, section 3 of South Africa's Refugees Act 130 of 1998 provides a very similar definition.¹⁷ Jurisprudence from South African courts has provided that for a person to qualify as a refugee under this article, there must be: (a) proof of the existence of objectively ascertainable circumstances in the person's country of origin (namely, external aggression, occupation, foreign domination or events seriously disturbing or disrupting public order); and (b) a causal link between the circumstances

13 According to the International Bar Association's Human Rights Institute, 'Cases of persons with albinism who have been granted asylum have been documented in Belgium, Canada, France, Ireland, Israel, New Zealand, Spain, Tunisia, the UK and the United States'. International Bar Association's Human Rights Institute 'Waiting to disappear: International and Regional Standards for the Protection and Promotion of the Human Rights of Persons with Albinism' (June 2017) 25.

14 Art 12(3) of the African Charter on Human and Peoples' Rights provides: 'Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with the law of those countries and international conventions.'

15 Organization of African Unity (OAU), Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Convention), 10 September 1969, 1001 UNTS 45 <https://www.refworld.org/docid/3ae6b36018.html> (accessed 23 February 2023).

16 OAU (n 14) art I.1.

17 Section 3(b) of the Refugees Act 130 of 1998 defines a refugee as 'a person [who] – owing to external aggression, occupation, foreign domination or events seriously disturbing or disrupting public order in either a part or the whole of his or her country of origin or nationality, is compelled to leave his or her place of habitual residence in order to seek refuge elsewhere'.

and the reason why the asylum-seeker fled his home country.¹⁸ What remains to be seen is whether African courts would see attacks against persons with albinism as events seriously disturbing public order for the purposes of granting asylum under this article.

Although it is clear from various sources, including from our research, that there are refugees with albinism in Africa,¹⁹ the authors were unable to obtain clarity regarding the grounds on which they had been granted refugee status, or how the articles of the OAU Refugee Convention had been applied in the process.

2.2 The right to non-refoulement of persons with albinism fleeing attacks

The UN Refugee Conventions²⁰ and the OAU Refugee Convention²¹ provide for the right of refugees not to be returned to territories where their life or freedom would be threatened. The OAU Convention goes further to extend this right to asylum seekers. In addition, the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment²² prohibits the return of any persons to a state where they are in danger of being subjected to torture.²³ In relation to this, it is worth noting that the Committee against Torture has recognised that attacks against persons with albinism may amount to torture.²⁴ In essence, these provisions prohibit the refoulement of persons with albinism fleeing attacks in their home countries, whether or not they have been granted refugee status in the host country.

18 See for example, *Radjabu v Chairperson of the Standing Committee for Refugee Affairs* [2015] 1 All SA 100 (WCC); and *Lumumba v Refugee Appeal Board* (17170/2006) [2007] ZAGPHC 218 (21 September 2007) <http://www.saflii.org/za/cases/ZAGPHC/2007/218.html> (accessed 29 January 2024).

19 Under the Same Sun documented the case of a woman from Cote D'Ivoire granted refugee status in Tunisia. See 'Reported attacks of persons with albinism – Most recent attacks included by under the same sun (UTSS) Canada & Tanzania' *Under the Same Sun* 1 May 2019 at 9 <http://www.underthesamesun.com/> (accessed 29 January 2024).

20 Art 33(1) provides: 'No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.'

21 Art II.3 provides: 'No person shall be subjected by a member state to measures such as rejection at the frontier, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened for the reasons set out in article I, paragraphs 1 and 2.'

22 UN General Assembly, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, United Nations, Treaty Series, vol 1465, 85 <https://www.refworld.org/docid/3ae6b3a94.html> (accessed 23 November 2022).

23 Convention against Torture (n 21) art 3(1) provides: 'No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.'

24 Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Concluding Observations on the second periodic report of Burundi, 12 December 2014, UN Doc CAT/C/BDI/CO/2 (2014) para 12; Committee on the

2.3 Other rights of refugees with albinism

According to the UN Refugee Conventions, refugees have the same rights as nationals in relation to religion, access to courts, access to elementary education, and social protections.²⁵ They, however, appear to limit the rights of refugees in relation to property, employment, freedom of association, access to housing and access to higher education.²⁶ It cannot be denied though that refugees have the right to the full exercise of non-derogable rights such as, the right to life, not to be subjected to cruel, inhuman, or degrading treatment or punishment, and recognition as a person before the law.²⁷ In addition, both the UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child are clear that children who are refugees have all the rights contained in international instruments.²⁸ Furthermore, contrary to the position of the UN Refugee Conventions, the Fact Sheet on human rights and refugees, developed by the UN Office of the High Commissioner for Human Rights (OHCHR) provides, 'Asylum seekers and refugees are entitled to all the rights and fundamental freedoms that are spelled out in international human rights instruments'.²⁹

It is also worth highlighting that under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), women refugees, which includes those with albinism, have the right to participate in decisions making structures and all levels of structures for the management of camps and settlements.³⁰

Rights of the Child, Concluding Observations on the second periodic report of the Central African Republic, 8 March 2017, UN Doc CRC/C/CAF/CO/2 (2017) paras 44-45; and Report of the Independent Expert on the Enjoyment of Rights by Persons with Albinism 'Applicable international human rights standards and related obligations addressing the issues faced by persons with albinism' UN Doc A/72/131 (14 July 2017) paras 33-36.

25 Arts 4, 16, 22(1), 23 and 24(b) respectively.

26 Arts 13, 17 and 18, 21, and 22(2).

27 Art 4(2) of the International Covenant on Civil and Political Rights provides: 'No derogation from articles 6, 7, 8 (paragraphs I and 2), 11, 15, 16 and 18 may be made under this provision.'

28 Arts 22(1) of the UN Convention on the Rights of the Child and 23(1) of the African Charter on the Rights and Welfare of the Child call for refugee children to receive appropriate protection and humanitarian assistance in the enjoyment of their rights set out in the respective instruments and other international human rights and humanitarian instruments to which the States are Parties.

29 OHCHR 'Fact Sheet 20: Human rights and refugees' (July 1993) 5 <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet20en.pdf> (accessed 29 January 2024).

30 Art 10(2)(b) of the African Union, Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, 11 July 2003 <https://www.refworld.org/docid/3f4b139d4.html> (accessed 23 November 2022).

In relation to refugees with albinism, the Convention on the Rights of Persons with Disabilities, and the African Protocol on the Rights of Persons with Disabilities in Africa³¹ both require states to take all necessary measures to ensure the protection and safety of refugees with disabilities,³² including from any attacks in their host countries. Furthermore, given that the UN Human Rights Committee³³ has clarified, '[t]he obligation of States parties to respect and ensure the right to life extends to reasonably foreseeable threats and life-threatening situations that can result in loss of life',³⁴ it can be inferred that states must also take steps to prevent the death of persons with albinism from skin cancer.

3 Refugees with albinism in Africa: Profile, drivers of migration and experiences

3.1 The emerging data on refugees with disabilities and albinism

The United Nations High Commissioner for Refugees (UNHCR) 2021 Global Report puts the number of refugees in Africa at the end of 2021 at around 6 989 067 million.³⁵ The ongoing conflicts in Somalia, Democratic Republic of Congo, South Sudan, Cameroon, amongst other factors, have contributed to the increase in the number of refugees on the continent.³⁶ The majority of these refugees are hosted in the East and Horn of Africa and the Great Lakes region mostly in Uganda (1.5 million), Sudan (1.1 million) and Ethiopia (821 300). The UNHCR has started using the Washington Group Short Set of Questions on Disability to identify persons with disabilities in the refugee population during their data collection and needs assessment processes.³⁷ Whilst these efforts have not yet yielded comprehensive statistical data on the prevalence of disability within the refugee population in Africa, the data that is starting to emerge provides important insights on the increased representation of persons with disability in this group. The 2020 UNHCR analysis of refugee vulnerability in Uganda for instance found that 25 per cent of refugees

31 At the time of writing the Protocol was still not yet in force as it had not yet attained the required number of 15 ratifications.

32 Arts 11 and 12 respectively.

33 The body that is responsible for interpreting the provisions of the International Covenant on Civil and Political Rights.

34 HCR, General Comment 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life,* 30 October 2018, UN Doc CCPR/C/GC/36 (2018) para 7 https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf (accessed 29 January 2024).

35 UNHCR 'Global Report 2021: The stories behind the numbers' (2021) 10.

36 UN 'Peace and security: From the field: story of an aid worker trying to survive in Gaza' (28 January 2024) <https://news.un.org/en/news/topic/peace-and-security> (accessed 29 January 2024).

37 UNHCR 'Working with persons with disabilities in forced displacement: Need to know guidance' (2019) 14.

experience a mild disability, 6.4 per cent a severe disability and 0.7 per cent a profound disability.³⁸ The Southern Africa UNHCR office presented during the 2023 'Annual Disability Rights Conference' that based on the data they have been collecting 0.6 per cent or 7 142 of the 1 071 782 of the registered population of refugees in Southern Africa has a profound disability.

The available data is rarely disaggregated according to albinism. What is known about refugees with albinism is derived from localised data collected by civil society and humanitarian organisations providing services to persons with albinism in refugee camps.³⁹ Recent reports have shown that there were at least 73 persons with albinism in one of the refugee camps in East Africa and 56 in another, 30 of whom were children.⁴⁰ It would appear from these sources that Uganda, Malawi and South Africa and Kenya host the largest number of refugees with albinism in Africa.

3.2 Profile and drivers of migration of refugees with albinism in Africa

There are a number of published first-hand accounts by persons with albinism and their families on their experiences in refugee camps in Africa.⁴¹ Personal accounts have been written by persons with albinism and their families based at the following refugee camps and settlements, amongst others: Nakivale Refugee Settlement in Isingiro District in Western Uganda; Dzaleka refugee camp in Malawi; Kajaga refugee transit camp in Burundi; Rwamwanja Settlement camp in Uganda; Kakuma refugee camp in Kenya; and Nyarugusu Camp in Tanzania.

38 Office of the Prime Minister et al 'Uganda: Analysis of refugee vulnerability in Uganda: Working Paper 2020' (2020) at 16 20. Uganda hosts more refugees than any other country in Africa. At the time of the writing of the report it hosted more than 1.4 million this could explain the higher concentration of persons with disabilities recorded.

39 People with albinism on the move (n 1) 23. G Mbatha-Raw 'Uncovering the lives of the refugees inside Uganda's Rwamwanja Settlement' *British Vogue* 12 June 2019 <https://www.vogue.co.uk/article/albinism-awareness> (accessed 3 March 2023).

40 People with albinism on the move (n 1) 23.

41 RP Larubi 'A living hell the plight hopelessness of refugee albinos inside Nakivale Camp' (2018) <https://softpower.ug/a-living-hell-the-plight-hopelessness-of-refugee-albinos-inside-nakivale-camp/> (accessed 29 January 2024); S Larson 'Magic, mutilation, and murder: A case for granting asylum to Tanzanian nationals with albinism' (2011) 2 *Pace International Law Review Online Companion* 1 at 2; M Seepersaud 'The plight of Tanzanian persons with albinism: A case for international refugee and asylum procedure reform' (2017) 32 *Emory International Law Review* 115; AD Ikuomola "'We thought we will be safe here": Narratives of Tanzanian Albinos in Kenya and South-Africa' (2015) 9 *African Research Review* 37; Reliefweb 'Through albino eyes. The plight of albino people in Africa's Great Lakes region and a Red Cross response' (2009); J Bota "'A harvest' in Malawi: The position of albinism in refugee law' Masters' thesis, University of Cape Town, 2020; 'Joy, a refugee with albinism, fights against discrimination' *InfoMigrants* 23 June 2020 <https://www.infomigrants.net/en/post/25554/joy-a-refugee-with-albinism-fights-against-discrimination> (accessed 29 January 2024); P Chikwela 'Malawi: Refugees with albinism find succour in camp' (2015)

Thematic analysis of these accounts, corroboratory reports by humanitarian organisations working on the ground and recent submissions made to the UN Independent expert on albinism in response to her call for input on human rights challenges of people with albinism on the move shows that refugees with albinism are mainly from the Democratic Republic of Congo, United Republic of Tanzania, Burundi, Mali, Somalia, Ethiopia, Rwanda, Malawi and Cameroon.⁴² Refugees with albinism like most others often stay in refugee camps or settlements for lengthy periods of time in excess of seven years.

Persons with albinism and their families mainly seek refuge outside their country due to fear of or experiences of extreme forms of persecution, discrimination, marginalisation, perversive social exclusion, isolation, stigma, grave physical attacks, abduction, ritual rape and other harmful practices.⁴³ Violent attacks against persons with albinism have been recorded in more than 30 African countries since 2006 and are still ongoing in parts of the continent with the most recent report being in Zambia in March 2022.⁴⁴ These attacks and the ensuing sense of insecurity they create are one of the primary motivations behind persons with albinism in Africa and their families leaving their countries and seeking refuge in other countries.⁴⁵ Another commonly cited reason for migrating by persons with albinism is aggravated forms of discrimination by their communities as a result of deep-rooted misconceptions of the condition.⁴⁶ The vulnerability of persons with albinism to attacks and other human rights violations also appears to increase during volatile periods such as wars, civil unrests and

<https://reliefweb.int/report/malawi/malawi-refugees-albinism-find-succour-camp> (accessed 29 January 2024); B Ntwari 'UNHCR helps young Congolese albino on the run from witchcraft' UNHCR (14 October 2013) <https://www.unhcr.org/news/stories/2013/10/525be9c89/unhcr-helps-young-congolese-albino-run-witchcraft.html> (accessed 29 January 2023); S Nalubega 'Refugees with albinism brave the scorching sun and mud for a living' *The Lutheran World Federation* 15 November 2017 <https://uganda.lutheranworld.org/content/refugees-albinism-brave-scorching-sun-and-mud-living-106> (accessed 29 January 2024); Mbatha-Raw (n 39); S Peter 'Albino refugees: The unheard, need to be heard!!!' <https://www.linkedin.com/pulse/albino-refugees-unheard-need-heard-ebonga-simon-peter-ebonga-/>; Resilience Action 'Differently Abled-Refugees Living With Albinism' (17 June 2022) <https://www.resilienceaction.net/post/differently-abled-refugees-living-with-albinism> (accessed 30 January 2024).

42 Independent Expert on the Rights of Persons with Albinism 'Call for input | Special procedures: Human rights challenges of people with albinism on the move' <https://www.ohchr.org/en/calls-for-input/2022/human-rights-challenges-people-albinism-move> (accessed 30 January 2024).

43 As above.

44 I Ero et al 'People with albinism worldwide: A human rights perspective' (13 June 2021) https://www.ohchr.org/sites/default/files/Documents/Issues/Albinism/Albinism_Worldwide_Report2021_EN.pdf (accessed 3 December 2022); 'Reported Attacks of Persons with Albinism (PWA) – 1 Page Summary Date of report: January 12, 2023' <https://underthesamesun.com/sites/default/files/Attacks%20of%20PWA%20-%201%20page%20%286%29.pdf> (accessed 30 January 2024).

45 PC Aguirregabiria 'Interview with François Akilimani, young Albino from DRC' *JRS* 19 March 2022 <https://ear.jrs.net/en/story/interview-with-francois-akilimani-young-albino-from-drc/> (accessed 7 March 2023).

46 IBA "'Waiting to disappear' International and regional standards for the protection and promotion of the human rights of persons with albinism (June 2017).

natural disasters.⁴⁷ In other cases, persons with albinism and their families leave their countries in order to try and access critical healthcare services mainly skin cancer treatment which they are unable to access in their country of origin.

3.3 Experiences of refugees with albinism in refugee camps in Africa: Human rights concerns

There are several human rights challenges experienced by refugees with albinism and their families, of which, the most cited are discussed below.

The discrimination against persons with albinism and their families rooted in harmful erroneous superstitions and beliefs about the condition often persists in refugee camps and settlements.⁴⁸ Refugees with albinism in camps and settlement often report being called derogatory names, being harassed, bullied, and segregated by fellow residents.⁴⁹

Continued insecurity and threats of physical attacks from within and outside the camps are a grave concern for refugees with albinism forcing some refugees to relocate several times and others to opt to return to their countries of origin despite the persecution experienced there.⁵⁰ Refugees with albinism are seen as 'soft targets' and are hence disproportionately subjected to the burglaries, sexual assault, violence, and possibly trafficking which are a huge concern for many refugee camps.⁵¹ There have also been disturbing anecdotal reports of persons with albinism disappearing from refugee camps under suspicious circumstances and reports of attempted kidnappings.⁵²

Refugees with albinism often struggle to access sunscreen, protective clothing, dermatology services, sun behaviour protective information and other goods and health services they require related to their skin care

47 People with albinism on the move (n 1 above).

48 A Ikuomola "“We thought we will be safe here”": Narratives of Tanzanian albinos in Kenya and South Africa' (2015) 9 *African Research Review* 37; L Masina 'UN Resettles Albino Refugees Due to Threats in Malawi' *VOA* 12 June 2017 <https://www.voanews.com/a/un-resettles-albino-refugees-threats-malawi/3897282.html> (accessed 12 September 2022).

49 Online Key Informant Interviews with refugees in Nakivale and Rwamwanja settlement camps.

50 n 41 above; B Dachs 'Albino refugees warned to avoid certain areas in Malawi' *Catholic News Service* 2016 <https://www.archbalt.org/albino-refugees-warned-to-avoid-certain-areas-in-malawi/?print=print> (accessed 28 November 2022); Chikwela (n 41); 'Albino refugees resettled in North America due to continued attacks' *The Namibian* 14 June 2017 <https://www.namibian.com.na/165724/archive-read/Albino-refugees-resettled-in-North-America-due-to> (7 March 2022)

51 n 41 above; P Ngunde 'UNODC and Malawi launch new measures to combat human trafficking among refugees' (March 2021) <https://www.unodc.org/unodc/en/human-trafficking/Webstories2021/trafficking-in-refugee-camp-malawi.html> (accessed 27 March 2022).

52 People with albinism on the move (n 1) 13.

increasing their chances of getting skin cancer.⁵³ Where such health goods and services are provided it is often by civil society organisations and humanitarian organisations sometimes in partnership with UNHCR.⁵⁴ This has often led to inconsistencies and interruptions in access to these services and inferior services being rendered. Some refugees in camps have raised complaints about the quality of some of the sunscreen provided which does not contain the right levels of SPF for the particular climate. In situations where refugees develop precancerous lesions and moles because of sustained exposure to the sun, the overburdened and low resourced clinics in many refugee camps are unable to provide relevant treatment. Ophthalmological and optometric services are also rarely provided with many refugees with albinism never having had the opportunity to get their eyesight checked since getting to the refugee camp. The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) made similar finding with regards to child refugees with albinism in Malawi following a fact-finding mission to the country in 2022. ACERWC pointed out that children with albinism particularly those in rural and remote areas and refugee camps in Malawi experience challenges with regards to accessing ophthalmologists and dermatologists.⁵⁵

According to the refugees interviewed by the authors, the monetary allowance provided to refugees with albinism was for the greater part not adequate to maintain an adequate standard of living, resulting in many living in abject poverty.⁵⁶ This allowance often did not take into consideration the additional expenses incurred by persons with albinism because of their condition such as purchasing sunscreen and protective clothing.

Where refugees are allowed to work within or outside the camps, they struggle to earn a livelihood as many employers are reluctant to employ persons with albinism. When they do find employment, it is outdoor work that puts their health at risk.

The lack of recognition of refugees with albinism as a particularly vulnerable group in need of additional protection has been highlighted in many accounts. Humanitarian agencies working in the camp do not always address the specific issues related to albinism nor appreciate the vulnerability of this group, resulting in reasonable accommodation not

53 Mbatha-Raw (n 39).

54 Chikwela (n 41); People with albinism on the move (n 1) 12.

55 Report of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) –Working Group on Children with Disabilities in Africa – On the Fact-Finding Mission on the Situation of Children with Albinism in The Republic of Malawi and Status of Implementation of ACERWC'S Decision on Communication No 004/Com/001/2014 Submitted by the IHRDA against the Republic of Malawi 29-31 August 2022 at 15.

56 People with albinism on the move (n 1 above) 13-14.

always being provided when required and programmes targeting this group not being implemented.

Child refugees with albinism form a particularly vulnerable group. Their right to education is often compromised with many not attending school at all and a number dropping out due to bullying and failure to provide reasonable accommodation, including assistive devices such as monocular or magnifying glasses.⁵⁷

Whilst more research still needs to be done, the pattern that emerges is that persons with albinism and their families who flee their countries to seek refuge in other African states are not guaranteed they will have a better life from the one that they have fled. Many persons with albinism who have been forced to flee their countries continue to suffer discrimination, are vulnerable to attacks and denied access to social services, education and healthcare in the refugee camps.

4 Conclusion

There is a dearth of research on refugees with albinism in Africa. The growing jurisprudence shows that persons with albinism fleeing their countries due to serious discrimination or attacks against those with albinism in their country may qualify as refugees. Although, as this commentary has shown, there are a number of refugees with albinism in Africa, there is not enough information to determine whether they have been granted asylum on the basis of their albinism or the general situation of unrest in the countries where most the refugees come from.⁵⁸ While international laws and standards show that refugees with albinism are entitled to all the rights contained in international human rights treaties, the rights of refugees with albinism appear to have been largely neglected in camps across the region. This commentary puts a spotlight on the human rights situation of this group and shows the international and regional framework which if applied to the context of refugees with albinism can provide invaluable protection and address some of the human rights concerns raised.

⁵⁷ Larubi (n 41).

⁵⁸ Information provided to the authors by regional UNHCR officer.