

## *Sexual- and Gender-Based Violence in Refugee Settings in Kenya and Uganda*

By Pearl Karuhanga Atuhaire and Grace Ndirangu

The international community has taken a strong stance against conflict-related sexual violence, deeming it a war crime. However, international actors are paying scant attention to sexual- and gender-based violence (SGBV) in refugee settings. Urban refugee women and girls and those in refugee camps often grapple with SGBV in their countries of asylum, long after they have fled their homes and communities. Our research among refugees from the Democratic Republic of Congo currently in Kenya and Uganda has unearthed a high incidence of SGBV against refugee women and girls. Research by the International Rescue Committee (IRC) indicates that one in five refugee and displaced women experience sexual violence.<sup>1</sup> Many of the survivors often have no one to turn to for protection and resort to sex work and other risky means to survive.

In this policy brief, we examine the extent of the problem, identify obstacles to progress, and recommend actions governments and humanitarian organizations can take to better protect refugees. In short, we argue that refugee settlements are not safe spaces for refugee women. Humanitarian officials, governments, and the international community must do more to address this problem.

### *Extent of the Problem*

In Kenya, refugees are mainly settled in camps, while in Uganda, refugees are placed in settlements where they live temporarily as they await integration, resettlement, or repatriation.<sup>2</sup> Kenya has about 24,063 Congolese refugees who have settled in urban areas around Nairobi.<sup>3</sup> Most of these urban refugees have temporary or part-time jobs to support their families.<sup>4</sup> Congolese refugees in Uganda are mainly

settled in the southwest in Kyaka I and II, Rwamwanja, and Nakivale settlements. As of 2016, Kyaka II had 28,364 refugees, with Congolese accounting for 88 percent and Rwandese 12 percent of the population.<sup>5</sup>

Most of these refugees, both urban and rural, experienced SGBV at the hands of rebel and militia groups in their country of origin and they continue to be at risk after flight. Female refugees are particularly vulnerable when they are separated from their husbands. The extra burden they carry as single mothers and family heads taking care of children and elderly relatives often leads them into dangerous, exploitative situations as they struggle to earn a living. Their children assume adult responsibilities. Many children are forced into dangerous means of survival, such as transactional sex work, early marriages, and trading sex for favors. Others may have temporary jobs, such as washing clothes, performing domestic chores, working in shops and construction sites, and selling produce and other wares in the market. However, these jobs earn them meager wages and still expose them to frequent abuse.

Among urban refugees in Kenya, some of the young women told us stories, such as this one:

*[H]e would pass by my work station when I was cooking and he could rub himself against my body or even touch my breasts. When I told him to stop, he would laugh and say that there is nothing I can do to him. If I left the job, it would be difficult for me to get another one and then my kids would suffer.*

Another young woman reported:

*I worked in a beauty parlor as a masseuse. Some of the clients were male. Some of them would request a massage, and when it was over they would then ask me to perform sexual favors. If I refused, they would threaten to tell my boss that I was being rude. I refused to give in, and after being reported so many times, my boss was threatening to fire me, so I quit. I now do casual jobs.*

Most women and girls who work as domestic help have reported being sexually abused by their male employers or by male members of the households where they work. If these women and girls are in the country illegally, they are vulnerable to blackmail, with people threatening to report them to the authorities. Often, these women and girls work without pay, and most do not report these incidents for fear of reprisal and ostracism by other community members.

Women in refugee camps and settlements are also often abused by their husbands or other male family members or providers. These men often control the family resources and are the sole decision makers in their families. In Kyaka II in 2016, most perpetrators of SGBV were known to their victims. They were uncles, fathers, foster fathers, or even perpetrators from their country of origin who ended up in the same settlement.

One refugee woman told us this in an interview:

*When I first came to this settlement as a young orphan refugee girl, I was assigned a foster father, but this foster father took advantage of me and defiled me.... [B]y then, I was fourteen years old. He came from the bar late one night when I was already asleep, and he forced himself on me and defiled me. I could not tell anyone about it because he told me the next morning not to report this, otherwise he would throw me out of his house. Since I had no other place to go, I just kept silent about the whole issue.*

Adolescent girls are married off by their parents, who negotiate the price with prospective husbands.<sup>6</sup> High levels of poverty and the practice of bride prices contribute to high child marriage rates among the Congolese, as does family debt, which encourages families to include girls as part of financial settlements.<sup>7</sup> In Kyaka II, most girls are married off when they are as young as 14 years old. During a focus group discussion with refugee women, some women from the Hema Clan in Congo argued,

*Among us, the Hema, most families marry off their daughters when they are as young as 14 years. It is a cultural norm that we cannot change. If a woman opposed the practice, the community would reject her, and she could even be killed.... So much as the settlement officials say it is wrong, in our culture it is done silently, and as mothers of these children, we don't have much say about it because we fear rejection from our husbands and families.*

SGBV survivors may have been mutilated during the abuse, suffered other physical injuries, or contracted sexually transmitted diseases and HIV/AIDS. In some instances, women develop incontinence and uncontrolled bleeding, which affect relationships with their immediate family and the community. The women suffer psychologically as well, from post-traumatic stress disorder, stress, depression, anxiety, low self-esteem, inability to form healthy relationships, insomnia, and somatic symptoms of headaches. SGBV thus often leaves women incapacitated and unable to care for themselves and their families.

The UN High Commissioner for Refugees (UNHCR), local authorities, and international actors are aware of these problems, and they have attempted to put mechanisms and measures in place to address SGBV among refugee women. But they cannot do it alone. Without the commitment of local authorities, host governments, and host-country organizations little progress will be made. Refugee women face high levels of discrimination in the host community, difficulties in getting jobs that pay a sufficient wage, and an inability to actively participate in leadership positions. These obstacles lead refugee women to distrust the system and lack confidence in efforts to help them. Host-country authorities, local agencies, and policymakers need to develop and implement policies that address the needs of refugee women and enhance their integration into the host community.

## **Obstacles to Progress**

Governments and humanitarian organizations face seven main obstacles to protecting women from SGBV: insufficient legal frameworks, lack of political will, inept law enforcement and court processes, limited awareness among women that they have rights, economic barriers, cultural norms, and inadequate data.

### **Insufficient legal framework**

Existing legal frameworks in Kenya and Uganda can be said to cover SGBV. The Penal Code Act of Kenya (revised edition 2014) and Uganda (Amendment Act of 2007) prohibit all acts of violence. However, they do not directly address SGBV, despite its prevalence. In Kenya, for example, SGBV can only be inferred to be an assault under sections 250 and 251 of the code. There is no specific offense such as wife or husband battery, nor are their provisions for marital rape or domestic violence. The inadequacies of the law make it difficult to address SGBV, whether experienced by Kenyan citizens or refugees in Kenya.

In Kenya, the Sexual Offences Act was enacted in 2006 to curb SGBV. It defines sexual offenses and makes provisions for prevention and protection from harm arising from unlawful sexual acts. However, enactment has not been accompanied by training and dissemination of information

on its provisions to police and agents of the justice system. Civil society organizations undertook most of the awareness raising that has occurred. Consequently, most Kenyans are unaware of the law's existence. Poor investigation of cases means that convictions are rare and survivors of violence are thus denied justice.<sup>8</sup>

While Uganda's penal code addresses rape and defilement (rape of a minor below 18 years old), it falls short when it comes to addressing issues of marital rape which is common during conflict. Ugandan law criminalizes SGBV, but the relevant laws are rarely applied. Relevant laws include the Domestic Violence Act of 2010, the Prevention of Female Genital Mutilation Act of 2009, the Prevention of Trafficking of Persons Act of 2009, the National Action Plan on UN Security Council Resolution 1325, and the Penal Code Act of 2007, among others. Ugandan communities are not familiar with these laws, which puts refugee women and girls at greater risk from SGBV while in Uganda. While humanitarian agencies have been redoubling their efforts to raise awareness on SGBV and women's rights, these efforts are likely to yield little in the absence of robust enforcement of the law.

#### ***Poor law enforcement and slow court systems***

In most refugee settlements as well as outside them, police are slow to respond to reports of SGBV and in other areas, there is inadequate police. Most police stations are reluctant to send officers to settlements to arrest perpetrators, primarily because SGBV is still widely considered a private matter. In a few cases where they are willing, police tend to lack investigative skill and capacity for handling these cases. Police stations lack examination rooms and kits to collect evidence from survivors. Moreover, in cases where evidence is collected, stations lack storage space, and in most cases evidence goes missing or is tampered with, becoming inadmissible in court. Court processes are lengthy, and refugee victims are often subject to perpetrator intimidation and prosecutorial bias.

Especially at risk are asylum seekers who hold Refugee Status Determination (RSD) appointment slips, which they get when they register for asylum and which serve as a form of identification. Most law enforcement officers are not aware that the slips confirm the legal status of these refugees as they await the outcome of the RSD process. Survivors who bear the slips are hesitant to approach police stations for fear of police harassment and sometimes extortion or illegal detention. Survivors have also reported that their abusers taunt them and threaten to report that they are in the country illegally.

Aggravated by gaps in law and policy, the reluctant enforcement and implementation of existing policies and laws on SGBV conspire to keep survivors' needs from being adequately addressed. In most cases, police officers accuse survivors of bringing their problems upon themselves. In cases of sexual violence, the police accuse women and girls of dressing inappropriately and thereby inviting violence. When women are beaten, police accuse them of disrespecting their husbands, which they imply deserves 'a slap or two.' The gender-insensitive handling of such cases increases the trauma to women and girls.

#### ***Lack of political will***

Lack of political will and poor or nonexistent accountability mechanisms keep perpetrators from being held accountable for SGBV crimes. There is a paradoxical relationship between national law and cultural belief, which international law does not touch. Where cultural beliefs do not take the national legal framework into account, corrupt leaders are free to advance and justify abuses in their communities. Consequently, law becomes silent and does not protect victims.

Without political will, all efforts to fight SGBV are constrained. With inadequate operational and logistical support, survivors' immediate needs go unmet, and there is no capacity to prevent SGBV. Refugee women who report SGBV return to communities where perpetrators are living, since there are no safe housing facilities where they can stay while investigations and legal processes are ongoing. In addition, survivors are only offered counselling and some small financial stipend. There is no sustainable support to enable them to be self-reliant, so they return to the same jobs where they were abused.

#### ***Limited awareness of rights***

Refugee women's rights are human rights. Women's rights have received greater recognition today, as evidenced by the various international tools relating to women: the Convention on the Elimination of All Forms of Discrimination against Women, the Beijing Platform for Action (1995), UN Security Council Resolution 1325 (2000) and subsequent resolutions, the International Criminal Court, and the UN Declaration on the Elimination of Violence against Women (1993). Yet refugee women's rights are still negated, despite significant steps to address the challenges they face.<sup>9</sup> Most refugee women themselves do not understand these rights, which serves as a further obstacle to redress of SGBV.

**Economic barriers**

Refugee women and girls often take on roles as heads of households in their host countries, usually because they became separated from spouses or traditional male support during flight. As heads of households with a responsibility for children, they are more enmeshed in family networks than are male refugees. Because they may not be self-reliant, their vulnerability to male providers increases. Refugee women's needs for economic resources make them vulnerable to SGBV, and these economic needs are often underestimated. Consequently, some refugee women continue working in abusive environments because leaving these jobs threatens their ability to care for their families.

While the 1951 Refugee Convention recognizes the right to freedom of movement and to seek paid employment, among others, refugees do not see these rights fully recognized in protracted exile.<sup>10</sup> Freedom of movement is a precondition for the enjoyment of other rights; denying it undermines refugees' socioeconomic well-being and increases their vulnerability. Women are particularly vulnerable, as they become reliant on scant humanitarian assistance.

In Kenya, refugees cannot get formal employment without Class M work permits. Although the Ministry of Immigration issues them freely, the process for acquiring them is lengthy and slow—as long as two years. Refugees thus resort to odd jobs and informal sector work.

Uganda requires refugees to get exit permits before leaving their settlements. This impinges on refugee women's self-reliance and economic well-being. Families of SGBV survivors cannot relocate or hire lawyers, and they often rely on legal aid services, where service is slow, the case backlog large, and staffing inadequate. Due to restrictions on movement from within the settlement system and from husbands, most women end up compromising their bodies through transactional sex, which makes them vulnerable to sexually transmitted diseases.

**Cultural norms**

Predominant cultural and social norms perpetuate unequal power relations between women and men, exposing women and girls to vulnerable situations that often lead to SGBV. Unmarried women are often ostracized by both men and women, particularly if they have been violated sexually. Married women risk their spouses divorcing them when they report they have been a victim of SGBV.

Some of the Congolese refugee women become pregnant as a result of rape in the country of asylum. Such women (in most cases who end up being single mothers) are often treated as pariahs, and many opt to live away from members

of their communities. This is because they fear the ridicule that women who have conceived out of wedlock or out of rape often encounter in the community once the information is out. Others who have given birth to children conceived out of rape by rebels or men in host countries are expelled from their communities. One Congolese community member stated “once the men in the community know that a certain woman was raped, they label her as damaged. Such a woman is unlikely to get married as no man wants her.” Gender stereotypes also foster discrimination against women in public spheres. Such stereotypes emerge from socially constructed roles of men and women in society. Stereotypes such as “women are weak, men are strong” make physical and sexual violence against women more likely. A social worker in Kyaka II, for example, noted the cultural normalization of male violence among the Hema tribe living there, saying, “Beating a woman is normal.”

**Inadequate data**

Data collection on SGBV among women and girls remains a challenge since it primarily relies on self-reporting by survivors. In refugee settings and among the Congolese, the stigma and ostracism survivors face after coming forward impede such reporting. Most data is collected from health facilities, but not all victims of SGBV report to health facilities for medical assistance. Fear of ostracism leads many women refugees to avoid reporting abuses when the perpetrators are also refugees. In some instances, the community resolves SGBV cases itself. Indeed, community leaders fear that if SGBV cases are brought to the authorities' attention, perpetrators' resettlement process and status determination will be compromised. Given these obstacles, creation of gender-based violence information management systems cannot adequately address the data collection problem.

**Recommendations**

Governments, UNHCR, and other humanitarian organizations do provide invaluable humanitarian support to refugees. However, a shift at all levels is required if pervasive SGBV is to be relegated to the past in refugee settings.

- **Law enforcement.** Humanitarian actors and host governments should work together to implement reforms in the host countries' justice systems. The law must be tougher on perpetrators of SGBV—for example, by denying refugee registration to asylum seekers with records of committing SGBV offenses. There ought to be screening during RSD interviews to deregister refugees who are found to have committed SGBV offenses. Denial of RSD status to past perpetrators will help deter would-be perpetrators. This will also help ensure that perpetrators do not

continue to live in the same community as their victims and continue threatening them, especially as their cases go to court. Increased funding and partnerships with local legal partners could help refugee survivors access legal services. Police officers need to be trained on how to screen and record cases of SGBV. Better training and equipping of police will also enable them to collect and store evidence. Host governments and local partners can together strengthen witness protection systems and set up safe houses to host survivors of SGBV. Taking such steps to better protect women who have undergone SGBV will restore the confidence of other survivors and encourage them to report their own cases.

- *Political will.* Host-country governments and local authorities should together formulate and implement reforms in all parts of the legal system. The police must be trained to handle SGBV cases in a gender-sensitive manner and be given logistical support to follow up on cases. Corrupt leaders and officials should be prosecuted for failure to enforce the law, whether from reticence or ignorance. Although police stations in Kenya and Uganda are required to have a gender desk, they often do not. Where there is one, it often has no female officer assigned to it.
- *Refugee women's rights.* Host countries, humanitarian agencies, and local organizations need to educate refugee women (and community leaders) on their rights. Women and girls should be fully aware of what constitutes SGBV, where to report cases, and how to protect evidence so law enforcement officers can collect it. Refugee women and girls also need to know their rights as refugees and what protection their legal documentation affords them. Knowledge is power. If women are made to believe their asylum certificates do not entitle them to protection, they will be less likely to report crimes perpetrated against them. Local and nationwide awareness raising and advocacy can also help prevent sexual violence, abuse, and exploitation of refugee women.
- *Economic barriers.* The government, UNHCR, and other humanitarian agencies working in refugee settings need to help survivors find long-term solutions to secure their livelihoods. This could include providing market information, access to loans from financial institutions and grants to start businesses. The government should remove restrictions on refugees' movement so they can more readily find much-needed employment and earn supplementary income. The prime minister's office should review laws regarding refugees' permission to exit their settlements to seek work. They should speed the issuance of exit permits and let refugees move freely within and outside settlements without questioning.

- *Cultural norms.* The host government and other humanitarian actors should engage with local community leaders so they understand the national laws that protect refugee women. These leaders should learn of the adverse effects of early marriages on girls, the need for educating girls as well as boys, and the need for women to be represented at all levels of leadership. Refugee communities should hear how gender stereotypes promote SGBV. All humanitarian actors and leaders in local communities should be trained in use of gender-sensitive language. Male engagement is fundamental. Because the ethos of patriarchy has permitted men to perpetrate SGBV, men must be involved in preventing further violence. International and local agencies serving refugees should incorporate men in programming on raising awareness, becoming peer educators in the fight against SGBV, and engaging them in resolving family conflicts. Such programs go hand in hand with the need for programs for empowering women and girls to find safe means of sustaining themselves.
- *Data collection.* All humanitarian actors and host governments should stress the urgency of reporting SGBV. They should urge refugee communities to end stigmatization of survivors and to encourage women to report their cases to the police, crime scene investigators, and health officials. When SGBV occurs, survivors should know where to go first.

Finally, the governments of Uganda and Kenya should consider local integration as a more permanent solution for long-term refugees. Both should review previous research work on the benefits of such integration for the host countries and educate host communities of these benefits and encourage refugee communities to embrace resettlement solutions.

## Conclusion

The UN Declaration on the Elimination of Violence against Women affirms that violence against women constitutes a violation of women's rights and fundamental freedoms. Further, Article 4 of the African Union's Maputo Protocol is devoted entirely to the topic of violence against women, calling for a range of state measures: punishment of perpetrators, identification of causes of violence against women, and provision of services for survivors.

Yet, SGBV in refugee settings continues. Host governments must take seriously the mandate to protect all women within their boundaries. Failure to protect refugee women and girls seeking asylum constitutes a failure on the part of the host government. International actors, local actors, and the African Union must work closely with host governments to help them meet the obligations to which they committed when they ratified these protocols and other conventions that seek to end SGBV.

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