

Part A

The factors influencing the decisions of women refugees to leave camps or settlements and settle in Kampala City

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CHAPTER ONE

Introduction

This study was conducted in Kampala City, Uganda between October 2003 and January 2004. It sought to investigate the factors that influence refugees (especially women) to leave refugee camps or settlements, where they are officially resettled and to reallocate in Kampala City. The study used the international human rights approach, to establish the factors that drive refugee women into urban areas but also to amplify the complexities which arise from the unheard voices and experiences of women refugees. Immediately after a refugee woman has successfully crossed to a safe haven, a significant question arises: ‘Where am I going to stay? Where are they resettling me?’

The study has confirmed and validated most of the study assumptions which were based on the assumption that refugee women move to urban areas because refugee camps are not conducive to their staying.

The dissertation consists of six chapters. The first chapter starts with a poignant story depicting women’s lived realities, gives an historical overview, the statement of the problem, the justification, the objectives, the assumptions, the research questions, and the significance and demarcation of the study. The second chapter discusses the importance and limitations of the various research methodologies and instruments used. The study findings and analysis are presented in chapters three, four and five, and the last chapter is devoted to recommendations for the way forward and conclusions of the study.

‘Widow’s tears run dry’

Six years ago, on the 31 January 1998, in the middle of the night, Susan (not real name), a Kuku woman from Southern Sudan started her journey from Kajokeji town in the Equatorial Province. Little did she know that she would eventually end up in Kampala as an urban self-settled refugee. She fled from the turmoil of the raging protracted war between the Sudan Peoples Liberation Army (SPLA)¹ and the Khartoum Islamic Government that claimed her husband’s life — her tears continued for more than three months. She trekked for eight days (day and night with her four children — two girls and two boys, aged 18, 15, 12 and 8 years old) crossing the Sudan–Uganda border to Moyo district where she was received and sent to Olisi Refugee Transit Camp awaiting clearance and status acquisition. Six months later, after a long struggle with the police, the Office of the Prime Minister (OPM) and the United Nations High Commissioner for Refugees (UNHCR) officers, Susan and her

¹ SPLA – Southern Sudan Comrade John Garang led rebel group, fighting for the liberation of mainly the Christian Southern Sudan from the Khartoum Islamic Government.

four children were granted refugee status and were resettled at Maagi Refugee Settlement.

In her new status as a mother, ‘father’ and more so as a woman in the settlement Susan faced various problems, including lack of food and medical care, poor facilities, and gender violence such as sexual harassment from the former friends of her deceased husband and relatives, but worst of all, she felt insecure. A tragedy took place on 14 July 2002, when a group of about 150-200 Lord’s Resistance Army (LRA)² rebels, raided their settlement, killing five refugees (of which four were her children) and a Ugandan soldier. They burnt down 127 refugees’ huts, including hers. Five classrooms in a refugees’ school and the dispensary were also destroyed and looted. After burying and mourning her children for two months, the rebels came again. This forced her to flee and settle in Kampala. Now she feels much safer, although she is still facing a lot of other problems.³

This heart-rending story is the tragic lived reality of many women refugees settled in urban centres in Uganda, including Kampala City, and it is useful in understanding why refugee women move to urban areas.

Historical overview

Kiapi (1998:35) argues that the phenomenon of refugees started as soon as mankind merged into organized communities. The causes of this refugees’ phenomenon are twofold:

- Natural disasters like droughts, floods, earthquakes and so on;
- Man-made disasters, for instance, wars and oppression by rulers.

Since the second world war Uganda, has continued to be an epi-centre for refugees, partly because of its geographical location in the centre of the Great Lakes region — an area characterized by instability and conflicts.⁴ Her history of refugees and asylum seekers is double-edged as a source or generator of refugees and as a host of refugees.

Uganda as a source of refugees

Uganda’s history as a source or generator of refugees can be placed into two phases. The first was during the 1960s and 1970s, when upheavals under ex-presidents, Obote and Amin, generated refugees within the region who fled to Sudan, Congo, Rwanda, Kenya, Tanzania, and other countries further afield. Uganda expelled all Ugandan citizens of Indian origin — a massive exodus that was eventually followed by the flight of large numbers of political and academic

² LRA – Is the Northern Uganda rebel group, led by Joseph Kony, fighting the Kampala Government.

³ A story of a woman refugee respondent from Sudan, interviewed on 23/11/2003.

⁴ Refugee Working Paper 2, 2001:3

intelligentsia. The second wave came during the 1980s and 1990s which saw more influx into neighbouring countries. In 1980, almost the entire population of West Nile and Madi region was forced into exile⁵, into Sudan and the Congo. The National Resistance Army/Movement (NRA/M) 1986 clash with the political or military factions in the north led to more people being forced out of Uganda.⁶

Ironically, Uganda's reputation as the producer of refugees⁷, has not been given high political profile, yet refugees are crucial in the resolutions of the intractable ethno-religious rebellions that have ravaged the north and south western parts of Uganda, and most sections of the great lakes region. Uganda's image as an unstable refugee producing country has been downplayed.⁸ This is just one side of Uganda's history of refugees — as a source or generator of refugees.

Uganda as a host for refugees

Before attaining independence in 1962, Uganda was already a destination for many European refugees.⁹ Between 1942 and 1944, 7000 Polish refugees — mainly women and children — were received in Uganda (Pinycwa, 1998:19). These refugees were settled in different camps established in various (remote) parts of the country. The Polish were settled in two camps, Nyabyeya in Masindi district and Kojja (Mpunge) in Mukono district. Italian prisoners of war were resettled in Jinja and civil internees were settled in Entebbe. Arapai camps in Soroti district accommodated civil internees including Hungarians, Germans, Austrians, Romanians, Bulgarians, Yugoslavs, the stateless Jews and even some Egyptians.

The next wave of refugees came into Uganda between the 1950s and 1960s. From the Anglo-Egyptian Condominium of Sudan¹⁰ between 1955 and 1956, 5,000 Sudanese asylum seekers were received and resettled in the northern parts of Uganda.¹¹ In the 1960s and 1970s, the Anyanya rebellion against the repressive Khartoum Islamic Government, made thousands of Sudanese flee to Uganda.¹² This influx was soon followed by numerous refugees generated by unrest in the aftermath of the various struggles for independence in neighbouring countries. Good examples of this are the influx of Sudanese who fled due to the conflict that followed Sudanese independence, Kenyans during the Mau Mau struggle, Rwandese escaping the disastrous civil wars¹³ of 1959 (which forced 78,000 'official' refugees into Uganda) (Prunier, 1999:62-63) and

⁵ Nabuguzi, 1998:53 - Obote takeover in 1979 and its aftermath in 1980s.

⁶ Refugee Law Project Working Paper 2, 2001:4

⁷ USCR, October 2, 2001 estimated about 20,000 Ugandans to be in Diaspora

⁸ Zambia legal Resource Foundations 2002:89

⁹ These European refugees were Polish, Italians, Hungarians, Germans, Austrians, Romanians, Bulgarians, Yugoslavs, the Stateless Jews and even some Egyptians Prisoners of war and Internees.

¹⁰ Refugee Working paper No. 2, 2001:3

¹¹ Zambia Legal Resource Foundations, 2002:90

¹² Northerners because of ethnic similarities warmly received and accommodated their Sudanese brothers and sisters-Anyanya, till 1970s when the then President Obote fell apart with the Anyanya, because of supporting their Ugandan kin Amin.

¹³ Ethnic conflicts between the Tutsis and Hutus, is the major cause of influx of refugees to neighbouring countries, fleeing from ethnic discrimination and recrimination. Between 1962-63, approximately 10,000

Congolese in the aftermath of Lumumba's assassination in 1961. Uganda also received a number of refugees from Ethiopia and Somalia during that period.¹⁴ These waves of asylum seekers continued through the 1970s and 1980s until the cumulative number of refugees peaked at 300,000 in 1995 (USCR, October, 2001).

The third and most important wave of refugees in this study is the influx from the 1980s to the present. This is when most countries experienced intense internal conflicts and struggles for democracy. Sudan, for instance, experienced the SPLA¹⁵ struggle against the Khartoum Islamic Government of General Omar El Bashir. This has led to a massive influx of refugees to Uganda; today conservative statistics¹⁶ show that there are 175,902 Sudanese refugees out of 207,519 refugees in the country. The rest are from the Democratic Republic of Congo (DRC), Rwanda, Somalia, Kenya and Ethiopia, among others.¹⁷ The 1990 Rwandan Patriotic Front¹⁸ success, and eventually the 1994 Rwandan genocide, caused fresh displacements and eventual exiling of approximately 10,000 Rwandan refugees to Uganda, many of whom were Hutus and moderate Tutsis. Rwandan refugees are the second largest group in the Ugandan caseload. Before the repatriation, which started last December, there were 19,473 refugees. The Democratic Republic of Congo conflicts between government forces supported by troops from Zimbabwe, Namibia, and Angola, on one side, and rebels¹⁹ backed by Uganda and Rwanda²⁰ on the other, generated the third major group of refugees in Uganda. Coupled with ethnic conflicts between the Bahema and Balendu, more refugees have been and continue to be generated.

Before focusing on Kampala self-settled refugees, it is important to emphasize two crucial issues about earlier settlements of refugees. The first is that the Polish and other subsequent refugees were resettled in remote, secluded camps. This was probably because of their racial linkages with the colonialists; the policy that governed these refugees was aimed at retaining white superiority through restricting what was considered 'illicit contact' with blacks. As such, entry and exit from the camps was restricted. This eventually set the precedent for later refugee settlement policies, with many repercussions for and against refugees, the government and the UNHCR. The other striking feature in the Polish refugee regime was that the refugees administered themselves in their enclosed camps (Zambian Legal Resource Foundation, 2002:89-90). This kind of indirect rule was however dropped with the influx of the black refugees. The Ugandan government took

Rwandese asylum seekers flocked to Uganda bringing the total number of registered refugees to about 40,000.

¹⁴ Refugee Working paper No. 2, 2001:3

¹⁵ SPLA rebel movement started in 1956. The war in Sudan, now in its fifteenth year, has many causes: racial, religious, regional, resources (the Nile water and oil), and cultural.

¹⁶ There are no reliable refugee statistics on the exact number of refugees currently in Uganda, as noted by US Committee of Refugees October, 2001 and Zambia Legal Foundation Publications 2002:90, Van Der Meeren, 1996:261, in Journal of Refugees Studies Vol. 9 No. 3 and Refugees law Project Working Paper 6, 2002:3 and 6. A sentiment confirmed by the confessions of the Jesuit refugee services Urban Project Programme officer, Refugee Law project official, THE OFFICE OF THE PRIME MINISTER officer, and SHRA officer. Jesuit refugee services Urban Project Programme officer commented that, "it is even worse for urban self settled refugees, which we estimate to be twice the total number of refugees in Uganda"

¹⁷ UNHCR Refugees' Statistics as at the end of October 2003, in Uganda.

¹⁸ RPF were mainly Tutsi dominated force that ousted Habyarimana in 1994.

¹⁹ Amnesty International (2000:77) Among the prominent rebel groups were, Goma based - RCD Goma, RCD-MLC, and those in Kishangani – RCD Kishangani and RCD Bunia.

²⁰ UN 2001 Report

direct control of the refugees for a number of reasons, most probably, for instance, because of the threat posed by the refugees, because the government viewed refugees as temporary visitors in transit, because of the massive influx, or because of their needs.

Kampala self-settled refugees

There are four types of refugee status granted by the Ugandan government. These are given according to vulnerability, settlement area and help given as can be seen below:

- 1 The highly vulnerable are mainly political and military refugees. These are largely on a prima facie policy; they are urban settled — part of the urban caseload.
- 2 The less vulnerable who are professional, economically able to sustain themselves or those who have acute medical complications, are granted urban status, both as urban-settled and either self-settled or as part of the urban caseload.
- 3 The less vulnerable who are considered unable or are actually unable to sustain themselves in urban centres, are settled in camps or settlements, under UNHCR and the Uganda government's direct assistance.
- 4 'Self or irregular movers' are refugees who move from camps or settlements with or without the permission from the office of the prime minister and eventually self-settle themselves in Kampala City.

These refugees are not entitled to any assistance, except for those who are emergency medical cases, and then only on a cost-sharing basis. This last category, namely the urban self-settled refugees, is of paramount importance to this study. UNHCR (2002:3) terms them 'self movers'— they are refugees who come and settle in Kampala with or without the permission of the office of the prime minister or those who come to attend to private business. They are, however, almost impossible to access (Tyrrell, 2002:15), even for those on the urban caseload. There are humanitarian organizations, for example, the Jesuit Refugee Service which helps urban refugees and asylum seekers access basic necessities, the Refugee Law project which helps refugees access justice through legal representation, advocacy and lobbying, the Sudan Human Rights Association which monitors their wellbeing and does advocacy and lobbying and obviously Inter Aid Uganda, an implementing partner of UNHCR (Appendix V-IX), that are helping asylum seekers and urban self-settled and even those on the urban caseload, with basic necessities of life, monitoring refugees' settlement conditions, lobbying and advocating refugees' rights.

The Kampala urban self-settled refugees' phenomenon acquired particular prominence after the influx of Somali refugees in 1993.²¹ These settled in the slum areas of the city, for instance Kisenyi area (central division), one of the poorest sections of the city, and a place now known as 'the refugee capital in Uganda'. Others who came later settled in other slum areas of the city — about 100 Sudanese families settled in Rubaga division,²² Makerere Kikoni (Kawempe division) and Nanjanankumbi in Makindye division, for instance at Bondeko Centre. These were mainly Sudanese and Congolese. It is important to note that there are many self-settled refugees in

²¹ Huff (et al) (2002:5): quoting Mulumba 1998 over 2347 were registered by December, 1993.

²² Refugee Working Paper 6, 2002: 18.

Kampala City.²³ With this increasing trend the question is why? Why are refugees – women and men – moving away from the settlements or camps to self-settle in Kampala City? What are the push and pull factors?

Statement of the problem

Some research has been done, about the plight of refugees living in refugees' settlements, and those in urban areas. There seem, however, to be no studies carried out to show whether urban refugees' self-settlement occurs due to conditions in rural settlements. There also seems to be no research specifically focusing on women's lived realities and experiences as refugees.

This study attempts to investigate the linkages in this apparent gap of knowledge of refugee settlements. It will examine whether one is a consequence of the other. Overall, the study tries to answer one major question: Why do refugees (especially women), move away from refugees' settlements and settle in Kampala City, in spite of all the help they receive in the refugees' settlements? In other words, what are the factors at play leading to Kampala self-settlements?

Justification of the study

The Kampala self-settled refugees' situation is a serious issue of concern to the Uganda government, UNHCR, civil society and refugees themselves. The government Control of Aliens Refugee Act CARA 64 prescribes that refugees should be settled in camps or settlements, not in towns. The Office of the Prime Minister and UNHCR personnel find it much easier to access and assist refugees in a gazetted place. As noted by *The New Vision Newspaper*, (Monday, January, 2004:5), the state minister for disaster preparedness and refugees:

... warned refugees against relocating from the gazetted camps, saying this undermined the government plan to cater for them.

Apart from easy accessibility, the need to control refugees' activities, movements and security, makes resettling refugees in remote isolated places ideal. Those refugees who move from camps or settlements without the Office of the Prime Minister permission and self-settle in Kampala City are CARA 64 law breakers.

The civil society has made a lot of allegations against the refugees, linking them to crime and vices. The member of parliament for Rubaga South (where most Sudanese are self-settled), Ken Lukyamuzi, alleged that refugees are robbers, and cause insecurity in his constituency. The refugees alleged that he put his people against them.²⁴ Moral breakdown is also blamed on them, for instance, prostitution. Above all, there is the quarrel about small jobs and trade markets which nationals feel should be left for them. Many local leaders have raised concerns about their existence, yet nothing seems to be done to curtail their influx into Kampala City.

²³ Refugee Working paper 6, 2002: 6, quoting Machiavello 2001:1, notes that while UNHCR lists about 400 registered Somali refugees in Uganda, mostly based in refugee settlements west of the country, there are perhaps ten times as many Somalis refugees in Kampala.

²⁴ Bukedde Newspaper, 10th, July, 2002, Article: MP Ken Lukyamuzi, "Nje Kwekalakaasa".

What the general public seems to be unaware of is that refugees encounter lots of problems, particularly women refugees. Apart from psychological torture from the public, they lack the basic necessities of life like food, shelter and, above all, security. Since the Uganda government and UNHCR consider refugee settlements as the centres for assistance, refugees living in Kampala face many hardships, yet it still seems better to them than staying in camps or settlements.

Many self-settled refugees seem to be facing different kinds of hardships, because of the apparent ignorance of the lived realities in settlements or camps, and even in their urban settlements.

There seems to be insufficient empirical data about urban self-settled women refugees' movement from camps and their eventual settlement in Kampala City. Some research has been done to highlight the refugees' plight in camps or settlements and urban areas, but nothing seems to link urban refugees settlements to conditions or issues arising from rural camps or settlements.

This study seeks to bridge this apparent gap of knowledge of refugee settlements, showing one as a resultant factor of the other, by establishing the push and pull factors leading to Kampala self-settlements.

The objectives of the study

The main objective is to establish the factors influencing the decisions of women refugees to leave camps or settlements and settle in Kampala City, in order to propose policy changes more conducive to refugees' settlement.

The specific objectives are:

- 1 To establish the 'push and pull' factors leading refugees to self settle in Kampala City.
- 2 To suggest policies to better the lives of refugees in and out of refugee camps or settlements, especially focusing on conditions for women refugees.

The assumptions of the study

The study was based on the following assumptions:

- 1 That there are more conducive conditions (housing, amenities, security, and freedom of movement) in the city, which influences refugees to settle in Kampala City.
- 2 That there are economic opportunities (trade and jobs) in the city, which influence refugees to move from the refugees' settlements and settle in Kampala City.
- 3 That the nationality and ethnic origins influence refugees to move from the refugees' settlements and settle in Kampala City.
- 4 That there are inherent weaknesses within the UNHCR and Uganda government policies, which influence refugees to move from the refugees' settlements and settle in Kampala City.

- 5 That the quest for education influences refugees to move from the refugees' settlements and settle in Kampala City.
- 6 That gender issues (sexual harassment, rape, women's recruitment for sex at war, forceful recruitment of boys), influence refugees to move from the refugees' settlements and settle in Kampala City.

The research questions

The following were the research questions derived from the assumptions:

- 1 What are the conducive conditions that pull refugees to settle in Kampala City? Is it housing, or medical provisions in the city, which influences refugees to move and settle in Kampala City?
- 2 What economic opportunities influence refugees to move from the refugees' settlements and settle in Kampala City? Is it trade and search for jobs in city?
- 3 How do issues of nationality and ethnic origins influence refugees to move from the refugees' settlements and settle in Kampala City?
- 4 What are the UNHCR and Uganda government policies on refugees and how do they influence the settlements of refugees in Kampala City?
- 5 Does the search for education influence refugees to move from the refugees' settlements and settle in Kampala City?
- 6 What are the gender issues that influence refugees to move from the refugees' settlements and self-settle in Kampala City? Is it sexual harassment, rape, women's recruitment for sex at war or boys' forceful recruitment?

The significance of the study

It is hoped that the study will be of benefit to organizations, personnel, and general public by raising awareness and result in eventual reforms of refugees' policies and laws.

- 1 The study seeks to provide useful information to service providers about refugees' plight, especially their settlement.
- 2 The study aims to provide insights for organizations dealing with refugees and areas of intervention to improve the lives of refugees. This will provide 'a basis to start from' in handling women refugee's plight.
- 3 The study seeks to make valuable information on the efficacy of the refugees or clients' laws and policies available to inform human rights activities, research on refugees', non-governmental organizations dealing with refugees, policy makers and opinion leaders.
- 4 The study also aims to make the voices of the women heard, so as to influence policy changes, pointing out the inadequacies of the current liabilities in the refugees' laws and policies.

- 5 The study underscores the importance of refugees' settlements. It is hoped it will lead to positive changes in refugee settlements.
- 6 The study hopes to identify useful areas that require further research, using this study as a background.

CHAPTER TWO

Research methodology and methods

A number of research methodologies and methods were used to collect data. These included: the women's law approach, grounded theory, legal pluralism and the case study approach. These were used because of their peculiarities and uniqueness in data collection, as is explained more fully below.

The women's law approach

The women's law methodology was one of the major approaches that I employed in this study. It takes women's lived realities as the starting point. It engages empirical data of these lived realities to explain the position of women in relation to the law and society. This approach brought out the deep experiential data from women, as to why they had to move and self-settle in Kampala, in spite of the law's prohibitions and society's negative reception. It was able to bring out the intricacies women are involved in, in and out of refugees' settlements, to highlight the differences. It's a women-centred approach, which was able to provide deep insights into women's lived realities, which I was able to pursue with the case study approach.

The women's law approach also enabled me to identify the law as a stumbling block to the lives of the refugees, for instance, CARA (60), chapter 64 of the Laws of Uganda. Taking the emphasis of the respondents about the law, I was able to discover that, for instance, it limited their freedom of movement and association, which eventually hindered their search for jobs and trade opportunities outside the settlements, rendering them completely dependent on the UNHCR provisions. This gave me a basis for deeper exploration through legal pluralism.

This approach too encouraged the exploration of gender issues, to get the whole perspective of the refugees' situation. The women's law approach was able to point out the similarities and differences in causal patterns of actions. This was a good start toward defining appropriate steps to remedy the refugee influx problems for the Uganda government.

Having people's lives as the starting point, the women's law approach enabled me to use the following real-world opportunities as they arose. The first occurred when I was leaving the Inter Aid Uganda office, about to board a taxi to the Refugee Law Project office. A man and a woman were walking in front of me when the man suddenly collapsed. With concern, I ran to help him, and discovered that the man was a refugee, who had gone to Inter Aid Uganda to seek medical help. I introduced myself to him and having helped him, he and his wife were willing to answer my questions; they even took me to where they were staying in Rubaga Road.

The second opportunity was when I had gone to Christ the King Church and was approached by a woman beggar, for some money.²⁵ I engaged her in some conversation and I discovered she was

²⁵ Christ the King Church is one of the catholic churches in the city, where there is daily mass. This was on the on 19/21/00, lunch time mass.

a Congolese refugee, living in Kampala. I therefore used this opportunity to ask her about her experience in urban settlement, and how she left the Congo and eventually the Nakivale refugee settlement.

When I was passing an evening in Speke Hotel-Kampala, after work, an opportunity arose when a woman came and sat next to me, requesting company. After conversing with her for some time, I discovered that she was a refugee from Tanzania, who had lived in Kampala for over five years, earning a living by sex work. When I probed into the issues of prostitution among refugees in Kampala, she disclosed that many of the 2,000 sex workers are refugees, mainly from Rwanda and Congo. This supported the theoretical information I was given by other respondents.

Grounded theory

With my assumptions at hand, this approach enabled me to check on the realities on the ground. One of my assumptions was that gender issues were major causes of refugees' influx in to Kampala. This included issues like sexual harassment, rape, forced recruitment and sexual slavery, to mention a few. According to the respondents, gender seemed to be the least important factor but after a critical look at the factors they were considered paramount. For example, taking the issue of insecurity, I discovered that issues like fear of rape, escape from sexual harassments and sexual slavery were emphasized. This showed how substantially significant, this factor was because it cut across the other factors.

One outstanding feature of the grounded theory that I used to the maximum in my study was the flexibility of the research design. It allowed me to change, make adjustments to the course of actions and concurrent data analysis, which enabled theory building. For instance, when new issues that were not part of the assumptions (for instance, the issue of relations as a factor) arose, I was able to incorporate and further pursue them to gauge their magnitude with later respondents.

This approach also enabled me to limit the number of respondents and data collection. It set boundaries for deeper probes on some issues and postponing probes on others until information is extracted from one section of respondents. For instance, after all Congolese respondents emphasized insecurity in their settlements as the major factor for the leaving and settling in Kampala, I went a head to find out the types of insecurity and triangulate the information with the Sudanese. Even among the Congolese, putting into perspective ethnicity and settlement location, probing one thing at a time and comparing the findings with others' experiences, proved very beneficial in the study.

Grounded theory approach, promotes the comparison of similarities and disparities between data collected from different areas with the ongoing reviews of the original plans. I found this very useful because it enabled me to compare findings from one nationality, ethnicity, settlement and sex, against others. For instance economics was pointed out as being one of the driving factors for the movement and settlement of the refugees in Kampala City. This approach, however, enabled me to go to the 'nitty-gritty' of the economic activities, to find out who does what, where and how. This enriched my understanding of the 'whole', with many 'parts' in detail.

Legal pluralism

Refugees' movements in Uganda is governed buy the Ugandan municipal law, CARA 60 (64), and a number of international human rights instruments including; the universal; Declaration on HUman Rights, (1948), the Convention Relating to the status of Refugees/Geneva Conventions (1951), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic Social and Cultural Rights (1966), the Convenant on Elimination of all forms of Racial Discrimination (1966), the Convention on the Elimination of all forms of Discrimination Against Women (1979), the African Charter on Human and People's Rights (1981) and the Protocol Relating to the status of Refugees (1967). While the international instruments tend to emphasize the refugee rights' to move and even choose where to settle, the municipal law tends to hinder the enjoyment of these rights. With a plural legal system, the phenomenon of refugee movements can be adequately investigated by the legal pluralists' methodology that seeks to know how the law impacts on peoples lives, as is highlighted in findings.

Much as the two approaches above could ably explain reasons for the women's movement and settlement in Kampala, it falls short of exploring the legal concerns at play. The legal pluralist's methodology emphasizes that women's patterns of behaviour can be adequately explained by sets of laws, including state law and international laws. This methodology enabled me to confirm some of the social factors which prompted people not to conform to legal provisions, a signal to concerned parties to redefine the law. This methodology is law-centred, leaving out gaps that were filled by other methodologies. For instance, most of the refugees who flee to Kampala would have broken the CARA law, not all of them move to Kampala in reaction to the law but because of other factors.

The case study approach

This approach emphasizes the study of a small sample with particular cases for a deeper understanding of the general phenomenon. These respondents were chosen from information obtained by the other methods of data collection – key informants, in-depth interviews and group discussions. To enable a deeper probe into the issues raised through the other methods, a smaller sample was chosen. I had six case studies of four women and two men which enabled me to record the life histories of the refugees, starting from their mother country to their self-settlement in Kampala.

The case studies proved valuable in that I obtained detailed information which I could not obtain through other methods. The tragic experiences like that expounded in the 'Widow's tears run dry', are revealed through a deep mutual appreciation and trust built between the respondents and the researcher through protracted interaction.

This methodology is however, time consuming; it requires time to gain the confidence of the interviewees and find out detailed information from them. The data from case studies is also limited, largely by the way in which the cases were identified. It may not ascertain all women's lived realities, but those few cases enriched the information collected by other methods. For instance, general information about conditions in settlements, and ethnic tensions were unearthed through this methodology, where respondents shared their lived experiences.

Research instruments and methods

Both primary and secondary research methods were used in this study. These included the following:

Secondary methods

Literature review and records analysis

The secondary tools used included a literature review and statistical analysis. Library research was an ongoing process throughout the research. I looked specifically at the literature about refugee settlements, and urban settlement. Literature reviewed were: magazines (for example, Sudan Human Rights Association (SHRA), refugees' journals, newspapers (*The Sudan Mirror*, *The Monitor*, *The New Vision*, *East African*), published and unpublished dissertations and papers (Refugee Law Working Papers, Human Rights watch (2002), Tyrrell (2000), Tamale (*et. al*) (1997) and other books. These enabled me to gain insights into and conceptualize the issues affecting refugees, and showed where to lay emphasis.

Records analysis of the statistics from the UNHCR and Jesuit Refugee Services revealed the inadequacies in the official government systems vis-a-vis what was happening on the ground. The statistics do not reflect the actual number of people in the city. For instance, just in the two days that I moved around the city to observe the economic activities of refugee women, I counted more than 100 refugees in Kampala City.

Primary instruments

The primary instruments included key informants, in-depth interviews, focus group discussions, case studies and passive observations.

Key informants interviews

With my open-ended questionnaire, I started by interviewing key informants who were personnel in refugee-related non-governmental organizations. This was to pave the way for access to the refugees since they act as 'gatekeepers' to the refugees — their clients. They were selected on the basis of the 'key' or influential positions that they hold in these refugees organizations, for

instance, the director and programme officer from Jesuit refugee services, the director and legal adviser from the Refugee Law project, protection officers of the Office of the Prime Minister and IAU. These are people who interact with the refugees on a daily basis, and are exposed to their problems and challenges of life in and outside settlements.

Having volunteered with the Jesuit Refugee Services, I was introduced by the urban project director to the Refugee Law Project. Both directors were my first key respondents. They referred me to relevant literature and documents; above all they gave me deeper insights into my subject of study. Furthermore, the two directors helped identify and introduced me to the first two influential refugees' leaders whom I worked with who led me to others. Fortunately, one was from Sudan and the other was from Congo, both men. It was important to win the refugees' confidence to enable accessibility.

The 'dung beetle' sampling method greatly worked to my advantage. Having won their trust, largely through their leaders, I was able to access refugees, even in their homes and places of work. This was all possible through using key informants to gain access to their clients.

Using key informants as a tool was not however, easy; some consultations turned into an 'indaba'.²⁶ Some key respondents were not easy to access and securing an interview, for instance, with the protection officer of UNHCR was not possible. This was not because he was unwilling to be interviewed but because of his tight work schedules. He cancelled appointments with him five times; On one occasion just when I was being checked in at their gate, I received a call from his secretary telling me it was not possible to meet me. With the flexibility of the grounded theory approach, I had to seek an alternative and this led me to the protection office of Inter-Aid Uganda – a UNHCR implementing partner, where I believe I found most, if not all, the information that the UNHCR protection officer would have given me.

In-depth interviews

This was the main tool I used to collect data in this study. I interviewed a total of 50 respondents, as can be seen in table I.

TABLE I: SAMPLE OF RESPONDENTS ACCORDING TO NATIONALITY, SEX AND METHODS OF DATA COLLECTION

²⁶ 'Indaba' is an Ndebele word for problems or news, but in this case it means problems.

SEX			DATA COLLECTION METHODS			
NATIONALITY	F	M	KEY INFORMANTS	INDEPTH INTERVIEWS	GROUP DISCUSSIONS	TOTAL
CONGOLESE	32	19	1	30	2 (Each10)	51
SUDANESE	16	7	1	18	1 (Each 04)	23
RWANDESE	2	-	-	2	-	2
UGANDANS	3	2	5	-	-	5
TOTAL	53	28	7	50	2 (24)	81

This was my most favourite instrument because it elicited all kinds of information. I was able to capture women’s voices in a confidential 1-2 hour in-depth sharing session. After gaining access through their leaders this method, proved to be very useful. I used the two leaders to help identify and access other respondents in the same way — I was targeting men and women who had lived in settlements, left and were self-settled in Kampala City. The length of time spent in Kampala as self-settled refugees was variable — some who had just come gave me their ‘fresh’ reasons, which I was able to compare with others who had lived there for over 15 years.

For the sake of a conducive and enabling environment, and noting the sensitivity of my study, interviews were conducted in private settings, either in refugees’ homes, or in Jesuit Refugee Services or Refuge Law Project premises, though some even accepted being interviewed in restaurants; these were especially men and a ‘business’ woman who could not take time off during the day so preferred to meet in the evening and the best place to meet them was a restaurant. However for the shake of privacy and the respondents’ comfort, I would interview them in secluded parts of the restaurant. Men and women openly shared with me their lived realities and experiences in and outside settlements.

At first I thought I would use the open-ended questionnaire, with each assumption being addressed by a set of questions, but reaching the field I realized that to ask the refugees to share their experiences of leaving their homeland, travel, entry to Uganda, status determination, resettlement, movement from settlements and eventual settlement in Kampala City was a much better approach. At the end of each narration, most of the answers sought would be gained, giving me the opportunity to probe only issues that needed clarification or more detailed information. This was an integrated case study and in-depth interview method which gave respondents lots of room to share their experiences. This enabled me to draw data from their life histories.

Apart from the free sharing of experiences without interrupting the flow of the stories²⁷, in-depth interviews elicited important concerns and opinions about the study in terms of ranking. By the ranking method, they were able to tell me in order of importance the factors that prompted them to move and settle in Kampala City. With that I was able to make a summary of responses as can be seen in table 5.

One of the challenges I encountered in using this method was that I ended up being a ‘local donor’ for their basic needs – through developing too much emotional attachment to them,

²⁷ For privacy, confidentiality, security reasons and on their requests, all interviewees’ names have been changed or withheld.

instead of keeping my distance. Though I tried to be as humble as possible, not to be mistaken for a rich researcher, their plight inevitably moved me to help and I ended up buying basics like bread and sugar or even giving them some money. This however, was not the pre-condition for acceptance, it was more a moral responsibility on my part for ‘one cannot be interviewed, when hungry’. This gave me a ‘place’ in their homes where I was accepted as ‘one of them’. Some interviewees would even offer tea before the ‘real business’ of talking began. All these interviews were conducted in a friendly, open and hospitable environment.

Focus group discussions

This was one of the instruments that I used to gather general information about women’s lived realities and experiences. It enabled them to divulge information disguised as hearsay or as events they had witnessed. With this approach individuals tended to be freer in expressing their general opinions and one person’s views could easily spark off others. This gave me a rich source of ‘skeletal’ data which was fleshed out through in-depth interviews, case studies and even observation.

The gender perspective of the study emerged in two discussions groups where I was able to interview both men and women of the same nationality and status and in the same plight. This gave me insights into issues that I was able to follow up using the case study or the in-depth interviews.

The only challenge in using this method was the language. In two groups that I held with the Congolese I had to use an interpreter. Even though he was very competent and some respondents knew English, I missed the first the first-hand quotations from the respondents themselves.

Passive observation

Passive observation was another method that I used to gather data about the economic activities that refugees were involved in. I visited refugees’ tailoring and design shops, and restaurants²⁸ and took my wife to one of their saloons in Bugolobi to give me an opportunity to observe their business — some were groundnut sellers and ‘Batembeyi’.²⁹ With the help of two research assistants, I was able to count (over two days), more than 100 refugees in Kampala City involved in different economic activities.³⁰ This method exposed me to the survival methods of some of the self-settled refugees in Kampala City. It also occurred to me that that these people were operating ‘illegally’ and yet earning a living so given a ‘legal’ chance they could even do better. It revealed the real drama of refugee life in Kampala City.

Because of the sensitivity to their status considering their position in the workplace it was not possible to find out more about them in the streets, shops, saloons, and bars. These gaps were however, filled in by other instruments as discussed above.

²⁸ Refugees’ run Restaurants are eg Hotel Fiancée, Anika etc

²⁹ ‘Batembeyi’ a Luganda word for hawkers.

³⁰ Research Assistants – For the sake of accessibility, I had to use a Sudanese woman and a DRC man

The case study approach

The case study approach in this research was used both as a methodology and a method. As a data collection instrument it was useful in eliciting detailed information of the lived realities of women, by using just a few cases – four women and two men. Having elicited general information through other methods, the case studies enabled me to probe deeper into specific issues through particular respondents. They gave a wide range of insights which enriched the triangulation of the findings, giving a broader perspective to the study.

While the case studies I present here may not necessarily be representative, to give the substantive profile of the women refugees' lived realities and experiences in Kampala, they give the general picture of the circumstances that prevail in and outside settlements.

The demarcation of the study

The study is geographically limited to five divisions of Kampala City that host most of the self-settled refugees — Rubaga, Kawempe, Nakawa, Makindye and Central divisions. The content scope is limited to investigating the factors influencing refugees to leave settlements and self-settle in Kampala City. Although the focus is on women refugees, men's perspectives are also considered to bring out the gender interface.

Sampling framework

I used purposive and random sampling methods of both men and women. Tables I – 4 give the different categorization of the sample. I used sex, age, nationality, marital status and leadership positions as important yardsticks for selecting respondents. More crucial was targeting those who once lived in the camps or settlements and had moved and self-settled themselves in Kampala. I chose key informants – people who had deep involvements with the refugees; in-depth informants were the refugees themselves. These were the informants selected purposively but there were others chosen randomly as opportunity arose. Because of ease of access and population, I decided to limit my study to Congolese and Sudanese.

It is, however, important to note that in no way can data collected be adequately representative of the self-settled refugees in Kampala City. Neither is it representative of all the nationalities that are refugees in Kampala City. However, it gives general insights into women's lived realities and the experiences of self-settled refugees.

Data analysis

This has been an ongoing process, starting from the field. At the end of each day, the information was entered into the data bank, under headings corresponding to the assumptions. New issues were given priority in later gathering of data. This gave impetus for further probing to build in the

informing factors. Data was eventually categorized according to nationality, sex, and ranking of factors. This made it easy to derive themes and sub-themes, for instance, insecurity in and around the settlements, was a major theme, with sub-themes like rebel attacks – internal (Ugandan) and external (Sudanese and Congolese) rebels, abductions for forceful conscription in the army or sexual slavery, or ethnic cleansing. It also enabled emerging themes, — in this case the the issue of protection mechanisms in refugees’ settlements which leaves a lot to be desired.

This ongoing data analysis was advantageous because it kept me focused, and determined my course of action.

Limitations of the study

Among the challenges I faced in this study were:

- 1 The political sensitivity of the study made some respondents reluctant to disclose certain ‘classified’ information to me which I was able to elicit from other officers. I overcame this by giving longer explanations and using other personnel inside the system to access the relevant information — for example, to the UNHCR statistics for 2003. With the refugees, however, I used their friends to develop their trust and create goodwill and thus gained full access.
- 2 The language barrier was another challenge I faced in the field, especially with the Congolese respondents. It was difficult to record original quotations. However, I was able to overcome this by using competent interpreters who were refugees themselves to act as my research assistants.
- 3 Securing interviews with some key informants was my biggest challenge in the study. The main case in point was the UNHCR officer; I was however able to get the ‘same’ information from the Office of the Prime Minister officers.
- 4 I faced a shortage of funds. Direct and indirect requests for material help were a challenge and because of the situation of my respondents,³¹ it became almost a moral responsibility on my part to help them with money or goods where possible, not as payments as such but to create a conducive atmosphere for an interview to be conducted smoothly. I was able to share the limited funds I had with them — as the saying goes: ‘In Africa we share’!
- 5 One major limitation was time. The four months was too short a time, to adequately cover the sample of Kampala self-settled refugees, and triangulate their information with the refugees’ real settlements experiences. This was however, covered by interviews of respondents, who had recently come from the settlements or visited relatives and had come back with rich memories.

The study findings and analysis of the factors influencing refugees to move from refugee settlements and self-settle in Kampala are presented under three main chapters, as follows:

- Chapter three: Search for security and health care brought us here.

³¹ Refugees are generally needy and poor people.

- Chapter four: Quest for education and economic opportunities brought us here.
- Chapter five: Refugee policies, relations and earlier lifestyle impacts on refugee movements and settlement.

The categorization under these three main chapters was due to the similarities of issues discussed. These factors are presented in the order of importance as the refugees emphasized them, as can be seen in table 5 below.

TABLE 5: INTERVIEW RESPONSE SUMMARY ACCORDING TO IMPORTANCE OF THE FACTORS IN SELF-SETTLEMENTS

FACTORS	CONGO		SUDAN		RWANDA		UGANDA		TOTAL		
	F	M	F	M	F	M	F	M	F	M	
INSECURITY	32	19	16	07	02	--	02	01	52	27	79
SETTLEMENT CONDITIONS	32	19	16	07	02	--	01	01	51	27	78
EDUCATION	29	17	15	06	02	--	02	01	48	24	72
ECONOMICS	28	15	15	05	02	--	03	02	48	22	70
GOU AND UNHCR POLICIES	28	15	14	05	01	--	01	01	44	21	65
GOU AND REBELS	25	14	15	07	--	--	01	01	41	22	63
EARLIER LIFESTYLE	25	10	10	05	02	--	03	02	40	17	57
ETHNIC CONFLICTS	15	10	10	03	02	--	03	02	30	15	45
RELATIONS	15	10	10	03	02	--	02	01	29	14	43
GENDER	10	05	10	05	02	--	03	02	25	12	37

GOU = Government of Uganda

Insecurity, settlement conditions, the quest for education and economic activities ranked highest in that order, followed by Ugandan government and UNHCR refugees policies, the government's relationship with the rebels, refugees' earlier lifestyles, ethnic conflicts, relations and gender.

CHAPTER THREE

Search for security and health brought us here

Importance of security

The importance of security in the development of any country, individual, or organization is already established; thus, the slogan goes 'security is the key to development'. Insecurity in refugees' settlements disrupts and brings to a halt all human activities. This affects educational, economic and agricultural activities and any attempt to integrate refugees. As already noted, refugees' situations are generated by a lack of security of person that prompts individuals to search for space for the sake of survival.

The 1951 Geneva Conventions Article I(2) guarantees asylum for any person,

...owing to well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable or, owing to such fear, is unwilling to avail himself the protection of that country, or who, not having a nationality and being outside his former habitual residence as a result of such events, is unable, or owing to such fear, is unwilling to return to it.

The 1967 Protocol relating to the status of refugees and the 1989 Organization of African Unity Convention governing the specific aspects of refugees' problems in Africa, emphasise the non-refoulement principle. Article Ii(3) of the 1967 protocol relating to the status of refugees states that:

No person shall be subjected by a member state to measures such as rejection at the frontier, return ('refouler') or expulsion, which would compel him to return to or remain in the territory where his life, physical integrity or liberty would be threatened
...

It modified the 1951 Geneva Convention on the Status of Refugees to be more protective with an additional clause on the non-refoulement principles.

The non-refoulement is the 1951 UN Convention policy relating to the status of refugees, that commits contracting states not to expel or return a refugee whose life or freedom would be threatened due to race, religion, membership of a social group or political opinion.

Asylum is granted so that the individual feels secured and safe. But in circumstances where this status quo reaches an imbalance, like previous times in the refugees' mother countries, then they are more endangered than ever. Therefore questions to ask would be; where then can they be secure and safe? How safe and secure are the refugee settlements? Are there alternatives to such

‘secondary’ insecurity?³² What can refugees do in a refugee settlement in Nakivale or Palorinya to safeguard and secure themselves? Does search for protection influence urban self-settlement of refugees? What contributes to their influx into Kampala City? Is it insecurity in and around refugees’ settlements? And if this is true, what are their security concerns?

This study was largely premised on the assumptions that insecurity in refugees’ settlements contributes to the movement away from settlements and towards self-settling in Kampala. Out of the 81 respondents, 78 confirmed that insecurity was the primary major factor that forced them to move away from the refugees’ settlements or camps and self-settle in Kampala. This study confirms the *Human Rights Watch* report on the plight of refugees living in Nairobi and Kampala (2002 128-132), Tyrrell (2000:16) who researched Kampala urban refugees’ problems and Hovil’s (2001: 6-15) work on *Refugees and the security situation in Adjumani which focuses on physical insecurity in Adjumani district*. The findings confirm insecurity as a major contributing factor for the influx of refugees into Kampala City.

The respondents interviewed came up with four broad areas that result in insecurity in and around settlements or camps that forced them to leave and self-settle in Kampala, as follows:

- 1 Rebel attacks by the Ugandan-led rebel forces, for instance LRA, ADF and WNBF.
- 2 Activities of ‘home’ rebel groups in refugees’ settlements, for example, forceful conscription into the ‘home’ rebel groups like SPLA, RCD Goma and so on;³³
- 3 Ethnic conflicts and;
- 4 Gender violence, especially against women.

Rebel attacks

As one interviewee, Susan, emphasized:

I left the settlement not because I wanted to but because of the LRA rebel attacks. That day, they attacked and killed five people in our camp. Do you expect me to stay there and just wait for death or try my luck elsewhere? ³⁴

This was verified too by the officer from the Office of the Prime Minister who told me that ‘sometimes they are attacked by LRA rebels’.³⁵

Since most of the settlements are established in remote places and above all near borders, where rebels can easily enter, refugees have been specially exposed to the insecurity of rebel attacks.³⁶

³² ‘Secondary’ insecurity here refers to insecurity in first country of asylum refugee settlements.

³³ A ‘Home’ rebel group refers to rebel groups from the refugees’ countries of origins.

³⁴ Sudanese woman interviewed on the 23/11/2003

³⁵ THE OFFICE OF THE PRIME MINISTER Officer interviewed on 30/10/2003

³⁶ Lwanga – Lunyigo, S (1998), Uganda’s Long Convention with the problem of Refugees: From the Polish Refugees of World War II, to the President in Ginyera Pinyowa (ed), Uganda and the problem of Refugees, pp 21-22, emphasizes the background to remote settlement starting with the Polish refugees.

As noted by SHRA, *The Sudan Monitor*, Vol. 5, No. 3, September, 2000:1:

Armed attacks on refugee camps and settlements are rampant during which refugees are subjected to torture, loss of property and sexual and all other forms of violence. Some of the refugee camps in Adjumani and Moyo districts, such as Kali refugee settlements in Paloringa and Maaji and Mongula at the Adjumani/ Gulu border have been attacked by the rebels frequently ...

This view was emphasized particularly by refugees who formerly resided in settlements close to the border. For instance, the Sudanese refugees who were staying in Adjumani settlements near the Sudan border complained of rebel attacks. Most parts of the Sudan border are operational areas of LRA and even SPLA. Congolese refugees who are former Kyaka I and II residents shared the same view. Fort Portal is one of the towns where ADF is operating. One old Sudanese woman, who vividly remembers one WNBK attack in 1997, painfully recounted the story of atrocities that the rebels committed that led her to move to Kampala City. She stated:

The rebels came at around midnight, shooting people, cutting people's ears, hands... my husband was a victim, his ears and arms were cut, he bled to death ... my daughter was raped by more than five soldiers in my presence, other girls were abducted.³⁷

Out of the 51 female respondents more than 34 confessed having experienced rebel atrocities either directly through rape, beatings, and sustained injuries or indirectly through loss of relatives and physical or psychological damage. As one old man put it:

This left us with nothing but to move away from where we thought was a safe place to Kampala with hope of getting better security, at least from the rebels' attacks.³⁸

As noted, issues of security are not about compromise but about life and death. This has been a major contributing factor to the influx of the refugees to Kampala City. Others, who fail to raise the transport fare, end up in the nearest town centres, eking out a living. For instance in Kasese (western Uganda) and Arua (north western Uganda) towns are hosting a number of refugees in this category.

External threats

While Hovil (Sept 2001:7) categorizes external threats into two main groups – Uganda rebel groups operating in the region and external foreign rebel groups like SPLA, RCD Goma and so on – this study found that ethnic conflicts are another major source of external threats. Ethnic tensions, as emphasized by 45 of the 81 people interviewed, confirmed that the ethnic operatives were special groups that were targeting specific individuals in the refugee settlements.

The threats from these rebels include abductions, forceful conscription into rebel groups, inflicting of physical and psychological torture and even killings.³⁹

³⁷ Sudanese old women, interviewed on the 28/12/2003.

³⁸ Congolese old man interviewed on the 25/10/2003.

³⁹ Human Rights Watch 2002:137-138.

Abductions

Many respondents identified abductions as a major source of security problems for refugees in settlements and transit camps. The ‘unchecked’ or stealthy rebel activities within these settlements is an absurd fact that exposes some refugees to direct victimization and attacks. As sadly recounted by one Kukul woman:

My brother was abducted from Olegi transit camp on the 14 January 1994 by the SPLA forces... Up to now all attempts to know his whereabouts have failed. He had come from Khartoum, so he was suspected of being a spy of the Khartoum Islamic government.⁴⁰

These abductions of people, suspected to be spies of the Khartoum government exposes refugees to many human rights abuses, including torture with intent to extort evidence, ostracization, being chased away from the settlement and even death.

The second type of abduction, specifically of women, is either for the same reasons or for ‘sexual company’⁴¹ for rebel soldiers at war fronts. This has led to a massive influx of girls and women – especially single women – from settlements to Kampala City. One Congolese woman whose twin sister was abducted painfully told me that her parents had to decide to resettle in Kampala – ‘seemingly a safer place, rather than to lose us all.’⁴²

As observed by the Women’s Commission for Refugee Women and Children (2001:15), most local rebel groups, for instance, LRA, abduct refugees:

It is estimated that 11,000 young people were abducted by the LRA since 1986, of which 5,000 are known to have escaped...

The study findings also confirm *Human Rights Watch* (2002:138) concerns where the abductees are forced to fight and offer sexual slavery as well as manual labour. In fear of such atrocities, refugee women and men move from the settlement. Most refugees use public transport, for instance, from Adjumani, Fort Portal, to Kampala. Some move to nearest towns first, struggle to get transport money and later move to Kampala.

Ethnic-oriented abductions, however, as most respondents suggested, end in killings. Some respondents whose relatives were abducted had lost hope of seeing them again. As one Congolese Hema man put it:

The Lendu militia abducted my brother, I know they killed him...⁴³

⁴⁰ Sudanese woman interviewed on the 24/12/03

⁴¹ “Sexual company” here means women forced to be wives to soldiers in war.

⁴² Congolese girl, interviewed on the 25/10/2003

⁴³ Congolese Hema man interviewed on the 24/10/2003

Apart from abductions (which is partly a form of forceful recruitment), direct foreign rebels forceful recruitment is another cause for concern. One Congolese man recounts his experience:

When I fled from Bukavu for fear of RCD Goma who wanted to recruit me to their rebel group in my second year in the University of Bukavu, I came to Uganda and was resettled in Kyankwale. But hardly a month passed when the forces I had run away from arrived and started their work... In other settlements, where RCD Kishangani and Bunia were given access, forceful recruitment also took place... Thus, I had to flee again for a probable 'safer place'... and here I am in Kampala, some of my friends went to Fort Portal Town...⁴⁴

What touched me most was his last painful question, when he asked that, 'My brother, if you were the one, what would you have done?', expecting the affirmative answer supporting his action of moving away from danger and settling in a relatively safer place.

The study too reveals that some particular refugees who flee to Uganda for safety are still or are even more disadvantaged by the settlement structures. The same man confirmed that some refugees are being followed even to Kampala. However, to him the city seemed to provide better cover and protection in terms of space for manoeuvres than the confinement of the camps and settlements. As observed by Hovil *et al.* (September 2001:9):

The interviews revealed that some refugees, despite having fled to Uganda for safety, still did not feel safe living within the settlements or self-settled areas. Such individuals revealed how they lived in fear ...

This however leaves many unanswered questions. For instance, what is Uganda's commitment to providing asylum? What is the role of UNHCR in these sagas? What mechanisms are put place in the refugees' camps and settlements to protect already disadvantaged people?

Ethnic tensions

Apart from two external sources of insecurity for refugees, there is also ethnic conflict (though it is more pronounced as an intra-settlement problem and 'home born').⁴⁵ This too has contributed to some refugees settling in Kampala City. Among the notable conflicting ethnic groups are Hutu against Tutsi from Rwanda, Hema against Lendu from Congo and Acholi against Madi, Kukus against Dinkas, and Kakwa from Sudan. Because of their proximity in the refugee settlements, the home-born conflicts are magnified or more pronounced in settlements.

As one Hema woman recalls:

After successful escape from the Lendu conflicts in Bunia, with my husband and six children, we crossed to Uganda. When we were eventually resettled in a camp in Western Uganda, the Lendu warriors, having their spy network in the camps,

⁴⁴ Congolese man interviewed on the 24/09/2003.

⁴⁵ 'Home- Born' conflicts are conflicts that have their origins from the refugees' homes, but carried are across borders.

informed their militia who came for us. Fortunately the information was leaked and we left the camp before they arrived but of our Hema friends who insisted and remained – two of them were axed to death, others fled with grievous bodily harm...⁴⁶

When I probed further to find out how safe she felt in Kampala, the replies showed a sigh of relief.

This place is much safer and, after all, even international organizations cannot protect us...

The problem of ethnic tension is also historical among Sudanese ethnic groups. As observed by Hovil *et al.* (September 2001:9), the Dinka's strong association with SPLA leadership has attached negative stereotypes to them. Several interviewees, for instance those from the Kuku, Acholi and Kakwa, depicted their rage at such an association. Once these are resettled in the same settlement the tempo of their enemy flares and this has led to escalation of the conflicts.

Gender-based violence

One study assumption which was usurped and integrated under insecurity, was that gender issues influence the settlement of refugees in Uganda. Though respondents did not seem to directly emphasise gender-based violence as a major factor impacting on women and men's insecurity, this could be deduced through their responses. For instance, attacks on females were seen as revenge, for example, between ethnic groups, personal attacks on enemy 'property' or reactions to non-compliance with rebel orders. These acts of gender-based violence included ostracisation in the community, defilement, rape, forced marriages and sexual harassment, to mention just a few. Widows, girls and women in general fell victim to this. The perpetrators identified were mainly male relatives, friends of the deceased husbands, ethnic enemies or rebel soldiers.

One victim lamented that she was molested by her late father's friend, when with her mother in the settlement in Arua and immediately the following day dawned, they took off and ended up in Kampala City.⁴⁷ As echoed by *Human Rights Watch* (2002:142), several other women refugees cited fears of sexual violence as a reason for leaving Uganda refugee camps.

Another form of gender-based violence rampant in refugees' settlements is domestic violence. This leads to divorce, separation and even death or movement and eventual settlement in Kampala City. As one man observed:

I know of a friend in KyanKwale, who lost his sister due to domestic violence, April, 2001... Her husband beat her to death ... in the process of burying her, the information leaked to the camp commandant who instead of taking him to face the wrath of the

⁴⁶ Congolese woman, interviewed on the 26/10/03

⁴⁷ Sudanese woman interviewed on the 14/11/03

law, told him to go ahead with the burial... but told him not to mourn her, because this would make others know and scare others.⁴⁸

When the brother of the deceased tried to raise the issue, he was threatened with death. The man eventually left the settlement and is now staying in Nakulabye – one of the suburbs of Kampala City.

The boys' forceful conscription into the army and girls' forceful relationship with soldiers and the ethnic drive to eliminate boys, is yet another form of gender-based violence. Some girls end up being raped; some boys are killed due to their perceived roles in society.

Although the scope of this study excluded physical visits to the refugee camps and settlements, it adequately reveals that insecurity in and around refugee settlements is a major cause of refugees' influx into Kampala City. Fleeing from their home countries in search of safety, they end up in Kampala due to 'secondary' insecurity in and around the settlements or transit camps. The security of refugees in Kampala too may not be any better but most refugees interviewed considered Kampala a much safer place. The extent of the safety leaves a lot to be desired.

In light of the above, the study findings seems to reveal that the fundamental rights of refugees – the right to protection – is grossly violated. Apart from the inadequate security mechanisms put in place to guard settlements, most of them are established close to the borders, contravening the emphasis by international instruments that refugee settlements should not be established near borders to home countries. This gives enemy militia easy access to the refugees and this access is indirectly facilitated by the Ugandan government's policies which are supportive to the rebel groups. It appears that the government condones rebel activities and this exposes refugees to extreme danger. It also points out the inadequacy of UNHCR which is mandated with refugee care and protection.

Faced with such dangers, refugee women and men are left with no option but to flee. If the 'host' government systems cannot offer refugees protection in the camps and settlements, why not try town centres! This is the notion that leads many to flee and stay in Kampala or nearest towns.

Harsh settlement conditions

The importance of having a conducive environment for the settlement of refugees cannot be over-emphasized. This would enable the already desperate people to avoid communicable diseases and overdependence on the UNHCR/Ugandan government for treatment as well as make for generally more productive people. Health is the key to good living and is only possible through proper health care, clean water, good housing facilities and adequate provisions.

Considering the importance of having a conducive healthy atmosphere for refugees, the 1951 Geneva Convention Articles 21 and 23, obligate contracting states to provide the best housing and relief assistance to their nationals. The Universal Declaration of Human rights (1948), Article 25, (1-2), the Convention on the Rights of the Child (1989), Article 24, and the Protocol to the

⁴⁸ Congolese man interviewed on the 28/12/2003

African Charter on Human and People's Rights of Women (2001), Articles 14 & 15 obligate member states to ensure that refugees, especially women and children, are given appropriate medical attention, nutrients and adequate food, right through to providing adequate housing and clothing. Judging Uganda's welfare provisions to refugees using this yardstick, the situation leaves a lot to be desired.

Health care

Before embarking on this field study one of my assumptions, was that, settlement conditions – meaning housing and health-related facilities – determine where a refugee woman settles. After four months of research, the study findings reveal that more than 95 per cent of Kampala self-settled refugees – women and men – are compelled by harsh settlement conditions to move and settle in Kampala.

Probing further on the issues of health, a number of areas of emphasis were raised by respondents. Among them were inadequate medical care, lack of clean water, food insecurity and poor housing facilities. As one Sudanese woman put it:

I stayed in Belameling settlement. The five years I stayed in the settlement, my biggest problem was health... There was only one health centre, serving multitudes... Drugs were always lacking... each time you go to health centre the nurse tells you there are no drugs... This can take 2-3 weeks before the next supply... Most times, patients are given panadol and septrin for all kinds of ailments... Sometimes, they refer us to buy them, when we do not have money... Most people resort to using herbs after under dosing themselves...⁴⁹

This sentiment shows up the serious problem of medical care in refugee settlements around the country. Most women interviewees revealed that one of the major problems with health services provision was lack of drugs. Although some humanitarian organizations, for instance, African Action Health (AAH), is supplying health units with some drugs and equipment, the number of health centres means problems of insufficient drugs persists.

This impasse is due to two intertwined reasons: the overwhelming demand for medical care by a large population of refugees and the limited number of health units. This was confirmed by the Office of the Prime Minister officer who said:

Our (refugee) health centres are overwhelmed by the population in refugee settlements... But the situation is no different to that of nationals...⁵⁰

This sentiment was also shared by one Sudanese woman⁵¹ who mentioned that her experience as a volunteer health worker in Kali health centre was extremely difficult. The health unit serves about 20 blocks (each block with 50 households, with an average of four persons per household –

⁴⁹ Sudanese woman, interviewed on the 25/10/03

⁵⁰ THE OFFICE OF THE PRIME MINISTER officer interviewed on the 30/10/2003.

⁵¹ Sudanese woman interviewed on the 23/11/03.

about 4,000 people. Although not all 4, 000 people will fall sick at the same time, simple statistics show the dire need for medical care.

The population has overwhelmed the facilities and service providers. Apart from the above there is poor facilitation at the health units, like maternity facilities and feeding centres. Most women refugees confirmed that maternity wards in refugee settlements are ill equipped.

Accessibility of health services is one important issue in good health provision. This calls for the establishment of health units close to the people and, above all, staffed with committed, qualified personnel, ready to serve the people.

The study findings reveal the inaccessibility to health services as one of the major problems, not only in terms of distance (which is the fate of most nationals) but also due to poor commitment and quality of personnel. This limits access to life support systems for the refugees. As one Congolese man asserted:

We rather break the law... move without permission from the settlements and settle in Kampala...than die in the settlements... It is better to seek medical care in other places, than perish in camps.⁵²

This is also observed by SHRA (Vol. 6, No. 3, 2001:10) that:

... adding to the difficulties posed by supply shortage is the lack of trained and dedicated staff.

In one settlement in northern Uganda, Margaret⁵³ told me that, there were only four medical personnel – two doctors, one nurse and one midwife in a settlement inhabited by about 4,000 people. Looking at that ratio of four medical personnel to 4,000 refugees, the ‘human face’ of tired medical personnel immediately arises. This was reflected in refugees’ complaints that:

The doctors are hard to see... to see a nurse sometimes you have to wait for 4-6 hours... when the midwife comes, she is very rough...⁵⁴

The problem of distance to health units and, worse, to the nearest referral hospital for acute emergency cases, poses the greatest challenge to refugees. As noted by *Human Rights Watch* (2002:144), the host states have a responsibility for creating conducive camp conditions:

[Most governments] ... in developing countries such as Kenya and Uganda, may be (*are*) unable to meet the needs of large numbers of refugees and will require the help of the international community, including UNHCR... Given these funding shortfalls, the international community is partially responsible for the lack of adequate... assistance for refugees...

International bodies, like WFP and WHO, are also overstretched in their budget and cannot provide enough to refugees. Thus, refugees resort to using archaic available means like carrying

⁵² Congolese man interviewed on the 28/11/03

⁵³ Sudanese, woman interviewed on the 23/10/03

⁵⁴ Sudanese woman interviewed on the 23/01/04.

patients on bicycles or even on beds. Susan, a Congolese woman, recounted her painful story of how her uncle who had an acute asthmatic attack died because of lack of transport. After, that, 'We were forced to relocate to Kampala', she retorted.⁵⁵

This is one among many refugees who because of medical reasons moved and settled in Kampala. What, however, still remains a puzzle is how refugees access those good health services with the kind of financial resources they have. Nevertheless, it is better to borrow to save a life than to stay in the bush without medical care and risk losing lives.

Water

Access to clean water is a basic human right. The importance of clean water to healthy living is unquestionable. As noted by Tyrrell (2000:22):

Proper sanitation and clean water are key elements in maintaining an individuals and community's health. It is well known that unclean water and poor sanitation play an essential role in the spread of diarrheal diseases.

Out of the 51 female respondents, more than 50 per cent identified two problems associated with water provisions – the quality of water and, worst of all, its accessibility and the associated problems. Although most refugees acknowledged that they had boreholes in their camps, the number of boreholes were not proportional to the population. Some settlements had unprotected springs but even those which had boreholes, complained that they were hard to pump.

The issue of accessibility was yet another important contributory factor which eventually caused flight from refugee settlements. Why? Besides distances of one to three kilometres to water points and the population per borehole (approximately 600), the security risks for women are enormous. They provide traps for men who want to rape or defile girls. As echoed by Jane:

Every day, as I went to collect water almost two kilometres away, men would waylay me, demanding for sex. After pestering me for six months, in vain, one man attempted to rape me... if I had not overpowered him, he would have done it... I managed to escape from his wrath, and that is why I am here (Kampala).⁵⁶

Such brutal acts, in addition to ethnic tensions and abductions of women for sexual slavery by soldiers, led many like Jane to move and self-settle in Kampala. It is however, not water *per se* that has compelled many women to flee to Kampala, but the danger that they are exposed to in water collection. Much as the international human rights conventions emphasize the provision of clean, accessible water to refugees, these provisions are not met in many settlements.

⁵⁵ Congolese woman interviewed on the 23/11/2003.

⁵⁶ Congolese woman interviewed on the 28/12/03

Food security

Ayoo (2000:5) observes that there is no food security in refugee settlements, despite the fact that refugees are given plots or land to cultivate:

Off-farm sources of income are limited and destructive to the natural resources base. This has led to persistent food insecurity at the household level as malnutrition rates among the children...

Much as credit should be given to government for giving refugees access to land for cultivation, most refugees have not gained much from agriculture.

While agriculture is seen as a source of livelihood for refugees, for the majority of nationals, as noted by Ayoo (2002:6),

... agricultural production in settlements is unreliable because of drought, poor quality of land, lack of access to outside markets and lack of credit.

Because of the remoteness of resettlements and, above all, the allocation of mainly wasted 'unwanted', unproductive land to refugees, they always have poor yields, which may only be for subsistence use rather than commercial use. As Ayoo (2000:6) again emphasized:

... land allocated to refugees in Imvepi has low soil fertility because of its rocky and sandy nature and it being low in potassium and organic matter.

Soil exhaustion is another reason that most respondents were quick to point out caused food insecurity. Some gardens are used year in and year out because it is the only plot they have to survive on; plots are allocated without regard to the family size.

Apart from soil exhaustion, the lack of improved technologies exacerbates this situation through, for example, the increase in pests, diseases and vermin and consequently the poor prices for agricultural produce. Since agriculture is the core source of income and livelihood, poor production has been hindering the integration policies of refugees in settlements. Women and children go fruit gathering to survive. For instance, refugees who had come from Kali settlement mentioned places like Nyawa (about 10 kms away) where they used to get coconut and vegetables. Because of that, most families were having one meal a day, others who have a little money could buy from the nationals.

The situation of food insecurity, however, incapacitates refugees from being productive. Many refugees do not see farming as the only way of earning a living. They see alternatives in town areas, where they can engage in economic activities other than agriculture. As one put it:

After failing in settlement farming, I had to try my luck with my four children in Kampala, here we are re-selling our kitenges⁵⁷...

Having a healthy population is an asset for production. The provision of adequate health care to refugees is the mandate of UNHCR and responsibility of host nations. This study reveals that,

⁵⁷ Kitenge is a type of Congolese designed clothing.

there is dire need for health care in refugee settlements. The Uganda government cannot provide all that the refugees need because of the poor economy which cannot even support her own citizens. Healthy living also involves consumption of clean water and nutritious food. This study points out that these are ideals in refugee situations. There is food insecurity and even the food distributed by the World Food Programme is often inadequate and only offers short-term solutions to food crises in settlements.

With these problems in settlements, most refugees leave the settlements and move to settle in Kampala. To them, much as they may be renting in shanty slum areas of Kampala City, in terms of access they have a variety of economic activities that enable them to gain access to medical care. However this is not possible for all; most face even harsher health problems by trying to do unhealthy jobs without protective wear. These flock to Inter-Aid Uganda to seek medical attention.

CHAPTER FOUR

Quest for education and economic activities brought us here

This chapter presents two main factors for the influx and settlement of refugees in Kampala City – the quest for education and economic activities.

The quest for education brought us here

Provisions of education for refugees falls under the UNHCR mandate. Article 22 of the Convention Relating to the Status of Refugees and other international conventions obligate member states to provide education to all refugee children. The 1948 Convention on the Rights of the Child (1989), Article 28, also states that:

States parties recognize the right of the child to education, and on the basis of equal opportunity, and in particular, (a) make primary education compulsory and available to all, (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education or offering financial assistances in case of need...

Article 26 of the Universal Declaration of Human Rights (1948) also emphasizes that:

Everyone has a right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

The 1951 Geneva Convention, Article 22, recognizes education as a basic right for all children. It emphasizes the obligation of ‘contracting state to accord the refugee the same treatment as is accorded to nationals for elementary education’.

Value of education

The importance of education in the life of any child or even adult cannot be underrated. Education is the key to success in life. It opens the windows and doors of opportunities to refugees’ children in exile or even when they return home. That is why the UNHCR (2002:1) *Education sector policy and guidelines* (draft), Geneva, identifies four major reasons why education is essential in refugee situations.

First education is a human right. Within this right, as outlined in the international conventions ... Second, education is a tool of protection. Through education, the exploitation or abuses of children can be identified ... as can children who are in need of medical and psychological attention. In addition, education promotes the understanding of society and the rights and responsibilities of individuals, building stronger communities that ultimately protect children. Third, education helps to meet psychosocial needs. Due to disruption of children's lives through conflict and displacement, there is great need for structured activities that provide a sense of routine and normality. Education fills such roles. Finally, education provides self reliance and social and economic development by building 'human capital'. This human capital is needed for reconstruction and development of displaced person's areas of origin or settlement.

The 48 women of which two thirds were students contend that education is the key to a good life. It is a means to an end. It can pave the way for employment. It can also impart skills for self-sustenance and job creation. As Joyce emphasized:

I risked and came to Kampala City not because of anything else, but for academic pursuits, so as to be equipped to compete for the few jobs...⁵⁸

The 33 parents that I interviewed (though more than half were primary school leavers – see tables II and IV for education qualifications.) confirmed the importance of education, to their children,

... whether life is hard, I should sacrifice for my children's education, so that they may not suffer in the future.⁵⁹

TABLE 2: NATIONALITY, SEX AND AGE:

AGE	CONGOLESE		SUDANESE		RWANDESE		UGANDANS		TOTAL		
	F	M	F	M	F	M	F	M	F	M	
- 25	10	07	05	02	--	--	--	--	15	09	24
26-35	20	10	10	04	02	--	02	02	34	16	50
36- 45	01	01	01	01	--	--	01	--	03	02	05
46+	01	01	--	--	--	--	--	--	01	01	02
TOTAL	32	19	16	07	02	--	03	02	53	28	81

TABLE 4: NATIONALITY, SEX AND EDUCATION LEVEL:

EDUCATION LEVEL	CONGO		SUDAN		RWANDA		UGANDA		TOTAL		
	F	M	F	M	F	M	F	M	F	M	
PRIMARY	03	04	02	01	--	--	--	--	05	05	10
SECONDARY	23	10	10	02	01	--	--	--	34	12	46
DIPLOMA	05	02	03	03	01	--	--	--	09	05	14

⁵⁸ Sudanese woman interviewed on the 25/11/03

⁵⁹ Congolese, old man interviewed on the 26/10/03.

BACHELORS +	02	03	01	01	--	--	03	02	06	05	11
	32	19	16	07	02	--	03	02	53	28	81

Much as they are refugees, their plans and dreams for a better life through education of their children is not lost – they remain real and constantly in their minds.

Credit however, goes to Uganda government, UNHCR and Jesuit Refugee Services⁶⁰ for providing free primary and ‘O’ level education to the refugee children. With universal primary education, the government has continued to extend elementary education to refugee children. The study findings however reveal that even the primary education offered to primary refugee children seems lacking as is the case in most national schools. As observed by Dryden-Paterson (2003:11) most primary schools are overcrowded, with the pupil–teacher ratio overstretched to 100 pupils per teacher, there is a general sense of chaos in the schools. Most parents who can afford it and wanted quality education have to move or send their children to Kampala schools or to neighbouring towns’ good schools. Among other problems, there is a lack of trained personnel, like teachers, to staff these schools, a lack of scholastic materials and inadequate facilitation. As Margaret⁶¹ explained:

Most refugees’ schools do not have permanent buildings... they lack furniture... in most schools pupils sit on stones and logs... teachers are not motivated, they are paid low salaries...but worst of all there are no trained teachers...⁶².

With a PLE certificate what can one do? Questions of that kind lay emphasis on the drive for higher qualifications than PLE certificates or even advanced level certificates. With the UNHCR policy of offering education to refugees up to senior four and for first graders in ‘O’ level exams to continue, the majority drop out. Even the alternative of cost sharing still leaves many out of the education system. With other dire needs in settlements and even in Kampala, some parents fail to meet the educational needs of their children in addition to the basic necessities of life. Education however still remains paramount to their children’s lives.

Puzzled by some of these issues, they search for alternatives to become the next major action. As one student stressed:

I had to come to Kampala with some white man, who sponsored my education in one of the good schools from S1 – S3, but he left last year and now I am looking for help to complete senior four.⁶³

Because of the value attached to education, refugees (even refugee students) are ready to go an extra mile to search for answers to their problems. Apart from those who come to Kampala to do some petty work to earn school fees, most of them are attracted by the prospects of getting scholarships. Access to scholarships funds isn’t easy and the criteria are tough. Only a few get the

⁶⁰ Human Rights Watch 2002:136

⁶¹ Sudanese woman interviewed on the 23/01/04

⁶² Sudanese woman interviewed on the 23/01/04

⁶³ Sudanese girl, interviewed on the 23/01/2004

awards. But since there are more scholarships organizations in Kampala most are attracted to try their luck. As John narrates of his ordeal:

UNHCR and other scholarships organizations⁶⁴ give information about scholarships through Inter-Aid Uganda, to the settlements... Most times refugees receive the information when it is already too late... Applications forms are got from IAU Headquarters in Kampala which is far away from the settlements... following up is hard... I was forced to come and stay nearby ... fortunately enough I got a Christian organization that is now paying for my university education.⁶⁵

With such examples of luck, many refugee students have taken the risk and came to Kampala. However, some who have not been so lucky are working. More than half of the student respondents' work during day time and study in the evening shifts.⁶⁶

In justifying their relocation to Kampala students often said: 'Which jobs can you get from the settlements which can earn you some school fees?' This was the response most of refugee students sponsoring themselves stated to express their burning desire and will to be educated.

It is however, important to point out that not all refugee students who come and settle in Kampala make it to formal education. Some resort to vocational on-the-job training which at the end of the day earns them some money for food, accommodation and to support their families including paying school fees for younger siblings. Some, however, fail completely and resort to work to eke out a living, others become beggars in the streets. One Congolese man told me that he had to sacrifice his education and get petty work for the sake of his two brothers and a sister. This to him this was only possible with their relocation to Kampala City⁶⁷.

These study findings therefore affirm the assumption that the quest for education influences refugees' decisions to relocate to Kampala where they can access formal and informal education. This is not possible for all; some don't make it at all.

Refugees' relocation to Kampala in search of education signifies UNHCR's failure to fulfill her mandate. It however proves the importance that refugees attach to education. The UNHCR policies stress the importance of education but fall short of making it a reality in refugees' lives. Refugees' overwhelming needs and the priorities of UNHCR partly explain why education is offered to a few in higher institutions of learning.

Search for economic opportunities brought us here

Economics is the lifeline of every sector of society including the refugees. Economic activities would expose refugees to the world outside the camps and provide them with the marketplace to buy basic necessities or search for jobs.

⁶⁴ Hugh Pilkington Trust, Church of Uganda, Namirembe Diocesan Social Services, New Sudan Council of Churches

⁶⁵ Sudanese student interviewed on the 20/11/2003.

⁶⁶ Most tertiary institutions in Kampala now have double shifts – morning and evening sessions.

⁶⁷ Congolese man interviewed on the 20/11/03.

Article 18 of the Convention Relating to the Status of Refugees (1951), states that:

The contracting states shall accord to refugees lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicraft and commerce and to establish commercial and industrial companies.

It binds contracting states to offer conducive economic conditions to refugees. This would allow them to trade, search for jobs, and engage in commercial activities. In relation to that, Section 15 of the CIRA 60 (64), allows for refugees to seek employment. Giving provision to one of the most important refugee economic needs. This section also guarantees wages that are normally given for similar work to nationals. The section is, however, curtailed by Section 8 (1) of the same Act, that limits the freedom of movement to search for jobs.

Trade opportunities

The study assumption that economic opportunities (trade and job searches) influence refugees to move and settle in Kampala City, was greatly affirmed by the findings. Desire to trade was one of the issues most of my respondents raised. As one woman reiterated:

I came here to do business ...it is not possible in the settlement because of restrictions...there are even fewer opportunities ... there is a small market.⁶⁸

This was one of the widely-shared views for the influx of women and men to Kampala. As noted above, the CIRA (60)(64), much as Section 15 allows refugees to seek employment, is curtailed by Section 8(1) that restricts their movement. This is partly to control their activities but this has far-reaching consequences on their desire to trade. Most women interviewed confirmed that they had talents to braid hair and sew clothes, for example, but the settlement environment could not allow them to exploit their skills. So they were forced to try elsewhere in Kampala. Fortunately, as one woman put it, 'now I have some business'.⁶⁹ She has ten tailoring machines and three special design machines as she is doing very well. Restriction of refugee movement in settlements tends to limit their economic activities. With exposure to more economic activities in Kampala, some refugees are earning a living.

There are also fewer economic opportunities in the settlements. Having people of almost the same economic status, most refugees complain that it is very hard to make a breakthrough. There is a very small market apparently because people don't always have money to buy their items or pay for services rendered. One Congolese woman told me that:

I am a saloonist, now I braid about five women's hair, but in the settlement because of lack of money people don't even bother to ask except maybe once in a week.⁷⁰

⁶⁸ Congolese woman interviewed on the 24/11/2003

⁶⁹ Congolese woman interviewed on the 24/11/2003

⁷⁰ Congolese woman interviewed on the 23/11/2003.

Due to availability of economic opportunities in the city, more refugees are attracted to move and settle in Kampala. Some sell clothes, music tapes, groundnuts, dance for entertainment and work as casual labourers at construction sites or in restaurants and bars. Most of these are not available in refugees' settlements. This is one factor that this study has revealed as a major economic reason for the movement and settlement of refugees in Kampala City. It is however important to note that the study discovered that more than 20 of the 76 refugees interviewed were unemployed and in dire need of help. These are the ones who go begging in the streets of Kampala.

Search for jobs

Another issue raised by the respondents was the quest for jobs. Out of the 81 respondents, 70 confirmed that searching for a job is a major contributing factor for their movement and settlement in Kampala. Jobs in settlements are mainly for professionals – teachers, nurses or clerks. These are employed to work in the settlement structures. There are however no well-paying jobs in settlements or camps, even for professionals. As noted by SHRA, *Sudan Monitor* (Vol 7, No2, June 2002:3):

Qualified personnel to work in the health centres (settlement institutions) are not motivated by the situation to stay long and serve the people.

So, even the professionals seek employment outside the settlement because of better pay.

Most refugees, though without professional qualifications, felt that in Kampala they could get some petty jobs which could even earn them a living. As a Congolese man, put it:

Once in Kampala, our people (meaning refugees) develop skills for survival, for instance, casual labour in construction sites, carpentry, tailoring, dancing or entertainment, selling tapes, groundnuts, kitenges (clothes).⁷¹

This point of earning a living was greatly emphasized by refugees who preferred living in Kampala to settlement areas which are remote and detached from all economic activities. Though, in the process of job search work, they are exposed to a lot of abuse and exploitation (like sexual harassment, rape, low pay and so on), most refugees alluded to the fact that they are better staying in Kampala. In extreme cases however, some end up as sexual workers with the inevitable accompanying problems.

The search for better access to economic opportunities has been revealed as one of the major factors causing refugees to move away from settlements and settle in Kampala City.

⁷¹ Congolese gentlemen interviewed on the 23/10/2003

CHAPTER FIVE

Refugee policies, earlier lifestyles and relations

This chapter shows how refugee policies, their earlier lifestyle and their relations impact on the movement and settlement of refugee women and men in Kampala City. It acknowledges that refugee movement and settlement is governed by the municipal and international law – Government of Uganda CARA (60) 64 and UN conventions and treaties.

One study assumption was that there are inherent weaknesses within the policies of refugee settlements that influence refugees' settlements either in settlements or in urban centres like Kampala City. This assumption was affirmed by the study findings.

Uganda government policies

Uganda is a signatory to many international human rights conventions and treaties; these include the Convention Relating to the Status of Refugees/Geneva Convention (CRSR) (1951), the African Charter on Human and People's Rights (1981) and the OAU Protocol relating to the status of refugees (1967). These accord the refugees all rights as human beings and charge them with various duties and responsibilities. Juxtaposing these human rights Instruments to the Uganda CARA (60) (64) and Constitution (1995), the study tried to determine the extent to which refugees are kept in line with the said human rights principles. It goes further and more importantly to determine the impacts of these policies on the movement and settlement of refugee women and men in Kampala City.

As noted by Kiapi (1998:42) and Tyrrell (2000:9), the Control of Aliens Refugees Act (Chapter 64 of the laws of Uganda, 1964), treats refugees as unwanted intruders, rather than as traumatized population fleeing their home countries. It does not provide the protection of rights outlined in the Geneva Convention which Uganda has ratified, nor does it provide the protection outlined in the 1995 Uganda Constitution or Bill of Rights.

The study confirmed that CARA (60) 64 laws contribute to refugee reallocation to Kampala; this factor was raised by refugees as leading to their influx to Kampala. While International instruments consider all asylum seekers eligible for refugee status, without conditions attached – Article 1 and 3 of the Geneva Conventions, OAU Charter 1(1) and (2) – CARA's definition of a refugee or alien in Section 3(1) contravenes this. CARA gives powers to the minister (implemented by the Directorate of Refugees – Refugees Eligibility Committee) to define a refugee. This has led many refugees to flee either directly from their countries to Kampala or indirectly from the transit camps, after waiting for sometimes six months to a year without being granted asylum. Out of the 77 refugee respondents, 65 complained of the CARA law. More than half of those respondents said they had to just come directly to Kampala or they had left transit

camps and moved to Kampala because of their failure to be considered refugees or the delayed processing of their documents because of doubts regarding their eligibility.

Determination of status

While Article 33 of 1951 Geneva Convention and Article II, OAU Convention guarantees status acquisition and uses *non-refoulement* and *prima facie* policies, CARA 60 (64) allows the minister or director to have sole discretion in determining the status of individual refugees. *Non-refoulement* is a 1951, UN convention policy relating to the status of refugees that commits contracting states not to expel or return a refugee whose life or freedom would be threatened due to race, religion, membership of a social group or political opinion. It does not, however, protect persons not denied asylum. Ugandan law does not provide adequate protection against *refoulement* (Zambian Legal Resources Publications, 2002:95). Nothing affirmatively states Uganda's obligation to that effect. Although it prohibits repatriation of individuals who risk persecution upon return, there is a lack of determining mechanisms regarding individual risk factors.

Out of the 77 refugees interviewed about five confessed they had to flee to Kampala when their relatives or friends were told to go back, either by police on the border or by the Office of the Prime Minister officers in up-country offices. Apart from risk of entry without protection, this section exposes women to a lot of dangers, for example, manipulation from authorities – where they have to submit for fear of being repatriated. When the power of the 'authorized' person is unchecked, it can be a problem to refugees (Tyrell, 2002:9). Much as this section of the law is not strictly followed, determination of status systems have many shortcomings. This has forced some refugees to take the law into their own hands, relocating to Kampala City.

Freedom of movement

One of the sections of the CARA 60 (64) which is unfortunately enforced is section 17(1-4), that limits freedom of movement, subject to authorization by the director or commissioner for immigration; this permission is often not granted (Tyrell, 2000:10). It violates Article 26 of the Geneva Convention, which allows for freedom of refugees' movement and choice of residency, 'subject to any regulations applicable to aliens generally in the same circumstances'. Other aliens are free to move with identity documents or passports. With CARA 60(64) there is no freedom of movement, nor any freedom of choice of residency. This has led to settling refugees without considering pertinent issues like ethnic tensions with all its effects on refugees' settlements. The designation of refugee residency areas should not inhibit their right to choose where to live within those areas. Furthermore, section 17 inhibits the right to move freely from designated points of residency... (Zambia Legal Resources Publications, 2002:95).

These policies adversely undermine their right to work – limiting them to jobs available within the camps and settlements; it also limits their freedom of association (Geneva Convention

Articles 15, 17 and 18), worsened by Section 13(1) that prohibits refugees to enter a camp settlement without the consent of relevant officers.

What the literature reviewed and the government policy makers, failed to consider is that these policies have many negative effects. Most researchers have looked at the human rights violations but have not projected the effects to include what the study reveals about illegal urban movements and settlements. Because of the archaic nature of CARA (60) 64 and the laxity of its enforcement, some refugees are forced to leave the transit camps or settlements to self-settle in Kampala.

UNHCR policies

One other unfortunate policy is that once a refugee leaves a refugee camp or settlement she or he ceases to be under the operation of UNHCR. (UNHCR/Inter Aid la Uganda June 2000:43-44). These policies are to help control refugees' activities and reflect the government's fear of integration and need for easy accessibility. As reiterated by an officer of the Office of the Prime Minister:

... we accommodate them in camps/settlements, for easy control of activities, movement, security, access...⁷²

These policies have given leeway for refugees to move and settle in Kampala, they say, '... after all, even if I escape and settle in Kampala, I am on my own.' Although this is gross misinterpretation of the refugee policies to suit their interests, it still leaves a lot to be desired.

Laxity on the side of law enforcement officers to trace and reprimand refugees who flee from camps or settlements and settle in Kampala, is a motivation for many to do the same. Most respondents alluded to the fact that the CARA law is archaic and not enforced; otherwise they would have been reprimanded. This is depicted in what one Congolese woman mentioned:

I only knew that the law applies to refugees in settlements, not in Kampala or outside camps.⁷³

This notion shows ignorance of the law and that they are not afraid of living in Kampala without permission. Though they still show some signs of fear of law enforcement personnel, generally laxity in law enforcement has given them the opportunity to exploit it to their advantage.

Relationship between Uganda government and the rebel groups

Of the 81 people interviewed, 63 confirm that the relationship between the rebels, for example, SPLA, RCD Goma with government leadership, has led them to move and settle in Kampala.

⁷² THE OFFICE OF THE PRIME MINISTER officer interviewed on the 30/10/2003.

⁷³ Congolese woman interviewed on the 24/11/03

This amicable relationship has a two-fold effect on their decisions. The first category is refugees who felt that the Ugandan government supported their rebels and that they would not be disowned if they decided to resettle in Kampala. Through that association they emphasized that they would be salvaged.

The negative effect of the amicable relationship was that, in times of rebel activities in settlements, they kept quiet and this led to many having to flee. As one Sudanese man put it:

I left the settlement because we were not protected by Uganda government against the SPLA activities.⁷⁴

The Uganda government policies therefore include issues that infringe on the rights of refugees which prompt them to leave and self-settle in Kampala.

Earlier lifestyle

Much as the earlier lifestyle of refugees was not one of the study assumptions, it came to be one of the prominent issues raised by the respondents. Out of 76 refugees, 52 emphasized that they left the camps or settlements because of their earlier life background. Those who grew up in urban centres (did not grow up digging, had lots of money, and were having white collar jobs) could not ‘lower’ themselves to be ‘farmers’ in settlements, as one Congolese driver⁷⁵ put it.

Another human rights journalist asserted:

I have lived all my 40 years, in town, how then do you think I can survive in the rural Nakivale... I don't survive by digging...⁷⁶

Since most of them are young and single, they find it easier to stay in Kampala, than in settlements (see Table 3).

TABLE 3: NATIONALITY, SEX AND MARITAL STATUS

MARITAL STATUS	CONGO		SUDAN		RWANDA		UGANDA		TOTAL		
	F	M	F	M	F	M	F	M	F	M	
SINGLE	15	10	10	05	02	--	03	01	30	16	56
MARRIED	07	05	02	01	--	--	--	01	09	07	16
DIVORCED	--	02	--	--	--	--	--	--	--	02	02
WIDOWED	10	02	04	01	--	--	--	--	14	03	17
TOTAL	32	19	16	07	02	--	03	02	53	28	81

⁷⁴ Sudanese man interviewed on the 18/10/2003.

⁷⁵ Congolese man interviewed on the 14/11/03

⁷⁶ Congolese man interviewed on the 25/10/03

This partly explains their search for white-collar jobs, supposedly found in Kampala, not in refugees settlements. This factor was greatly stressed by Congolese drivers, carpenters, electricians, radio technicians, tailors, beauticians, businesswomen and men. Though they may have had minimal qualifications, their earlier way of life has a great bearing on the decisions of whether to settle in settlements or Kampala City.

As Tyrell (2000:10) observes, it can be very difficult for urban dwellers to convert to an agricultural lifestyle. This could only be possible if these opportunities were available in camps or settlements. For instance, with 25,742 refugees in Rhino Camp, Arua District, it is impossible to offer white-collar jobs to more than 100-200 people.

Our relatives are abroad and in Kampala

We cannot communicate with our son in USA from Magula settlement in Adjumani...
77

My brother, who came last year here (Kampala) ... called me to join him and do something ... after all there is free accommodation... 78

These are two out of the 43 respondents' sentiments for moving and settling in Kampala. Although at first this was not considered an assumption, it later proved to be an important factor. The factor of relationships with relatives abroad or in the country of asylum and Kampala was revealed. This was mainly stressed under two main issues – the need for easy contact with relatives abroad and the offer of accommodation in Kampala.

Ease of communication

The first category of respondents emphasized the importance of communication with the relatives resettled abroad in USA, Canada and Germany, to name a few of the most commonly mentioned. Most emphasized the variety of communication networks available in Kampala and not available in settlements. This includes telephone, fax, email and postal services. In the settlement, an old Sudanese woman reiterated:

We received his letter only once in four years time, after he had left and yet him, this was his tenth letter telling us to resettle in Kampala... for easy reach ...⁷⁹

The importance of communication in this internet era does not need much emphasis. 'Now we can send emails and get replies after just a few minutes,' emphasized one man whose brother is resettled in Canada.⁸⁰

⁷⁷ Sudanese old woman interviewed on the 29/12/2003.

⁷⁷ Congolese woman interviewed on the 13/12/2003.

⁷⁸ Congolese woman interviewed on the 13/12/2003.

⁷⁹ Sudanese old woman interviewed on the 29/12/2003.

Some explained that they had to self-settle in Kampala because their relatives sent them money to rent houses there, being a strategic place where their siblings could access education or wait to be taken to join them abroad. The idea that ‘she is coming to collect us’ was vividly shared by more than 30 respondents. For instance, one Sudanese woman, confided that:

...my uncle invited me to stay here and wait, that he is going to take us (three people) to join him in USA. He sends us US\$20 after every two weeks ... So far, he has taken three already to USA, and Canada, who went in September, 2002...⁸¹

This notion flashes rays of hope in their minds which prompts them to brave rain and sun to self settle in Kampala City.

Kampala relatives

Another major category of refugees self-settled in Kampala because of their relatives who came earlier and settled in Kampala. The offer of accommodation, a living, a promise of a job or education opportunities, are some of the factors that cannot be ignored by refugees in moving and settling in Kampala. Most elderly and young refugees that I interviewed praised their relatives for rescuing them from the pathetic conditions in camps or settlements and for exposing them to the world.

Thus relations play a role in the movement and settlement of both men and women refugees into the city. This factor is however hinged on the hope to access rewards mentioned earlier. Settling in Kampala to them would mean better accommodation, eating better food and, above all, access to better education and jobs. Though some are lucky enough to achieve their goals, when I saw what they ate, how their children dressed and the schools they attended, I was left in no doubt that they are living in misery.

⁸⁰ Sudanese man interviewed on the 28/11/2003

⁸¹ Sudanese woman interviewed on the 29/12/03.

CHAPTER SIX

Conclusions and recommendations

Drawing from the study findings and the recommendations from concerned parties, this chapter presents a number of proposals for the way forward. It concludes by highlighting the salient features revealed by the study findings.

Recommendations

These recommendations were taken from the refugees themselves, personnel working with refugee non-governmental organizations and study findings, and are addressed to the UNHCR, implementing partners, non-governmental organizations, the Ugandan government, personnel that interact with refugees and, above all, refugees and the general public. The recommendations for the way forward are put into four broad categories; sensitization, education, advocacy and mobilization, policy changes and legal reforms. These can be seen below:

- 1 Mechanisms to sensitize personnel who receive, sieve and interview asylum seekers should be strengthened to be sensitive to their plight and to the various background factors.
- 2 Public awareness of refugees issues needs to be raised. This could be through the non-governmental organizations, dealing with refugees or the government directorate of refugees or through human rights activists. Various stakeholders need to be sensitized to how to deal with refugees, to reduce or eliminate xenophobia and hostility against them.
- 3 UNHCR needs to step up their supervisory mechanisms, roles and activities regarding refugees. They should base their policies on refugees' welfare, status determination and, above all, security. UNHCR should provide checks and balances for government refugee policies.
- 4 The Ugandan government, through the parliamentarians, should pass the 1998 Refugees Bill to deal with the shortcomings of the archaic CARA (60) 64 and to cater for refugees' rights to policies that meet the international standards.
- 5 The refugees' eligibility committee (REC) function should be legislated so as to streamline their activities and circumvent administrative shortcomings.
- 6 Refugees' non-governmental organizations and concerned parties need to advocate for diversification of the self-reliance strategy to include refugee women's innovations in and outside settlements. For instance, involvement in income-generating activities – tailoring, trade, service industry, restaurants, where they are trained and given some initial starting capital.

- 7 Women refugees need to be empowered rather than ignored, so they can eke out a living for themselves and their families. This can be through special training on, for example, entrepreneurship, peace-building and human rights.
- 8 Mechanisms for refugees to voice their concerns and talk about their plight should be put in place or strengthened and made accessible so as to expose human rights' abuses for appropriate action.
- 9 More non-governmental organizations need be encouraged to be involved in crucial service provision in and outside settlements – for example in the areas of education and health.
- 10 Women's rights non-governmental organizations need to advocate for women refugee access to social services without discrimination based on status, race, nationality, religion and so on.
- 11 The international community should encourage peaceful resolutions to various conflicts that generate refugees, so as to reduce the influx of refugees and even allow repatriation which is the best permanent solution to refugees' problems.
- 12 More research needs to be carried out on the following:
 - Refugees survival methods to determine, whether they can be adapted as a breakthrough to self reliance.
 - Vulnerability of urban self-settled women refugees.
 - Why some refugees remain in settlements, in spite of the vulnerable problems faced.

Conclusions

In the light of the above findings and recommendations, the study has the following conclusions. The study confirms that there are many self-settled refugees living in Kampala City, although most statistics seems to downplay the figures. It has also revealed a number of factors that cause the influx of refugee women and men into the city. Insecurity and harsh conditions in the settlements are ranked highest, among other factors.

As denial of citizens' rights, creates insecurity and generates refugees, insecurity in refugee settlements too influences refugees to search for alternative settlement areas. Many end up in the city because of the transport network.

Since the basic human needs are food, water, shelter and medical care, failure to provide these puts refugees, especially women with children, in a very awkward position. This leads many to seek better services elsewhere.

The quest for education generates an unquenchable thirst in the hearts of refugees, with the hope that the right education will pave the way for their children's future. This leads some who have the means and moreso the will, to relocate to Kampala, where there is a variety of educational institutions.

There are gaps in the laws of Uganda that mean Uganda does not conform to international refugee human rights standards. Procedures of status determination take too long and this determines how

the refugees respond to the status granted. Though earlier lifestyles greatly determine where they finally settle, the long procedures also greatly contribute to their relocation to Kampala.

In conclusion, the study has revealed a number of factors that influence refugee women and men to flee from settlements and settle in Kampala. It calls for concerted efforts of all to take action to salvage refugees from human rights abuses, which forces them to relocate. It demands that the government and UNHCR refocus their policies and strategies to meet refugees' human rights needs.

PART B

Domestic violence against refugee women: a case study of Kibondo refugee camps in western Tanzania

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Dissertation submitted in partial fulfillment of the Master's degree in Women's Law, Southern and Eastern African Regional Centre for Women's Law, University of Zimbabwe, March, 2004

To Molly

My loving daughter who was most affected by my being away.

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To my family, I owe invaluable gratitude primarily to my daughter Molly who tolerated months of separation during the women's law course. Finally to my husband Bollen, I owe a sea of gratitude for tolerating a long period of my absence. His support and encouragement is beyond measure.

International instruments

International Convention Relating to the Status of Refugees, 1951

International Covenant on Civil and Political Rights, 1966

International Covenant on Economic, Social and Cultural Rights, 1966

OAU Convention, 1969

Statute of the UNHCR, 1950

Universal Declaration on Human Rights 1948

Convention on Elimination of all forms of Discrimination Against Women 1981

Declaration on Elimination of Violence Against Women 1993

List of statutes

Tanzania Refugee Act, 1998

Tanzania Penal Code Cap 16

Tanzania Marriage Act 1971

List of tables

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Table II Refugee women respondents

Table III Statistics of sexual and gender based violence reported cases

Table III Options for reporting domestic cases

Abbreviations

AIDS	Acquired Immune Deficiency Syndrome
CEDAW	Convention on Elimination of all forms of Discrimination Against Women
DEVAW	Declaration on Elimination of Violence Against Women
HIV	Human Immuno Virus
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IHRW	International Human Right Watch
IRC	International Rescue Committee
SAEU	Southern Africa Extension Unit
UDHR	Universal Declaration on Human Rights
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
WFP	World Food Programme

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CHAPTER ONE

Introduction

This study focuses on the problem of domestic violence which Burundian women in the Kibondo refugee camps in Tanzania encounter in their homes. It is an investigation into why domestic violence occurs. It also seeks to find out how the refugee women, United Nations High Commissioner for Refugees (UNHCR) and its implementing agencies or partners (IPs), the refugee community, the police, the court and the Tanzanian government respond to domestic violence.

It is mainly women who are victims of domestic violence from their husbands or intimate partners. Domestic violence is a form of discrimination against women and it denies women the enjoyment of their basic human rights. And it sometimes subjects women to committing violent crimes.

Background

Domestic violence against women is a manifestation of the historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of women's full advancement.⁸² Domestic violence is a violation of human rights; it perpetuates the stereotyping of gender roles that denies women dignity of individual and stymies human development.

The root causes of domestic violence lie in a society's attitudes towards and practice of gender discrimination, which place women in a subordinate position in relation to men. The lack of social and economic value for the work of women and the accepted gender roles perpetuate and reinforce the assumption that men have the right to beat their wives, have decision-making power and control over women. Through acts of gender-based violence perpetrators seek to maintain privileges, power and control over women.

Statement of the problem

Women who flee their homes in search of sanctuary from violence too often find that there is no meaningful refuge; they have simply escaped violence in conflict to face a different type of violence in the refugee camps.

Refugee women are vulnerable to many forms of violence, domestic violence in particular, which is at its highest level in refugee communities. The artificial refugee environment and traditional gender roles expose women to a situation of abuse and violence.

⁸² UNHCR Sexual and Gender Based Violence guidelines pg. 7

Objectives of the research

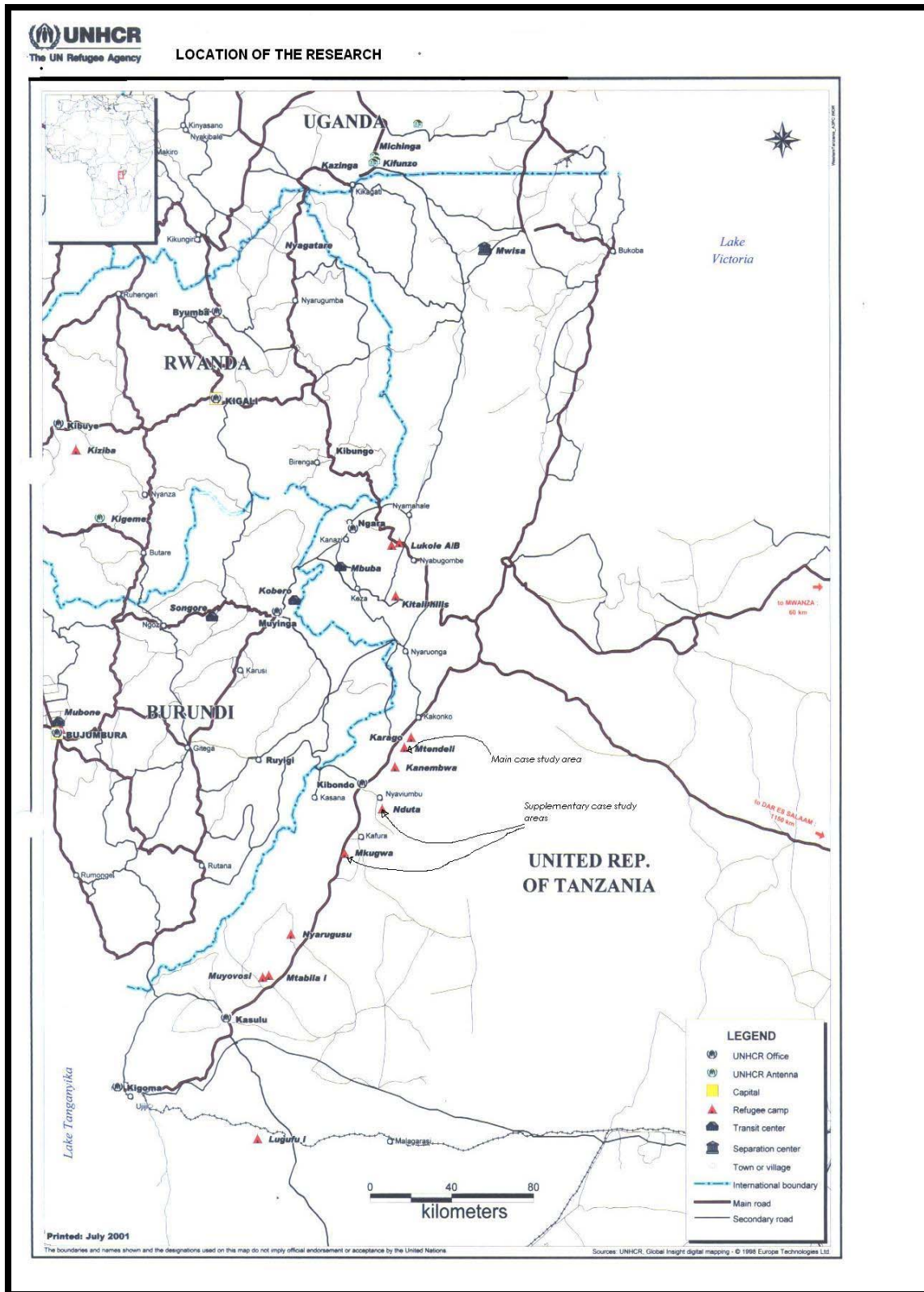
The research was carried out with the following objectives:

- 1 To discover the practice and adequacy of both UNHCR and its implementing agencies, police and the court when dealing with domestic violence.
- 2 To bring to light existing gaps in the responses to and prevention of domestic violence in Kibondo refugee camps.
- 3 To identify important forms of recourse and intervention strategies that UNHCR and the government of Tanzania should adopt in responding to domestic violence in refugee camps.
- 4 In the light of the findings to make recommendations for possible law reform, policy and practical action to deal with domestic violence in the refugee camps.

Location of the research and overall camp structure

This research was carried out in the Kibondo refugee camps in western Tanzania. Kibondo lies in a remote area close to the Tanzanian border with Burundi. It is situated approximately 1150 kilometres from Dar es Salaam, the capital city of Tanzania. Mtendeli camp is situated approximately 40 kilometres from Kibondo centre. It is inhabited by refugees from Burundi who speak Kirundi from Hutu ethnic group.

Map 1



The camps are managed by UNHCR and the Tanzania Ministry of Home Affairs which is responsible for refugee issues. UNHCR also works in collaboration with other international and

local humanitarian agencies (herein referred as implementing partners or agencies) who implement the UNHCR's work in the camps. There are some structures such as hospitals, schools and community service offices run by the implementing partners. There is also police station with Tanzanian police in each camp.

The camps are organized into blocks, streets and plots. Block and street leaders are chosen in yearly elections organized by the Ministry of Home Affairs in collaboration with UNHCR. The block leaders (called *abashingantahe* in Kirundi language) are chosen from the older male refugees; they act as mediators whenever there is conflict between refugees and also they help to deliver information from the government authority, UNHCR or other implementing agencies to refugees.

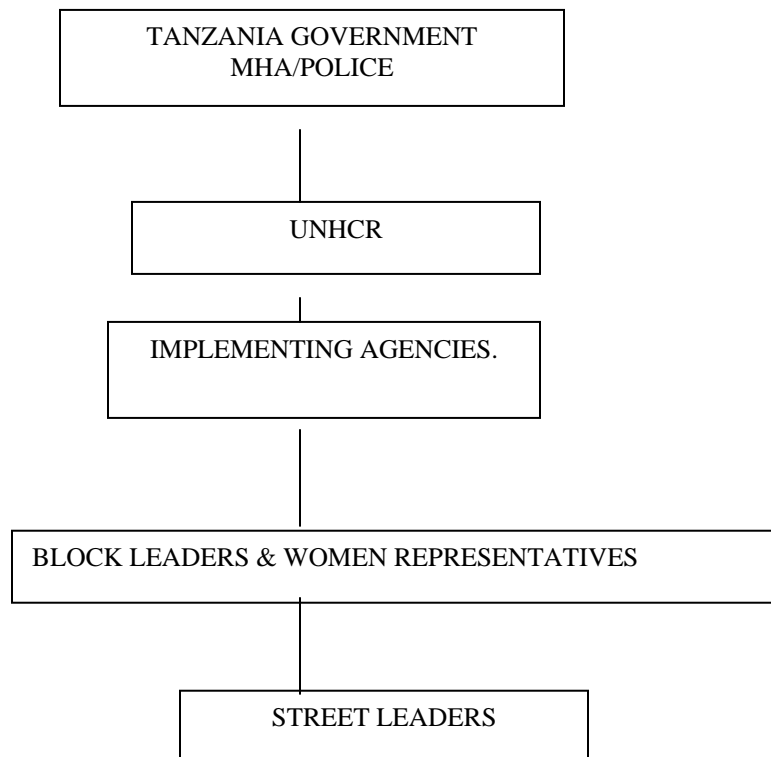
When refugees arrive in the camps, they are registered and issued with ration cards. These cards are used as their identification and also for the purpose of food distribution which is provided with the office of UNHCR in collaboration with World Food Programme (WFP).

Refugees do not pursue meaningful economic activities as they mainly depend on assistance from UNHCR and other humanitarian agencies.

Refugees are supposed to remain in the camps as they are not allowed to go outside the camp without permission from the Ministry of Home Affairs.

Table I

STRUCTURE OF CAMP MANAGEMENT



Presentation of the study

The study is presented in six chapters. The first chapter explains the parameters of the study. Chapter two reviews the law and literature pertaining to the issue of domestic violence while chapter three presents the methodology used, chapter four presents the finding of the research, discussion on the finding is covered in chapter five and chapter six contains the conclusions and recommendations.

CHAPTER TWO

Law and literature review

Who is a refugee?

The term refugee has been defined in the 1951 Convention Relating to the Status of Refugees (1951 Refugee Convention) as:

‘Any person who owing to a well founded fear of being persecuted for reason of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear is unwilling to return to it.’

The Tanzania Refugee Act 1998 defines a refugee as any person who:

‘(a) is outside the country of his nationality or if he has no nationality, the country of his former habitual residence, because he has or had a well founded fear of persecution by reason of his race, religion, nationality membership of a particular social group or political opinion and is unable or, because of such fear, is unwilling to avail himself of the protection of the government of the country of his nationality, or if he has no nationality, to return to the country of his former habitual residence;’

Refugee rights and entitlement in Tanzania and international law

It is first and foremost the responsibility of states to protect their citizens, however when governments are unwilling or unable to protect their citizens, individuals may suffer such serious violation of their rights that they are compelled to leave their homes and their countries to seek safety in another country. Due to the fact that the human rights of those people are no longer protected by their government, the international community and UNHCR assume the responsibility of ensuring that their rights in refuge countries are respected and protected.

Tanzania is a party to a number of international instruments that guarantee basic rights and freedoms, including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic Social and Cultural Rights (ICESCR), the African Charter on Human and People’s Rights (The African Charter), the Convention on Elimination of all forms of Discrimination Against Women (CEDAW), the Declaration on Elimination of Violence Against Women (DEVAW), the Beijing Declaration and Platform for Action, the 1951 Refugee Convention and the OAU Convention Governing Specific Aspects of the Refugee Problems in Africa.

These international human rights instruments require governments to provide protection against the violation of the human rights of all persons within the territory. These obligations extend to all refugees and asylum seekers within the host country. Since the government of their home country no longer protects the basic rights of refugees, the international community assumes the

responsibility of ensuring that the rights of refugees are respected. As it is stipulated in the conclusion of the UNHCR executive committee that:

‘The most important protection for refugees in the international human rights law is the principle of non-discrimination which ensures that refugees, even though they are not citizens of the asylum country, are entitled to the same fundamental rights and freedom as citizens (UDHR, ICESCR, ICCPR) apply equally to the citizens and non citizens’⁸³

Though executive committee conclusions are not legally binding on states in the same sense as treaties; however as they are adopted by consensus by over 40 states, they are widely recognized to present the view of the international community and carry persuasive authority.⁸⁴

The 1951 Refugee Convention requires all contracting states to accord to refugees within their territories treatment as favourable as that accorded to their nationals.⁸⁵

The laws applicable to the refugees in the asylum country are the same as those applied to nationals of that host country, thus it is provided in Article 2 of the 1951 Refugee Convention that:

‘Every refugee has duties to the country in which he finds himself, which requires in a particular that he conform to its laws and regulation as well as to measures taken for the maintenance of public order.’⁸⁶

The 1951 Refugee Convention further in Article 16 requires the government to make the legal system and court accessible to refugees and they shall enjoy the same treatment as nationals pertaining to access to courts, including legal assistance which should be equally available to refugees.

Refugees, as with any other human beings, are entitled to enjoy all the human rights stipulated in the human rights instruments, and they have the same rights as nationals in the country hosting them and the government has the duty and responsibility to protect those rights. Tanzania government has an affirmative obligation to protect women refugees from all forms of violence including domestic violence and to ensure that women who are subjected to this assault have full access to the Tanzanian legal system. However the Tanzania law is inadequate in addressing this issue.

What is domestic violence?

The *Chambers World Finder* (1995) describes domestic violence as referring to:

‘Any and all violence that occurs between members of the same household or family. This also implies to boyfriend/girlfriend abuse, aggressive and hostile behaviour

⁸³ See common Article 3 of both Conventions

⁸⁴ Amnesty International and International Services for Human Rights. (1997) *The UN and Refugee Human Rights: A manual on how UN human rights mechanisms can protect the rights of refugees*. Pg. 53

⁸⁵ Article 2 of the 1951 Refugee Convention

⁸⁶ See also Article 3 OAU convention governing Specific Aspects of Refugee Problems in Africa.

between members of a family that results in injury, harm and humiliation and sometimes death. These behaviours include physical abuse, rape, destruction of property and deprivation of basic needs.’

Domestic violence has only recently been treated as a specific legal issue in very few African countries, including South Africa which enacted the South Africa Domestic violence Act in 1998.

The Act defines domestic violence as:

‘physical abuse, sexual abuse, emotional, verbal and psychological abuse, economic abuse, intimidation, harassment, stalking, damage to property, entry into complainants residence without consent where the parties do not share residence or other controlling or abusive behaviour towards complainant, where such conduct harms or may cause imminent harm to the safety, health or wellbeing of the complainant.’⁸⁷

According to the definition of domestic violence in the Act there are various forms of domestic violence including:

- 1 Physical abuse involves infliction of pain and injury on the complainant’s body. It includes beating, punching, kicking, biting, burning, maiming or killing, with or without weapons.
- 2 Sexual abuse includes any act or conduct that abuses, humiliates, degrades or otherwise violates the sexual integrity of the complainant.
- 3 Emotional, verbal and psychological abuse means a pattern of degrading or humiliating conduct towards a victim such as repeated insults, ridicule or name calling, the repeated threats to cause emotional pain, repeated exhibition of obsessive possessiveness or jealousy, which is such as to constitute a serious invasion of the victim’s privacy, liberty, integrity or security.
- 4 Economic abuse includes the unreasonable deprivation of economic or financial resources to which a victim is entitled under law or which the complainant requires out of necessity, including household necessities for the complainant or victim. It also includes unreasonable disposal of household effects or other property in which the victim or complainant has an interest.
- 5 Harassment includes engaging in a pattern of conduct that induces the fear of harm to a complainant including repeatedly watching or loitering outside of or near the building or place where the complainant resides, works, carries on business, studies or happens to be, it also includes repeatedly making telephone calls, sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mails or other objects to the complainant.
- 6 Stalking includes repeatedly following, pursuing or accosting the complainant.

Tanzanian law on domestic violence

There is no specific legislation in Tanzania dealing with domestic violence. Domestic violence has often been treated under common assault charges or assault causing grievous bodily harm; this is provided under section 240 of the Penal Code Chapter 16. It provides that:

⁸⁷ Section 1 (viii) of the South Africa domestic violence Act.

‘Any person who unlawfully assault another is guilty of misdemeanour.’

Section 241 states:

‘Any person who commits an assault occasioning actual bodily harm is guilty of misdemeanour.’

As far as economic violence is concerned the Penal Code covers the situation whereby a parent or guardian neglects to provide food for children. It states that:

‘Any person who being the parent or guardian or other person having lawfully care or charge of any child of tender years... Refuse or neglect to provide sufficient food... and other necessaries for such child is guilty of misdemeanor.’

The Tanzanian Marriage Act 1971 includes a declaration against spousal battery but does not prohibit it nor provide for punishment.

‘For the avoidance of doubt, it is hereby declared that, notwithstanding any custom to the contrary, no person has any right to inflict corporal punishment on his or her spouse.⁸⁸’

The Act only covers corporal punishment but does not say anything on other kinds of battering or beatings.

A refugee woman who is in a violent relationship can report to the police and file criminal charges against her husband or partner. But there are number of factors that will determine whether the case will get to the court or not. These include the attitude of the refugee community in relation to domestic affairs and domestic disputes, how serious the attack was and if there have been previous attacks and other factors such as the attitude of the police handling the case. These factors are useful in understanding why some refugee women may resolve to take action or use community-based mediation mechanisms in settling issues of domestic violence. The absence of legislation dealing specifically with domestic violence and the fact that domestic violence can only be dealt with under assault, which is only punishable with imprisonment, limits the legal remedy available to the woman.

International instruments

It is argued that domestic violence is a form of discrimination against women as it is an obstacle to the achievement of equality between men and women since it violates the fundamental rights and freedoms of women and impairs or nullifies their enjoyment of human rights.

The Declaration on Elimination of Violence Against Women 1993 (DEVAW) states that:

‘Women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other fields. These rights include, inter alia:

- a) The right to life

⁸⁸ Section 66 of the Tanzanian Marriage Act 1971

- b) The right to equality
- c) The right to liberty and security of person
- d) The right to equal protection under the law
- e) The right to be free from all forms of discrimination
- f) The right to the highest standard attainable of physical and mental health
- h) The right not to be subjected to torture or other inhuman or degrading treatment or punishment⁸⁹

Domestic violence violates the above stipulated rights of women, it is one of the forms of violence against women as described in DEVAW which needs immediate response for women to enjoy their rights. It also details states to pursue by all appropriate means and without delay a policy of eliminating violence against women. It further requires the government to enact or reinforce penal, civil, labour and administrative sanctions to punish and redress the wrong done to women and girls.⁹⁰

The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) sets out states' obligations to ensure non-discrimination on the basis of gender and to ensure access to the law for all women.

Article 16 of CEDAW requires the elimination of all forms of discrimination against women in all matters pertaining to marriage and family.⁹¹

The CEDAW committee made recommendations to the Tanzania report in 1998 with regard to violence against women, especially domestic violence, that Tanzania should take all appropriate measures, including laws, which should be developed and effectively enforced to combat domestic violence.⁹² The committee further noted the large number of refugee women that reside in Tanzania and requested further information on the situation of refugee women and what the government does to address their problem⁹³ in relation to the CEDAW concerns.

The recent Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa⁹⁴ also covers the issue of domestic violence both in peace time and during situations of armed conflict or war.⁹⁵ It also considered Article 18 of the African Charter and further requires elimination of discrimination against women by:

'Calling state parties to combat all forms of discrimination against women through appropriate legislative, institutional and other measures.'⁹⁶

⁸⁹ Article 3 DEVAW

⁹⁰ Article 2 (b & f) of DEVAW

⁹¹ Also see Article 18 of the African Charter.

⁹² Recommendation no.27 to Tanzania report to CEDAW 1998.

⁹³ Ibid no. 36&37

⁹⁴ Adopted by the conference of Heads of states and Government in Maputo-Mozambique, July 2003

⁹⁵ Article 1(j) Protocol to the African Charter on the rights of women in Africa.

⁹⁶ Ibid Article 2

The United Nations Executive Committee conclusion recognizes that refugee women face particular hazards, especially threats to their physical safety; it also calls for the host governments to strengthen their support of the offices' protection activities as they relate to women.⁹⁷

The UN report, *Violence against women in the family*, states:

'In the end analysis, it is perhaps best to conclude that violence against wives is a function of the belief fostered in all cultures, that men are superior and that women they live with are their possessions or chattels that they can treat as they wish and as they consider appropriate.'⁹⁸

Domestic violence doubly victimizes refugee women who are already victims of human rights abuse. It discriminates against women and it is one of the obstacles to women's achievement of equality with men. It is the responsibility of the Tanzania government to enact laws on domestic violence as a matter of expedience and to conform to its obligation and commitment at international level in this regard.

Literature

During the course of this research I found a considerable body of literature which points to the widespread nature of the phenomena in the world. I found a significant amount of data which also corresponded with my findings in the field.

Dobash *et. al.*⁹⁹ state that the use of violence against women in their position as wives is one of the means that men use to control, oppress and explicitly express patriarchal domination. The position of women and men as husbands and wives has been historically structured as a hierarchy in which men possessed and controlled women. Patriarchal domination through force is still supported by a moral order that reinforces the marital hierarchy, this makes it very difficult for a woman to struggle against this and other forms of domination and control. Her struggle is construed as wrong, immoral and a violation of the respect and loyalty a wife is supposed to give to her husband. They further explain that despite this, women try to struggle against their husband's oppression as well as against customs that force them to remain silent in an abusive relationship. However, they face obstacles from the police, lack of legal support and responses of various social agencies which often demonstrate direct or indirect support for the husband's authority and his use of violence.

In speaking particularly to the experience of women as victims the violence against women Tsanga¹⁰⁰ states that:

'Women are usually the victims of domestic violence. You cope with bruises, cuts or broken bones. You live in fear of another attack. You worry about your children. You feel helpless and ashamed. Your family may tell you to accept it. You hope that the violence will stop. If your husband promises not to beat you again, you want to

⁹⁷ Article 54, 60 and 64 Excom Conclusion

⁹⁸ UN report, note 1:33

⁹⁹ Dodash R. E et al.(1979) *Violence Against Wives* pg. ix

¹⁰⁰ Tsanga, Amy (2003) *Taking the Law to the People: Gender, law reform and community legal education in Zimbabwe*. Pg 95.

believe him. You may even blame your self. You do not need to feel guilty. No one has the right to beat or threaten you, especially in your own home. It is against the law. You do not have to accept domestic violence. Take action and give courage to other women.'

Though women know that domestic violence is wrong and actually it is a crime, they tend to suffer in silence. Perhaps because of the children, family pressure, intimidation and the hope that one day the violence will be over.

A study by Armstrong¹⁰¹ also reveals domestic violence as a major problem affecting women and that not many women report such cases. This is because society plays a significant role in determining the options that a woman in an abusive relationship can exercise. Whether she leaves, remains or reports the perpetrator to the police and pursues the case, has more to do with how society has always treated the issue of domestic violence. As the result of the nature of the circumstances in which domestic violence occurs, women who find themselves in this situation are forced to deal with the problem at the personal and private level within the family or in the community.

Armstrong further argues that women who are experiencing domestic violence do not report such cases and that they act only when violence becomes severe and causes serious injury. When this happens women are forced to report to the police or health sector.

In her findings Tibatemwa¹⁰² noted that most of the women who commit violent crimes against others are victims of domestic violence from their husband or intimate partners. From the interviews she did with women in prisons who committed violent crimes, most of them justified their actions either on the grounds of self-defence or at least as a reaction to provocative acts (physical violence) by the victim. This was common among women who killed their husbands. Their violence was a reaction to physical abuse.

Domestic violence denies women their right to equality and freedom and it also leads them to commit violent crimes against their husbands which means they end up in prison and leave their children suffering.

International Human Rights Watch (IHRW) in their research on sexual and gender-based violence reveals domestic violence as a leading cause of female injuries around the world, and observe that men use domestic violence to diminish women's autonomy and sense of self-worth.

States that fail to prevent and prosecute domestic violence treat women as second-class citizens and send a clear message that the violence against them is of no concern to the broader society. International Human Rights Watch research further explains that many women suffer in silence because they may, for example, be financially dependant on their abuser, emotionally attached to the abuser, and fear condemnation from the family and break up of their marriage if they pursue criminal charges. These and other factors often make women reluctant to bring charges in domestic violence cases or lead them to drop charges already filed. Therefore there is a critical

¹⁰¹ Armstrong, A (1998) *Culture and choice: Lessons from survivors of Gender Violence in Zimbabwe*

¹⁰² Tibatemwa- Ekirikubinza Lillian (1999) *Women Violent Crimes in Uganda: More Sinned against than sinning.*

need to provide domestic violence victims with complementary measures of support rather than relying on criminal charges.¹⁰³

Through its research on domestic violence in a number of countries around the world, International Human Rights Watch has found that the attitude of law enforcement officials frequently serves the interest of the abuser not those of the women who are victims.¹⁰⁴

Women commonly face huge obstacles in seeking legal protection from domestic violence or in getting law enforcement authorities to take action against and prosecute their batterers and in obtaining protection from further violence. Police and judicial authorities sometimes dismiss domestic violence as a private matter rather than a crime that demands urgent state action.

There is little literature which specifically addresses domestic violence against refugee women in Tanzania. The UNHCR guidelines for prevention and response to sexual and gender-based violence (hereinafter SGBV guidelines), define sexual and gender-based violence as violence that is directed at a person on basis of gender or sex. It includes acts that inflict physical, mental or sexual harm or suffering, threat of such acts, coercion and other deprivations of liberty.¹⁰⁵ This act includes rape, attempted rape, sexual harassment, early and forced marriage and domestic violence.¹⁰⁶

The guideline explains that sexual and gender-based violence is most prevalent in the refugee camps and it is a violation of human rights; women and children are most vulnerable to that human rights abuse and they are the ones who suffer most.

It further states that an unequal gender relation within refugee communities is exacerbating sexual and gender-based violence. It has been used as a weapon of war and as a means of exercising power; it has been both a cause of forced displacement and terrible consequence of the breakdown of family and community structure that accompanies displacement. Domestic violence reinforces gender-based discrimination and keeps women subordinate to men.¹⁰⁷

The guideline offers practical advice on how to design strategies and carry out activities aimed at preventing and responding to sexual and gender-based violence in the refugee camps but there is minimal reference to domestic violence as part of this violence.¹⁰⁸ The guidelines give more practical advice on how to respond to sexual violence than to domestic violence. The guideline is used by the officers to address, respond to and prevent acts of sexual and gender-based violence in the camps. However, because of its minimal emphasis on domestic violence in comparison with sexual violence, the response to domestic violence is inadequate and as a result women continue suffering this human rights violation.

¹⁰³ Human Rights Watch http://www.hrw.org/women/domestic_violence.html

¹⁰⁴ Ibid.

¹⁰⁵ UNHCR(2003) SGBV guideline pg.10

¹⁰⁶ Ibid.

¹⁰⁷ UNHCR SGBV guideline pg.11

¹⁰⁸ Ibid. pg.15

CHAPTER THREE

Methodology

Domestic violence against refugee women was chosen to be a research topic mainly because of the practical experience of working in refugee camps as a sexual and gender-based violence officer with Southern Africa Extension Unit , one of the UNHCR implementing agencies. Having worked in refugee camps as sexual and gender-based violence officer, many domestic violence matters were reported to me. This prompted me to pursue a study on domestic violence in refugee camps.

Research assumptions

This research was underpinned by the following formulated assumptions:

- 1 Domestic violence is prevalent in refugee camps and it takes various forms
 - a) Economic
 - b) Physical
 - c) Psychological
- 2 Inadequate attention is given to domestic violence.
- 3 With regard to Tanzanian law:
 - That Tanzanian law Operates in the camps.
 - That Tanzanian law is inadequate in addressing domestic violence.
 - There is problem of access to legal remedies.
 - That Tanzanian law seems only to be used in criminal cases.
- 4 Some women do not report cases of domestic violence
 - a) They prefer to use community based mediation mechanism.
 - b) Some who report do not pursue their cases.
- 5 Customs and practice of the community militate against women reporting or pursuing cases of domestic violence.
- 6 Laws relating to marriage for refugees are confusing:
 - a) Burundian law which outlaws polygamy seems not to operates in the camps.
 - b) Tanzanian laws relating to marriage and divorce are not being applied.

- c) International instruments indicate that Tanzanian Laws should be applied
- 7 Administrative and legal processes relating to domestic violence are problematic and cumbersome
 - Through block leaders, UNHCR and the sexual and gender-based violence office
 - Police do not pursue the cases independently
 - 8 UNHCR and its implementing agencies have a limited range of internal responses.
 - 9 Regarding Law and administrative reform and action:
 - a) That there is a need for comprehensive law on domestic violence
 - b) That there is a need for review of implementation and adjudication processes and training of officers and leaders
 - c) Broad-based gender inclusive information awareness and prevention campaigns are needed.

Research questions

Based on the above assumptions, this study sought to answer the following questions:

- 1 How prevalent is domestic violence in Kibondo refugee camps? Does it take economic, physical and psychological forms?
- 2 Is there adequate attention paid to domestic violence?
- 3 Regarding Tanzanian law:
 - Does it operate in the camp?
 - Does it address domestic violence adequately?
 - Are there any problems in accessing legal remedies?
 - Is it used in family and personal matters?
- 4 Do women report cases of domestic violence or
 - a) Do they prefer to use community based mediation mechanisms
 - b) Do women who report domestic violence pursue their cases to the end?
- 5 Do the customs and practices of the community play any role in women not reporting or pursuing domestic violence cases?
- 6 How is the law relating to marriage and divorce for refugees applicable in the camp?
 - a) Is the Burundi law outlawing polygamy operating in the camps?
 - b) Is the Tanzanian law relating to marriage and divorce applied in the camps?

- c) Does the international instrument indicate which law is to be applied in Tanzanian refugee camps?
- 7 Are the administrative and legal processes relating to domestic violence problematic?
- a) How do the block leaders and sexual and gender-based violence programme deal with domestic violence?
 - b) Do police pursue cases of domestic violence independently?
- 8 Do UNHCR and its implementing agencies have enough range of internal response on domestic violence?
- 9 Law and administrative reform and action
- a) Is there a need for a comprehensive law on domestic violence?
 - b) Is there a need to review implementation and adjudication processes and training of officers and leaders?
 - c) Is a broad-based gender-inclusive information awareness and violence prevention campaign needed?

Women's law perspective

The domestic violence against refugee women research was conducted along broad parameters of women's rights. In order to verify the above assumptions, the women's law approach was used because of its numerous advantages, principally because it takes women's experiences and lived realities and not the law as the starting point for analyzing the position of women in the society. Dahl contends that it is necessary to use women's specific needs and conflicts as the norm.¹⁰⁹

The women's law methodology allows the adoption of a multidisciplinary approach to research, it enables one to go beyond the narrow legalistic approach to research and use other methods and tools from other disciplines. Thus I was able to explore the socio-economic and cultural forces that impact on domestic violence and influence women to report or not report domestic violence or to use or not use the law in seeking remedy to the problem of domestic violence. Account was also taken of the fact that women do not live in isolation, they live with men. Using the women's law perspective or approach my starting point was the women survivors or victims of domestic violence and other women in the refugee camps. The interviews with the women themselves exposed the women's lived realities and the legal, social, economic and cultural barriers emerged as the obstacles to women accessing the legal redress structures. Indeed there was more to it than interviewing women; because women live with men, it was necessary for me to interview men as well. The women's view is affected by the men's perspective and experience. I interviewed men as individuals and in a group to help to bring out the male angle. I also analyzed the adequacy of the law and law enforcement organs in dealing with domestic violence in the Kibondo refugee camps.

¹⁰⁹ Tove Stang Dahl. (1987) *Women's Law an Introduction to Feminist Jurisprudence*. pg.12

The role of semi-autonomous social fields

Unwritten norms generated within social entities such as family, church, and local leaders and the refugee community were analyzed as entities in influencing women's capacity and response regarding domestic violence.

Gender perspective

Gender is a cultural definition of behaviour and roles in a given society at a given time.¹¹⁰ In this respect a major factor is whether socially and culturally constructed roles are ascribed to a person because of being a male or female.

The issue of gender was explored to see where it has any impact on the existence of domestic violence in the refugee camps. The roles that are constructed by the society treat men and women differently. In general they create an imbalance of power between men and women whereby men are superior and they exercise power and control over women and children who are accorded a subordinate position. The socially-constructed roles disadvantage women and perpetuate the oppressive relations.

The gender perspective was very important when examining the existence and causes of domestic violence in the refugee camps because I was able to explore the different roles and privileges accorded to women and men and their impact on the existence of domestic violence.

Methods of data collection

In collecting data both primary and secondary sources were used. In this research data was collected through:

- Individual interviews
- Group discussion
- Key informants
- Library research

Individual interviews

Most of the data collected in this research came from individual interviews with domestic violence survivors, other women and men. This method of individual interviews was preferred because the respondents were able to communicate freely and openly which helped to capture qualitative data from them because they could talk about their experiences on domestic violence without restriction, compared to if I had handed out questionnaires. It also helped me source a variety of information which I did not even foresee before the field research. The interviews also helped me to take into account the reactions, body language and emotions of the respondents.

¹¹⁰ G. Lerner, (1986)*The Creation of Patriarchy* pg. 238

In Mtendeli refugee camp 32 interviews were conducted. These were made up of 12 men and 20 women; among the 20 women eight were survivors of domestic violence.

Seven other refugees were interviewed at Nduta refugee camp, where two were men and five women, six other refugees were interviewed at Mkugwa camp, two of them were men and four women.

Two old couples both around 70 years old were interviewed at Mtendeli camp, as old people they gave the experiences and significances of their customs and practices. The interview helped me to understand the attitude of old Burundian people who pass on their customs and practices to younger people as far as domestic affairs and the position of women in the society are concerned.

Table I

Refugee women respondents:

women	20-30 yrs	30-40 yrs	40-50 yrs	TOTAL
survivors	3	9	1	13
Not survivors	6	12	3	21
TOTAL	9	21	4	34

Group discussions

This method of data collection was used for a number of reasons, among which was that it was a way of getting refugee leaders together in order to get the general overview of the leaders views on domestic violence. However, it was quite difficult for me to get useful information from the group discussion with block leaders, who are mainly male elders, because of the strong cultural perspective on women and youth. They discussed the issue with me although I felt that they were not free or interested to talk to me; some members did not say a word and others ignored me when I asked them questions. I then had to ask a man to do the discussion on my behalf and the discussion with this man was lively, the block leaders discussed the issue and raised questions freely in comparison with the discussion I had with them. The discussion with this man was useful because I managed to get their views as far as domestic violence is concerned and how they perceive women.

Women’s subordination is very strong in Burundian society and when women are with men it’s rare for them to be open and discuss family issues. I therefore had a group discussion with women representatives (these are women leaders from each block) alone for them to be free to discuss problems of domestic violence. Twenty-two women representatives constituted this group discussion.

Library research

I started library research by reviewing the UNHCR sexual and gender-based violence monthly report. This was done before commencing the actual field research in order to have an overview on domestic violence incidents in the camps. I studied the law governing domestic violence in

Tanzania to understand how it addresses this problem. I went through the Tanzanian Law of Marriage Act 1971, Tanzanian Penal Code chapter 16, and the Tanzania refugee Act 1998. Moreover I examined the international instruments relating to the status of refugees and other human rights instruments addressing domestic violence in order to assess how the Tanzanian government complies with international obligations. Burundian materials on family and personal law were also explored to better understand which forms of marriage are recognized by the law of Burundi. Apart from that I also went through various research materials in eastern and southern Africa in order to understand how other research materials have addressed the problem of domestic violence. UNHCR's guidelines for prevention and response to sexual and gender-based violence against refugees, returnees and internally displaced persons was also analyzed to find out how it is effectively addressing domestic violence.

I examined the South African Domestic Violence Act and Zimbabwean Domestic Violence Bill in order to see if the same law could be enacted in Tanzania and whether it might help refugee women.

Key informants

I interviewed the camp commandants from the Ministry of Home Affairs who are responsible for refugee issues. 14 police officers, two sexual and gender-based violence officers from Southern Africa Extension Unit, one magistrate, the UNHCR protection assistant, block leaders and women representatives. This was done because of their official capacity of dealing with day-to-day refugee problems. Therefore I was able to get useful information on how the official structure handles and responds to issues of domestic violence.

Limitations

There was an inherent limitation in the data gathering caused which was the language barrier. Language was a barrier for me in the field because almost all of the refugees interviewed spoke the Kirundi language therefore I suffered from the interference caused by interpretation, especially because people with no training or experience were doing the interpreting. The translator had to translate from Kirundi to Swahili and then I had to translate from Swahili to English, through the translation I might have missed the actual meaning of the responses in comparison with if I could have communicated directly.

The other limitation was encountered when doing group discussion with block leaders; they were not free to discuss the issue with me because of the strong cultural perspective on women, and moreover because I was significantly younger than them and female so the responses I got were vague. I had to strategize and I managed to find a man who did the discussion on my behalf.

CHAPTER FOUR

Domestic violence in Kibondo refugee camps

Domestic violence as recorded in the table below is a leading problem facing women in Kibondo refugee camps. A significant proportion of refugee women have experienced repeated physical assault by their husbands or intimate partners. Victims have been assaulted with fists, sticks, mallets and even knives, and some have required hospitalization for their injuries. Some of the women I interviewed bore visible scars, bruises and cuts on their bodies.

Refugee women are being victimized twice, their lives were disrupted due to the conflict in Burundi and then their husbands in the camps subject them to another form of violence.

UNHCR and its implementing agencies have a programme for prevention of and response to sexual and gender-based violence. This programme deals with different forms of violence against women as defined in the sexual and gender-based violence guidelines, including rape, attempted rape, sexual harassment, domestic violence and early or forced marriages.

The available statistics for the year 2003 (January to September) documented by UNHCR show high incidences of domestic violence, specifically violence against women by their husbands or intimate partners. (See table below for statistics from five refugee camps).

Table 2

	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Rape	11	06	11	13	12	09	10	08	06			
Attempted rape	07	01	03	02	01	03	00	00	03			
Sexual harassment	04	02	04	02	03	06	02	01	00			
D. Violence	53	44	48	42	51	57	57	52	54			
Early&forcedmarriage	03	02	01	04	02	07	00	02	05			

The figures above refer to reported cases only but information obtained revealed that there were many other domestic violence incidents which were handled in the family or community without being reported.

In the interviews I had with refugee women, victims and survivors of domestic violence told harrowing stories of repeated assaults and suffering. Some stories are recorded here below. These stories point to various aspects of the problem and how severely some women victims are injured.

Hakizimana Julietta sustained cuts on her back and thigh and bruises all over her body when her husband stabbed her with a knife. She is 31 years old and married with five children. She has experienced violence since 1999. The sexual and gender-based violence office and UNHCR intervened by providing counselling but in vain. In 2002 she requested UNHCR to transfer her to another camp so that she could get rid of her husband. She was transferred to Karago camp where

she stayed for some time until she heard that her husband was seriously ill and hospitalized at Mtendeli camp hospital. She decided to go back to take care of him. The husband was discharged from the hospital after two weeks. Julietta did not go back to Karago camp after that and continued staying with her husband in Mtendeli camp. They stayed peacefully for hardly two months and then the husband started to beat her up more often than he used to do before. She then went to the UNHCR Mtendeli field office for alternative housing. She was given a house in another block where the husband followed her and stabbed her.

Ntahomvukiye Joseline's teeth were knocked out when her husband smashed her face against a wall. She is 28 years old, married with three children, her husband has had extra-marital affairs. He once left her and went to stay with another woman. One day, Joseline's child fell sick and she went to ask for money to buy an alternative food for the child. The husband was very angry with her for following him. He started shouting and insulting her then he beat her with a stick and pushed her into the wall, injuring her face.

Nahimana Le'a, a 38 year old married woman with five children, explained that her husband always came home drunk and would start insulting her and the children. Sometimes he expelled them from the house, threatening them that if they slept in that house, he was going to kill them. One night, the husband came home drunk, picked up a *panga (machete)* and said he wanted to kill his wife. She ran to the neighbour's house for help. The husband followed her claiming that the neighbour was having an affair with her. The neighbour told the woman to go back to her home because if she didn't, he would be in trouble. Le'a decided to go back home but the husband then kicked her in the stomach. She was three-months pregnant and suffered a miscarriage. She was threatened and intimidated by her husband who prevented her from reporting to the sexual and gender-based violence office, UNHCR or the police. After some time she had serious stomach pain. That is when she decided to go to the hospital and explain what had happened to her. But she did not want to report to the police she only needed treatment.

Ndihokubwoyo Leonate is a 34 year old refugee and sexual and gender-based violence supervisor. She supervises the social workers in the sexual and gender-based violence programme in conducting home visits and follow ups of concluded cases; she records the reported sexual and gender-based violence cases and provides counselling in collaboration with the sexual and gender-based violence officer as she is the one who translates Kirundi to Swahili. She also organizes and conducts awareness raising campaign and workshops which is done in collaboration with the sexual and gender-based violence officer.

She said:

'Domestic violence is a serious problem in the camp ... men believe that a woman is just like a child. When she does something wrong, she needs to be disciplined and if she does not fulfill her roles well then she deserves to be beaten up.'

She said the majority of refugee women in the camp experience domestic violence. There are harrowing cases reported to the sexual and gender-based violence office. For example, a refugee deputy chairperson of the Mtendeli camp, Firmine Macedoine, was severely beaten by her husband and she sustained injuries. During the attack she picked up an object and hit her husband who was also injured.

‘It is very bad if a woman leader is the one who is being beaten, then how about other women? This problem is rampant in the camp. It real needs an alternative solution more than is the case now.’

The conversation went on as follows:

There are many cases, which are handled at the community level without being reported to the sexual and gender-based violence office. Many cases are dealt with by the block leaders, *balози* (street leaders) and women representatives. Normally these are cases which do not involve beating.

Question: Which kind of beating?

Answer: Severe beating

Question: What do the leaders do when such cases come to their attention?

Answer: Just counsel the couple to reconcile and the husband to stop beating the wife unnecessarily.

Question: When is it necessary for the husband to beat his wife?

Answer: In Burundi when a woman does not do what is expected or does not respect the husband and in laws, the husband is allowed to discipline her by beating her.

The UNHCR protection assistant also admitted that domestic violence is the leading problem in the camps, as is shown in the table above.¹¹¹ She said:

‘Many cases have been reported this year (2003) but there is no single domestic violence case, which reached court level. Women are reluctant to make criminal complaints against their husbands. There is nothing real we can do other than providing counselling to them because we have to consider the victims’ wishes.’

As one of the guideline principles in dealing with sexual and gender-based violence, case officers are supposed to consider the wishes of the victim. If she does not wish to make a criminal complaint then the officers cannot force her to do so. Refugees should be made to understand that when it comes to criminal acts, these are not only against the person the crime was committed against but it is also against the state.

Forms of domestic violence

Three main forms of domestic violence were noted to take place in the Mtendeli refugee camp.

¹¹¹ See pg. 27 above

Economic violence

Most women I interviewed experienced economic violence because they depended for assistance on UNHCR and other humanitarian agencies for their survival. Husbands as heads of the households are the ones who hold the ration card and in most cases they are the ones who collect food from the food distribution centre. Even if the woman collects the food because of the customs regarding control of family resources and decision making, some men take and sell the food, then use the money for either alcohol or for their girlfriends or second wives while leaving the family without food or other vital items. In most incidents this abuse leads to physical violence as the woman will ask for the food or the money for the sold food then an argument will start and the woman will end up being beaten.

Ntabazaniye Yolanda was beaten up her husband when she asked him about the food which they received. She went to fetch some water. When she came back home, she found the food they received was no longer there. When the husband came back, she asked where the food was. The husband told her she had no right to ask him. They argued about that food and he started beating her.

Some of the refugees work as social workers with some of the non-governmental organizations working in refugee camps. At the end of the month, they get incentives of 10 000 to 20 000 Tanzanian shillings which is equivalent to around 10–20 US dollars. Arguments over how that money is or has been spent normally result in fights. Most of the men when they get incentives use the money on their own and do not give any to their wives. In the case of refugees working in the non-governmental organizations who get the incentives and use the money without considering the family, when this comes to the attention of the sexual and gender-based violence office, they normally call the couple and counsel them. If the man persists like that, they make an arrangement with the non-governmental organization concerned to deduct some of the husband's incentive and the wife collects the money directly from the non-governmental organization. But this also has resulted in more problems for some women who get the money from the non-governmental organizations because their husbands will be rude to them. For anything she requests or wants to discuss with the husband he tells her:

‘Go and discuss it to the sexual and gender-related violence office since they are your husband.’¹¹²

This kind of behaviour after a woman has got assistance can result in psychological violence against the woman when she finds that she has only solved one form of violence to experience it again in another form.

Physical violence

This involves infliction of pain and injury on the woman's body. Out of the 13 refugee women victims of domestic violence I interviewed, eight of them had experienced serious injuries resulting from their husbands' physical violence against them.

¹¹² Domestic Violence case involved a SAEU social worker in Mtendeli camp

Some of the women I interviewed bore visible scars, bruises and cuts on their faces and bodies. Beating or battering of refugee women by their husbands or intimate partners is a cause of concern in the camps. The use of physical violence by men is perpetuated because of the notion of men's superiority and domination over women. In most of the cases, physical violence is mainly as a result of economic violence.

Psychological violence

Many refugees suffer psychological problems. Refugees are already traumatized and stressed due to war and conflict in their home country. For the women, the trauma is twofold. Many are traumatized due to domestic violence in their homes mostly because there is no sufficient response apart from receiving superficial counselling which usually insists on reconciliation rather than solving the problem. Neglect of the family, polygamy, and economic and physical violence often result in most women suffering psychologically.

Capitalina from Mtendeli camp experienced domestic violence for a long time; her husband repeatedly insulted her and neglected her and the children. Then the husband decided to leave her and married another wife. She was psychologically disturbed and as a result she became insane.

Triggers of domestic violence

There are a number of factors which the findings revealed as the main causes of domestic violence in Kibondo refugee camps.

Polygamy

Most of the women I interviewed mentioned polygamy as one of the main factors contributing to tension between couples and violence in the camp. Polygamy is illegal in Burundi, a Catholic country, except in a few small Muslim enclaves.

According to the personal and family law of Burundi, marriage is defined to mean a voluntary union of one woman and one man intended to last for their joint life.¹¹³

Polygamy is prohibited under the Burundi family law because of its consequences, which are often problematic in the family. If a man takes another wife, he commits adultery and he can therefore face legal charges. No other marriage is allowed where there is another already existing marriage without a registered and recognized divorce.¹¹⁴

Because of this law, according to my Burundian respondents, polygamy was not practised widely in Burundi and refugee women are therefore not used to it and have problems living with it.

When the Burundian refugees sought refuge in Tanzania, many men left their families behind. Mainly because when there is a war, everyone runs his or her own way. In most cases men are the first ones to run while the women try to gather their children first. When they arrived in the

¹¹³ Tcharner Von Carole, (1998) *Summary of Personal and Family Law: a Search for common ground in Burundi* pg 20-30`

¹¹⁴ Ibid

refugee country some men took new wives and started new families in the refugee camps, arguing that they had no way of knowing whether their wives and families were still alive or not. After some time their first wives and families would arrive either from Burundi or from other district refugee camps through tracing and the family reunification programme.

In other cases, male refugees took the advantage of their refugees' position and openly took a second or third wife within the camps and started new families alongside their existing ones. Burundian women are not used to this situation and this has added tension to the family relationship which can result in domestic violence.

The following are statements from domestic violence survivors:

‘Each times he sleeps with his woman if I ask he will beat me up.’

‘When he gets incentives at the end of the month he takes all the money to his second wife. If I ask about it, then fighting starts from there.’

‘He beat me up because he was told by his prostitute (second wife) that I clicked my tongue at her when we met at the market place.’

Ntahomvukiye Joseline was beaten up by her husband when she followed him to his second wife's house.

Many women disclosed that they had experienced domestic violence resulting from their husbands having other wives or extra-marital affairs. Refugee women blamed polygamy because the second or third wife is a threat, not only to love but also to women's share of resources and perhaps to the survival of the women and their children.

Food rations

As mentioned earlier when refugees arrive in the camp they are registered and issued with ration cards which serve as their identification and for the purpose of distribution of food and other items.

Though there is no policy on who should be given the ration card, in practice food ration cards are issued to the male head of households and not to their wives. Ration cards are only issued to women when there is no male head of household or if they are single and unaccompanied. Some men use this opportunity to oppress and exploit their wives. They either receive food and sell it and then use the money to buy alcohol or give the money to other women. This sale of food ration often results in violence in the homes, as was the case with Ntabaniye Yolanda above. In a few cases where the problem has been persistent, the sexual and gender-based violence programme, in collaboration with UNHCR, separate the ration card so that the woman can access food for herself and the children. However, a separation of ration cards in many cases does not help because the man can still access the food in the home. Also this solution sometimes causes more problems for women and results in more violence, as the men feel they have been disobeyed and their position undermined. Some women actually stated that they did not prefer separation of ration cards, especially if they continue living together, because men are likely to react violently to such measures.

In discussing the separation of ration card as one of the way to avoid economic violence, one of the women representatives made the following statement:

‘Separation of ration cards does not work. It works only if the husband decides, *I am no longer taking the food to sell*. Because you will still be staying in the same house, he still has access to the food. For some women who separated their ration cards, we see them facing more violence from the husband. What the husband does is to sell his portion he received then depend on the ration of the wife and children. So the problem is still the same.’

Another woman representative said:

‘If you separate cards, he might decide to cook his own food and also a wife and the children will be cooking their own food. Is that still a marriage if everyone cooks on his or her own? If the community knows that the husband cooks for himself mmhhh! You will be in trouble.’

It has since emerged that although separation of ration cards was deemed by refugee women and the sexual and gender-based violence officers to be an option, it was not without its problems given the fear of more violence and that men may decide that their wives as no longer need them and will take it as an opportunity to have another woman who loves and cares for them.

Consequently refugee women expressed little confidence in requesting card separation because of their love for their husbands and the adverse reaction against them from the refugee community.

Gender roles

Being refugees all men and women depend on assistance from UNHCR, which provides them with food assistance, shelter, clothes, free school for the children and other social amenities such as health care. For this reason, men fail to fulfill their gender roles as providers for the family. They feel to have lost their power, status and identity as men. Because, in many of the African communities, a man is prescribed the role of provider for the family, women assume the role of dependency. A man gains more status and power when he provides for the family, and a woman as a wife has to respect this man because he is the one she depends on for her survival. Because everyone in refugee camps depends on assistance from UNHCR, men feel they have lost the respect of their families as they no longer provide for them. Respondents therefore claimed that men use violence against them to assert their status, as one of the male block leader stated:

‘Women here in the refuge camps have lost respect for their husbands simply because we are no longer providing for them. We are all equally depending on assistance. Therefore they have to be reminded that a man is a man no matter where he is or what he does for the woman.’

Although men said that women did not respect them because they are no longer providing for them, some women disagreed saying that:

‘It is not true that we disrespect them but men themselves have inferiority complexes. Whatever a woman does, the man will say *These days you do not respect me I will show you that I am a man.*’(emphasis original)

Men just feel disrespected for not fulfilling their roles then they use violence to show that they are still head of the family.

However, because all refugees depend on UNHCR one woman explained how the loss of men's power had occurred because women no longer depend on them for their survival, she stated:

‘UNHCR is my everything without it there is no life.’

This statement revealed that some of the refugee women do not recognize the status of their husbands since they cannot fulfill their expected gender roles. For the society, this kind of a woman is perceived as going against the expected behaviour of a woman and therefore she deserves the beatings. This is because societies expect a woman to be submissive and respectful to their husbands because they are the heads of family.

UNHCR¹¹⁵ observed that the level of domestic violence rises where refugees have lived for extended period of time in the artificial environment of a refugee camp. There is evidence of psychological strain for husbands unable to assume normal cultural, social and economic roles which results in aggressive behaviour towards wives and children.

Forced idleness/alcohol

‘The enforced idleness, boredom, frustration and despair that permeates many refugee camps are natural breeding grounds for domestic violence.’¹¹⁶

Artificial life in the camps has forced refugees to be idle because of their dependence on humanitarian agencies. Refugees are not allowed to work in the host country (Tanzania) though the international instruments relating to the status of refugees and other international human rights instruments provide for the right to work.¹¹⁷

Article 6 of the ICESCR states that:

‘States parties to the present covenant recognize the right to work which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take all appropriate steps to safeguard this right.’

Refugees are discriminated against with regard to this right and forced to remain idle in the camp. Apart from that, refugees are also given a very small plot to build their houses which is insufficient for them to engage in agricultural activities except the very small-scale gardening. They are not allowed to go outside the camp unless permitted by the camp commandant, and it is not easy to get that permit without having a serious reason because the suspicion is that they might be going to work and also they might stay in the local Tanzanian village and not in the camps. Due to all these factors refugees are forced to remain idle in the camps and as a result they drink alcohol from morning to evening which results in violence in the home. Many of the survivors interviewed said the violence was the result of their husbands' drinking.

One respondent who was a domestic violence survivor claimed that:

¹¹⁵ UNHCR, (1991) *guideline on the protection of refugee women* Pg. 23

¹¹⁶ Ibid

¹¹⁷ Article 17 of the 1951 Refugee Convention and Article 6 of the ICESCR

‘My husband starts drinking from morning till evening. When he comes back home, he will start an argument which will later result in fighting.’

For a person to start drinking from morning to evening surely shows that the person does not have anything to do. The government and its restrictive policy on refugee employment, is forcing refugees to remain idle and some engage themselves in criminal activities such as robbery and drinking illicit beer. In discussing the issue of alcohol one of the male respondents said:

‘Imagine I was an officer in one of immigration offices in Burundi. Today I am here, a poor person sleeping in those little huts, eating the same kind of food every day. Nothing to do, if you go into the Tanzania village to do *kipande* (work on somebody’s piece of land for payment) if they catch you *Nyamisivya* (name of the Kibondo Prison) will be waiting for you. So you just have to sit and drink.’

The forced idleness has caused some of the refugees to be habitually drunk, and when people are drunk they are more likely to fail to control their behaviour. So when there is a minor argument between the couple it will easily result in a beating for the wife.

Repatriation

Repatriation is the first and most preferred durable solution to refugee problems. This depends on the situation in the countries of origin and is only possible when the situation in their home countries improves so that the circumstances and reasons which caused them to flee their home countries no longer exist and the conditions are conducive for their return. Refugees are supposed to go back to their home country voluntarily. Following the peace agreement signed by the Burundian government and the rebel groups to stop fighting, voluntary repatriation for Burundian refugees has started. This is however not without its own problems. It was stated by some of the respondents that repatriation is causing a lot of tension and violence in refugee families.¹¹⁸

There are a number of reasons for these responses. For example, in most of the families, men express the desire to repatriate while many women seem not ready to repatriate.

This often causes problems for the family and as a result women are beaten up so that they agree to repatriate with their husbands. Some men were married in Burundi before they fled to Tanzania and they left their families back in Burundi. When they arrived in the refugee camps they married and started new families. When the issue of repatriation comes up and they know that the family back home still exists, they just start being violent so that the women they married in the camp may decide to leave them, leaving them free to join their families since they are not allowed to have more than one wife in Burundi.

Burundians, apart from the ethnic conflict they have, also have intra-ethnic conflict depending on the province they come from. For instance some people married in the camp come from different provinces. When the time for repatriation comes each one wants go to his or her province as they are not sure of the situation back in Burundi. This kind of misunderstanding often results in violence in families.

¹¹⁸ Response from SAEU SGBV supervisor, Leonate Ndiokubwayo and Social workers

Also a few refugees from the Tutsi ethnic group married Hutus so they feel insecure going back home with their partners. Some decide to use violence against their wives so that they leave them behind so that they avoid problems as they are not sure of the situation.¹¹⁹

Prior to their fleeing, inter-tribally married people faced more problems such as being told to kill their wives, husbands or children so they do not want such attachments lest they cause future problems.

Responses

Refugee women's responses to domestic violence

Many women feel obliged to conceal the fact of their own abuse and continue to live in violent relationships because of culture and tradition, religious beliefs and society's perceptions. Refugee women abused by spouses or intimate partners confront unique difficulties in bringing their attackers to justice and seeking safety for themselves and other family members.

They are reluctant to have their partners jailed or their families break up or are fearful of condemnation by their families or community should they pursue criminal charges. These and other factors often make women reluctant to bring charges of domestic violence or lead them to drop charges already filed.

Refugee women who are subjected to domestic violence are often reluctant to invoke the laws of the host country to address this abuse. They often face pressure from within the community and from their families and partners, not to report cases of domestic violence to the police. They feel intimidated and fear ostracization by their families and community especially when they go back to Burundi; they also fear retaliation from their abuser.

They may also still be emotionally attached to their abuser or be dependent on him for their children's welfare.

Refugee women usually turn to community mediation structures (block leaders) and sexual and gender-related violence offices although these are not adequate to provide protection against the violence.

When a refugee woman has been abused, there are three options she can take. Firstly, she can report the case to the block leaders and women representatives who normally sit and counsel the couple. If the violence persists, the block leader may refer the matter to the sexual and gender-related violence officer for more counselling.

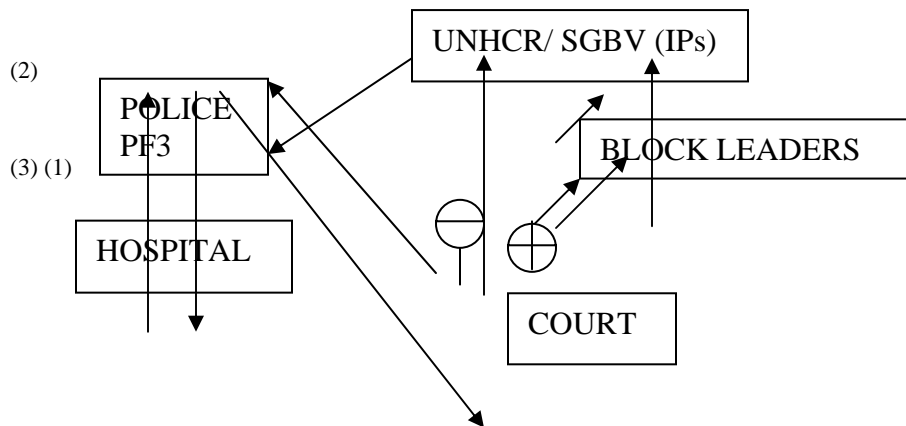
Secondly, a woman can report direct to the sexual and gender-related violence office that will provide counselling for both the perpetrator and the victim and also tell them the legal consequences of domestic violence.

¹¹⁹ Response from SAEU SGBV Supervisor , Leonat'e Ndiokubwayo in Mtendeli camp

Thirdly, where a woman is severely injured and needs medical attention, she must report to the police where she has to be given a police form three (PF3) which has to be filled in by the medical personnel upon her receiving treatment.

Table IV:

Options a woman can take when experiencing domestic violence



The idea behind the need for a PF3 form is that when a person has been injured because of assault the filled-in form will be a record available when opening criminal charges against the attacker.

Many refugee women go and report the assault to the police only to acquire the form so they can be treated at the hospital. Without that form they cannot get treatment. It is normally women who have sustained visible injuries who go to report to the police. But after they have received treatment and the form has been returned to the police, very few continue or pursue their cases. Some battered refugee women suffer in silence if the beating has not resulted in visible injuries, as was the case with Gakobwa Josephine at Mtendeli camp. She said that she had been a victim of her husband’s violence for so long but she had never reported. It was only once when she was seriously injured that she reported to the block leaders who referred her to the sexual and gender-related violence unit who only counselled her to go back to her husband. She did not go to the police because she said that the injuries she sustained were not serious and she could recover without medication.

Ntabazaniye Yolanda, 39 years old, was severely injured by her husband when she asked about the food ration they received a week before. The husband had sold the food they received from UNHCR. When she asked about it the husband said:

‘Who are you to question me? I am a man and the head of the family; I can do whatever I think fit.’

The wife then asked for the money he got when he sold the food, the husband was very angry and started beating her, asking her what kind of a woman she was arguing with her husband. He picked up a bottle and hit her; she sustained injuries on her face and chest. She went and reported to the police and was given the form for hospital treatment.

After she had received treatment with the assistance of sexual and gender-related violence unit she returned the form to the police and opened a file. She did not go back to the police because she said:

‘If I proceeded with the file I opened my husband could have been imprisoned, how could I have raised the children on my own? What would I have told the people back in Burundi when we repatriate? Apart from that the refugee community could not understand me if my husband had been imprisoned.’

This woman reported to the police to get the form but she was not interested in bringing a criminal case against her husband, for the sake of the children and fear of ostracization from the community. She was concerned about raising the children on her own and yet people in the refugee camps depend entirely on assistance from UNHCR; even if her husband was imprisoned she could still raise her children but she felt that without a man (husband) she could not raise the children. One explanation is that some women believe that having a husband is more secure even when the husband does not do anything. This contradicts the men’s view that women disrespect them because they are no longer able to provide for their wives. The woman believed that she could not do anything without her husband although in actual fact she depended on UNHCR.

Nahimana Le’a¹²⁰ suffered a miscarriage because of being battered yet she did not want to report to the police because she was still emotionally attached to her husband, she said:

‘Reporting him to the police means my husband has to be imprisoned, I do not want him to be imprisoned, what I want is for him to stop beating me and for us to continue living together.’

Nahimana was mainly intimidated by the husband not to report because she did not even go to the hospital until she was seriously ill. For refugee women, reporting and pursuing criminal complaints against the husband seem not to be favoured.

Ntahomvukiye Joseline’s husband who smashed her head against the wall as a result of which she lost her teeth, reported the husband to the police and the case reached the court level but later she withdrew the case saying that they had reconciled.

In the group discussion I had with the women representatives from the blocks, they said that according to their Burundian culture and tradition, all family problems should be solved by the two families involved who have to sit and discuss the problem. If the parties do not reconcile then the matter has to be referred to the male elders (*abashingantahe*) who will sit and listen and reconcile the parties. Even in Burundi domestic disputes were reported to the *abashingantahe* and not to the police.

In discussing the issue of reporting cases to the police one of the women representatives commented:

‘We are not allowed to take family problems out of the family or beyond the community leaders. It is just because of the refugee environment that women are now

¹²⁰ See pg 28 above

forced to report to sexual and gender-related violence offices but in our culture that is not acceptable.’

Back in Burundi, the use of *abashingantahe* to solve domestic disputes seemed to work but in the camps it does not seem to work well. The role of *abashingantahe* seems to have less value because many women report cases to them and they counsel the couple but the violence does not stop. This means there is need for alternative solutions for women victims instead of mainly depending on *abashingantahe*.

In the interview I had with the Ministry of Home Affairs camp commandant he said that:

‘Burundian women are very reluctant to report cases of domestic violence to the police. Even if they report the cases, it is very rare to pursue the case to the end. Sometimes the case can even reach the court level but they refuse to testify against their men. This is because of the community’s or husband’s intimidation of the woman not to report or pursue the case as they do not rely on outsiders to solve their domestic problem.’

Refugees feel the need to follow their customs and practices in solving their domestic disputes though they admit it is not effective in solving the problem. Taking the problem outside the community is regarded as abuse of the customs and practices of Burundian society. They believe outsiders do not know much about their problems and how they can be solved.

Police response to domestic violence

The Tanzania Ministry of Home Affairs deploys police officers in each refugee camp under a security agreement funded by UNHCR. The officers are there to maintain law and order; prevent and investigate crimes, including allegations of assault; arrest and prosecute the offenders. They are supposed to escort the offenders to the court and make sure that the complainant and witnesses attend the court. They have to provide transport for the offenders and witnesses whenever they are required at the court. In reality the police do not take adequate measures either to prevent or respond to domestic violence. Their attitude against domestic violence was disturbing and it was evident that many police officers did not really consider domestic violence as a crime. In Mtendeli camp some of the women reported domestic violence cases to the police, complained that rather than police investigating the reports, they simply referred the victims to UNHCR or other organizations dealing with sexual and gender-related violence for counselling. Butoyi Esperance, 33 years old, from Nduta camp was experiencing domestic violence from her husband. She reported to the leaders (*abashingantahe* and women representatives) who sat and counselled them but the husband did not change despite the counselling they received. One day her husband hit her and burned all her clothes, she decided to go and report the matter to the police. They asked her what she wanted them to do and she said she wanted him to be charged for beating her and also for him to buy her the clothes he burnt.

The police instead told her to report her case to sexual and gender-related violence unit. She did not receive any help from the police.

In the interview I conducted with the police officers in Mtendeli camp, they stated that there were very few cases of domestic violence that they had dealt with. This was because many women who had reported such cases to the police did not pursue their cases to the end. They either withdraw the cases or said that they had reconciled even if the case has reached the court level. Some, after reporting and filing a criminal complaint do not go back to the police. Only if the husband is arrested and he is in remand do women go back to the police. They go back not to continue with the case but to request that the husband should be released and the problem be solved at family or community level. This behaviour on the part of the women, the police say, discourages them from dealing with domestic violence cases because even if they deal with them initially, at the end of the day, there will be no complainant. In discussing their response on domestic violence one of the police officer respondents said:

‘What we do when such cases are reported to us is we counsel them or advise them to settle the case at the sexual and gender-related violence unit or with their local leaders. It is only a few cases where a victim is seriously injured then we deal with it effectively.’

The question is how they determine that the victim is severely injured?

The response of the police, especially their assessment of the seriousness of the assault or injury, is affected by the socialization and individual beliefs about the appropriate relationship between men and women and husbands and wives. Given the legacy of patriarchal control and the contemporary view that men are the wielders of the rightful authority within the home, they take the view that a man can beat his wife but he should not exceed certain limits. One of the police officers said:

‘Domestic violence is normal in all families, it happens everywhere, even in Europe. If everyone reported to the police the police would be dealing with domestic violence cases only.’

This indicated a need for them to be trained properly on how to respond to and address the problem. They need training on women’s rights.

One of the domestic violence victim respondents said:

‘I reported him to the police. They gave me the PF3 then I went to the hospital but they never arrested him.’

Police officers are very unlikely to make an arrest when the offender has used violence against his wife. In other violent situations, officers typically arrest the attacker regardless of the seriousness of the victim’s injury or the circumstances surrounding the crime. Moreover, they are actually more likely to arrest individuals involved in non-violent acts, like theft, in the camp and those who go outside the camp without permission, rather than to arrest a husband for violent offences committed against his wife. Domestic violence cases seem to be of less relevance to them. Consequently, very little time and attention is devoted to domestic violence cases at the camp police station.

Police also showed a negative attitude to domestic violence cases when one of the respondents commented:

‘These cases just disturb us because they never reach an end.’

It is however not for the police to predict whether the complainant will pursue the case to the end or not before they take action. Their duty is to arrest the offender, investigate the case and prosecute if the merits warrant it. Non-reporting and the attitude of police against reported domestic violence cases encourages further occurrence of domestic violence in the refugee community and it further stigmatizes survivors as the perpetrators remain in the community without being punished.

Refugee society/ block leaders

Generally the refugee community does not consider domestic violence as a serious crime which requires criminal prosecution. Although UNHCR and its implementing agencies, through the sexual and gender-related violence programme, educate the community on the evils of domestic violence. Burundian society accords more superior power, privilege and status to men and women are regarded as inferior and subordinate to men. If a woman fails to fulfil her expected roles or if she challenges the superiority of the husband, then she deserves to be disciplined through beating. Domestic disputes in Burundian communities, as discussed earlier, were dealt within the family. If the family fails to resolve the dispute, they referred it to the *abashingantahe* who sat together with the family and the couple to resolve the dispute. Very few cases were referred to the court. Normally disputes ended up at the level of local leaders. Taking domestic violence cases out the family or local leader level is regarded as a violation of custom and practice of Burundian society. Women who report cases of domestic violence to the police and pursue the case are perceived as deviant by the society and she can even be ostracized. Maniirakiza Renirida a 29 year old woman from Nduta camp was injured to the extent of being admitted to the hospital and she decided to file the case and pursued it to the end. Her husband was imprisoned for two years. The refugee community ostracized that woman because they regard her as a murderer. In discussing whether women should report cases to the police and pursue the cases one of the men respondents said:

‘A woman who causes the husband to be imprisoned is the same as a murderer. She is capable of killing, she is not a person to associate with.’

This attitude is a major obstacle for women reporting and pursuing domestic violence cases because of fear of being ostracized by the society. The current law on assault only offers imprisonment as punishment. This limits the women’s need for redress.

The society perceives domestic violence to be normal only where it is executed by men on women but not the other way round. If a woman beats up a man then she is in trouble. One of the refugee women leaders has been experiencing domestic violence for a long time. The husband used to sell their ration food and spend the money for himself. The woman also had a small business at her home, so when she put in her money the husband would take it. If she asked him, she would face physical violence.

One day, when the husband was assaulting her, she picked up an object and hit the husband on the head. He sustained injuries and he was hospitalized. The society was against this woman and the story was the talk of the camp. Unfortunately, she was a leader. Men did not want their wives to attend meetings called by her because they thought she would teach other women to fight their husbands. She was not re-elected into that position possibly as a consequence of the incident above.

There are many women who suffer injuries because of physical violence from their husband or intimate partners but no one seems to care as much as they did in the above incident.

UNHCR and its implementing agencies response to domestic violence

UNHCR is mandated for worldwide protection of refugees that is to make sure their basic rights are respected and to promote durable solutions to their problems.

‘The United Nations High Commissioner for Refugees, acting under the authority of the General Assembly, shall assume the function of providing international protection under the auspices of the United Nations, to refugees who fall within the scope of the present statute and seeking permanent solutions for the problem of refugees by assisting government and subject to the approval of the government concerned, private organizations to facilitate the voluntary repatriation of such refugees, or their assimilation within new national communities.’¹²¹

In protecting the rights of refugees UNHCR is concerned with the protection of the rights of women and girl children because of their vulnerability to acts of sexual and gender based violence.

The legal and physical protection of refugees is of crucial concern to UNHCR, although the country of asylum has *prima facie* responsibility for the physical protection of refugees on its territory. The prevalence of sexual assault and other gender-based violence against refugee women has led UNHCR to take strong measures to ensure their protection.

UNHCR in collaboration with its implementing partners, Southern Africa Extension Unit and International Rescue Committee run a programme for prevention and responding to sexual and gender-related violence in refugee camps. The programme is under the protection unit with the supervision of a protection officer and protection assistant. Southern Africa Extension Unit and the International Rescue Committee are responsible as focal points to co-ordinate the programme to address violence against women in the camps. In addition to this, UNHCR also produced guidelines for prevention and response to sexual and gender-related violence against refugee women to assist staff in identifying and responding to the issues, problems and risks facing refugee women.

However the guidelines place more emphasis on how to respond to sexual violence than to domestic violence. Even in practice domestic violence and sexual violence are treated differently, with the result that assault, economic violence and emotional and verbal abuse occurring in

¹²¹ Statute of the Office of UNHCR Para 1

homes are all treated with less seriousness than they warrant. This differential treatment reinforces the common perception that domestic violence does not warrant an equally serious response as sexual violence.

From the interview I had with the Southern Africa Extension Unit's sexual and gender-related violence officer, the respondent was of the view that the victim of sexual violence is more abused and humiliated because of the nature of the act.

One of the sexual and gender-related violence officers in Mtendeli camp said:

'Even the society perceives sexual violence as more serious than domestic violence. That is why there is a law on sexual offences with serious punishment but there is no law on domestic violence.'

The absence of a law to deal specifically with domestic violence affects the response of the officers as they seem to be of the view that domestic violence is less relevant, even to the legislators.

From the interview I had with the UNHCR protection assistant, she admitted that sexual violence is given much more attention than domestic violence. Also she said that victims of domestic violence are reluctant to pursue criminal cases. This is different from many of the victims of sexual violence, who normally want to pursue the case. Because they have to respect the wishes of the victim, if they do not wish to file and pursue the case, then there is nothing they can do.

Non-pursuance of domestic violence cases by most of the victims seems to be the main reason or excuse for the service providers to not respond effectively to domestic violence. This affects even the women who want to pursue their cases. Humanitarian agencies seem to encourage women to solve domestic violence at family and community level and not to pursue the cases at the police because it will jeopardize many marriages. They therefore try to save marriages at any cost.

In most cases victims of domestic violence who lodged complaints of domestic violence with the sexual and gender-related violence office were offered counselling only with an emphasis on reconciling the abused women with the perpetrators and ignoring the victims' need for safety and justice. In only a few cases, if the victim insisted, she would be allocated another plot and a separate ration card to start a new life with her children. Still however this only works in a few cases because some of the survivors continued to be assaulted by the perpetrators even where they were no longer living with them as was the case for Hakizimana Julietta.¹²²

In discussing this issue, the Ministry of Home Affairs camp commandant also blamed the non-governmental organization's officers who handle domestic violence cases saying that they only give counselling with emphasis on reconciliation. They do not assist the survivor by telling her what the law says on such incidents because they do not want a refugee to be jailed. He said, 'They *should leave room for the law to take its course.*'

There is also a problem that the sexual and gender-related violence officers do not have a legal background and are not familiar with the law governing acts of sexual and gender-related

¹²² See pg 28 above

violence. They do not have counselling skills and training which obviously affects the quality of advice they give to the victims.

Problems arising from flaws within the administration system

The court

Shortage of personnel with expertise to handle violent crimes against women as well as other resource problems prevent the Tanzanian court system from responding adequately to domestic violence and other violent crimes against women. There is only one magistrate at the Kibondo district court. Even that one magistrate is not available as he is on study leave and no other magistrate has been sent to replace him. Rather, the court gets a magistrate from Kigoma (region) who comes for one or two weeks per month to preside over the cases. Some of the cases have to wait until the district magistrate is on leave from college. This shortage has caused a bottleneck of refugee cases. Apart from that, the same magistrate has to deal with all the cases in the district (Tanzania local community), appeals from the primary court and those cases which start from the district court. Moreover the cases also come from all the five refugee camps which include 150 000 people.

The magistrate from Kigoma who is the magistrate in charge of the region was interviewed and he said he has not dealt with any domestic violence cases from refugee camps. He advised me to wait and interview the district magistrate when he came for vacation in December to get appropriate information.

I went on to ask how they manage to handle the cases in the district considering the shortage of magistrates. Are they not denying the rights of the people because the cases take so long, with some of the accused people in remand, while they are supposed to be treated innocent until they are proved guilty? He confirmed that it is real a problem. Cases are delayed for so long, proving the saying that *justice delayed is justice denied*. He said there is nothing they can do because some things are beyond their control and because not many people are willing to work in remote areas like Kibondo district.

I did not manage to interview the district magistrate because he did not come to Kibondo during the vacation.

A refugee woman who decides to pursue a domestic violence case against her husband will still face obstacles to her right to redress, because the husband might be out on bail. Thus they may continue staying together in the camp. She might face more violence and abuse from the husband while he is awaiting trial. The case once in court might take ages before determination because of the lack of magistrates.

The police

Police officers who are deployed in each refugee camp come from different areas in Tanzania. They are supposed to work in the refugee camps for six months, after which they go back to their

duty station then another group is located to the refugee camps. The refugee environment is different from the normal citizen's environment. By the time the police are familiar with the refugee environment, six months are over, they have to leave and a new group arrives. They normally receive training on refugee rights and protection of refugee rights. The training they receive seems to be insufficient for them to be easily conversant with the refugee environment and also to be sensitive to issues affecting refugee women. The change of police every six months contributes to the ineffectiveness of the police in dealing with domestic violence cases.

Marriage issues

When discussing the problem of polygamy as being one of the causes of tension and violence within refugee families, the issue of refugee marriages emerged and needed to be discussed. The discussion revealed that there are problems surrounding the regulation of refugee marriages in refugee camps.

This was discovered in the interview I had with the Ministry of Home Affairs camp commandant. He said:

‘When refugees want to get married they first have to register at the office of the Ministry of Home Affairs where they have to fill in a form to declare their consent to marry and their age. The parents or guardians also have to testify the age of the man and the woman intending to marry.’

They decided to develop this procedure because of the increase in cases of early and forced marriages in the camps. He went on saying that they do not give them a marriage certificate because they are not citizens of Tanzania. This statement raised some questions as to which law regulates refugee marriages. There is no provision in the Marriage Act, 1971, which states that for the couple married in Tanzania to be issued with a marriage certificate they have to be citizens. The law governing marriages of refugees is the same law that governs marriages of Tanzanians and they are entitled to the same rights as nationals as is discussed earlier.

The camp commandant seems to be ignorant of the law regulating refugee marriages. This is a senior government official responsible for refugee issues but he is not aware of other refugee rights. This indicates that some of the refugees might be misled as to their legal position and denied some of their rights.

Apart from that, it also seems that issues governing family and personal law of refugees are given less serious attention than those dealing with criminal law and immigration issues as far as refugees are concerned.

CHAPTER FIVE

Discussion of the findings

In relation to the findings above, some major issues need to be discussed further. There are the factors that trigger domestic violence in the refugee camps and then the shortcoming of responses on domestic violence cases.

First is the issue of forced idleness as has been explained concerning the rights and duties of refugees. Refugees are entitled to enjoy all human rights as the nationals of the host country. Article 17 of the 1951 Refugee Convention provides for the contracting states to accord to refugees the right to engage in wage-earning employment. Article 6 of the International Covenant on Economic, Social and Cultural Rights requires states to recognize the right to work, including the opportunity to gain his or her living by work he or she freely chooses or accepts.

Refugees are denied the right mentioned above and forced to be idle in the camp which then adds more frustration and stress to their homes and they resort to drinking.

As far as employment is concerned, only a very small number of refugees – around 2 per cent – work with the non-governmental organizations providing assistance to refugees in the camps. They work as social workers, teachers, assisting in food distribution, as health workers and as local guards. But this is not regarded as employment, rather they work as volunteers and at the end of the month they get incentives not a salary. For a refugee to be formally employed in Tanzania he or she has to follow procedures which are cumbersome because the government policy regarding employment of refugees is very restrictive. In order for a refugee to work she or he must first obtain a permit from the Director of Refugee Affairs. Working without a permit attracts a hefty fine, this is provided under section 32(4) of the Tanzania Refugee Act, 1998. Where a refugee applies for a work permit, it is forwarded to the immigration department where it is considered like any other application by a foreigner to work in Tanzania. In terms of the immigration laws most refugees cannot meet the conditions stipulated under these laws. Therefore most of them cannot legally be employed in Tanzania.¹²³

Apart from the restrictive procedures for formal employment, refugees are also restricted from moving more than three kilometres beyond the camp without the permission of the camp commandant. This denies them freedom of movement and also hinders them from working for local Tanzanian farms or in other types of informal jobs in the local villages. Moreover they are provided with a very small plot to build their houses. The plots are very small so that they cannot engage themselves in farming activities except maybe the small-scale gardening. Because of this above refugees are forced to remain idle in the camp which then creates more tension and stress and they may end up resorting to drinking which often results in violence at home.

¹²³ Rutinwa, B. (2003) *Response to Sexual and Gender Based Violence in Refugee camps in Tanzania*. pg. 7

Employment is important for refugees because it enables them to supplement their supplies and meet their needs that are not met by the aid organization; also it would help to minimize tension caused by idleness.

Second, there are the issues of polygamy. Refugee marriages are problematic leading to misunderstanding and tension within some of refugee families. This is because there are different marriage systems in Tanzania and in Burundi. Burundi has a monogamous system of marriage while Tanzania has a system that allows polygamy. The issue which arises here is whether a refugee can convert a monogamous marriage contracted in Burundi into polygamous marriage when they are in refuge country? What will happen when this person repatriates to Burundi? Which marriage will be recognized?

Article 12(ii) of the 1951 Refugee Convention requires the contracting states hosting refugees to respect rights previously acquired by a refugee on personal status, more particularly rights attaching to marriage.

There is an obligation on the part of the Tanzanian government to comply with Article 12(ii) but as mentioned, marriages for refugees are problematic. This is because of the nature and circumstance of being refugees. Refugee women were against the practice of polygamy because it increases their vulnerability of being infected with HIV. Although the rate of HIV in the camps is not very high, having a partner with more than one partner is a great risk as far as HIV is concerned.

Burundi had taken a stand on polygamy which is one of the obstacles for women's achievement of equality with men. Polygamy violates fundamental rights to equality of all persons and non-discrimination. With the advent of HIV/AIDS, polygamy puts the women's right to health in jeopardy. It affects women's right to a proper standard of physical health and right to life particularly with the possibility of HIV/AIDS arising from the husband's multiple partners.

Apart from the problems associated with HIV/AIDS, polygamy in Burundian refugee camps has resulted in numerous problems and tension in the family. Especially because they were not accustomed to it and when there is violence at home, women are the victims.

In his study in Western Uganda, Mushanga¹²⁴ makes an observation about the issue of polygamy:

‘A polygamous marriage has its own problems and creates a situation in which strains and disputes can easily start. Disputes erupt between co-wives, between sons and their stepmothers, between wives as group against the husband, between wife and husband and so on.’

The question then arises, whether polygamy precipitates women into family violence?

According to Mushanga:¹²⁵

¹²⁴ Mushanga T. (1974) *Criminal Homicide in Uganda: A Sociological Study of Violent Death in Ankole, Kigezi and Toro Districts of Western Uganda*. pg. 87

¹²⁵ *Ibid* pg. 110

‘.... Of all situations, relations and interactive process that bring about conflict and hatred among human beings, sexual jealousy seems to stand out as one of the leading factors... to violent encounters and end up in aggravated assault.’

Out of the 20 women I interviewed 16 cited polygamy as the major cause of tension in the families. It is a threat to refugee women’s economic survival and love which they want to dominate and monopolize, taking into account that they were not used to the situation of polygamy.

UNHCR and the Tanzania government in practice do not pay attention to issues pertaining to marriage of refugees. Personal and family law for refugees is given less attention in relation to other issues arising in refugee camps such as going outside the camp without permission. Yet the family is the most important unit of the society which warrants more attention and protection because if all families are in conflict and confusion without protection can there be harmony in the camp?

Culture and tradition

Most of the refugees I interviewed said that according to the Burundian culture, women are expected to be submissive, not talkative and respectful. If a woman behaves otherwise, then she deserves to be disciplined. They pointed to culture as the root of their suffering. Burundian women are considered second-class citizens in their society. They are not supposed to argue with their husbands, ask questions or disagree with their decisions. Men are the ones who make the main decisions for the family and the women’s duty is to comply. So when a woman questions the power of a man or when she fails to do what she is expected to do as a woman, then she deserves to be beaten. Yet the woman in the old couple I interviewed in Mtendeli camp said:

‘Culture in itself is not bad but men are using it as a tool to oppress women, because Burundian culture and tradition does not allow a man to beat his wife. When a woman did something wrong, the husband was to call the wife’s parents and his parents who will sit and discuss about it then advise or counsel her, this is what used to happen back home. But today’s Burundian men, especially here in refugee camp where everyone is frustrated, when a woman does something wrong or even when she has not done wrong(*it believed*) she has to be beaten up.’ (emphasis my own)

Culture and tradition have been used by men as a tool for women’s oppression whether in relation to inheritance issues, custody or domestic violence. Women’s response to domestic violence incidents in refugee camps has been affected by customs and practices:

‘That in our Burundian culture family issues have to be dealt with within the family.’

Many women report domestic violence cases to the family or to the local leaders who counsel the men to stop being violent, but most men counselled do not change their behaviour. So this indicates that the use of local leaders does not work as well as it supposedly did in Burundi. This might be because of the refugee environment and that the local leaders cannot implement sanctions nor have their decisions enforced. The refugee woman continues to be victimized by both the violent man and the system which fails to punish the perpetrator. The perpetrator is,

arguably, more empowered because of the block leaders who simply advise him to stop and nothing more.

Men favored community-based mediation mechanisms because no sanctions are imposed on them; the emphasis is mainly on reconciliation and continuing to live together. So men retain the upper hand. Custom and tradition are thus the barriers to women seeking a legal remedy. For them seeking a legal solution seem to herald the end of the marriage.

The traditionally ascribed roles for women and men play a major part in the existence of violence against women. The position of women and their roles play a significant part in their oppression. The Burundian community, like many African communities, assigns women a subordinate position. The society's perception of women places them at a disadvantage with many problems associated with that position.

UNHCR and its implementing agencies

There are shortcoming in the response of UNHCR on domestic violence. UNHCR is mandated to provide protection to refugees and also is concerned with the protection of refugee women, including protecting them from domestic violence. Practically, UNHCR does not adequately respond to domestic violence. Though information gathered during this research reveals that women's reluctance to pursue domestic violence cases is the major obstacle to the officers dealing with or responding effectively to domestic violence cases. To a certain extent, this contributes to the ineffectiveness of the response of UNHCR and its implementing agencies. There is no serious effort made on the part of these organizations to combat this violence.

First, there is less training given to officials who deal with sexual and gender-related violence issues. Women's rights training provided to police and other officers from the non-governmental organizations working in the camp is very minimal if there at all. This lack of training affects the attitude of the officers dealing with such cases. Apart from lack of trained officers there is also lack of legal personnel working in refugee camps. Sexual and gender-related violence officers from the implementing agencies do not have any legal background and some do not even know the legal provisions covering acts of sexual and gender-related violence. Obviously this affects the counselling and options they offer to the victims or survivors of domestic violence.

Victims are usually advised to reconcile with the perpetrator and nothing more. This affects women's need for redress. A consulting woman might have needed legal advice but because the one who is giving help does not have legal knowledge obviously the victim does not get adequate help. When a victim needs legal assistance, it is the protection assistant who is also a lawyer who has to assist her. Yet the protection assistant is the only lawyer dealing with all types of cases involving refugees in all five camps with approximate 150 000 people. No matter how competent she might be, it is difficult to service all the camps and all the needs. Although UNHCR guidelines describe domestic violence as one of the forms of sexual and gender-related violence, the guidelines give more practical advice on how to respond to sexual violence rather than to domestic violence. In practice UNHCR's response to sexual and gender-related violence has been targeted more at sexual violence. One result of this differential treatment is that domestic violence is treated as a lesser crime. The statistics for sexual and gender-related violence incidents for 2003 indicate that domestic violence is at a high level in the camps. It would also be

expected that response activities and strategies for prevention would have been very high too but they are not.

There are no serious measures taken by the office of UNHCR to combat domestic violence in comparison to sexual violence. For example in 2002, UNHCR and Save the Children UK reported incidents of sexual exploitation in West African refugee camps. Following this report, UNHCR took very serious measures to combat sexual violence. The High Commissioner for Refugees issued the following statement:

‘I am thoroughly committed to taking all steps necessary to prevent further sexual exploitation, be it by humanitarian workers or others. As the Secretary General (of the UN) has stated, there must be a “zero tolerance.”’¹²⁶

Following this statement, the Inspector General’s Office of the UNHCR sent a mission to Kibondo, Tanzania to investigate whether there was sexual exploitation.¹²⁷ The Inspector General’s Office came up with recommendations and measures which if effectively implemented, it believed would reduce cases of sexual violence.

A similar response is needed to domestic violence which is also a violation of human rights which has a serious impact on women and children’s lives. It is high in Kibondo refugee camp and needs serious measures from high levels of UNHCR just as they responded to sexual violence in West Africa .

¹²⁶ E-mail message from the High Commissioner to all staff on sexual exploitation in West Africa, dated 12/03/2002

¹²⁷ Rutinwa, B (2003) *Response to Sexual and Gender Based Violence in Refugee camps in Tanzania*. pg. 3

CHAPTER SIX

Conclusion

Domestic violence is a violation of human rights. It perpetuates the stereotyping of gender roles that deny the human dignity of the individual and stymies human development.

‘All human beings are born free and equal in dignity and rights.’¹²⁸

Domestic violence violates a number of human rights principles enshrined in the international human rights instruments. It discriminates against women and is an obstacle to women’s enjoyment of equality with men.

The root causes of domestic violence are attributed to the unequal power and gender relations within communities.

The artificial environment of refugee camps, the husband’s inability to assume normal cultural, social and economic roles results in aggressive behaviour towards wives and children. The enforced idleness, boredom, frustration and despair that permeate many refugee camps are natural breeding grounds for domestic violence.

Battered refugee women are often left destitute with few means to seek protection or hide from their abusers and perpetrators who are often left free and unpunished. This is due to lack of effective legal mechanisms, negative police attitudes against domestic violence cases, the absence of a law dealing specifically with domestic violence, women’s reluctance to report their abusers to the police and the fear that they may further beat or torment their victims with impunity.

Refugees are already victims of human rights abuse. They need protection of their rights from the UNHCR and the country hosting them but as far as domestic violence is concerned, it emerged from the data collected that the Tanzanian government and UNHCR do not provide adequate protection to women against domestic violence

Recommendations

In line with my findings I would like to give the following recommendations.

At the refugee community level

- The problem of domestic violence in refugee camps can be addressed through education awareness programmes on human rights with emphasis on women’s rights. Women are human beings and they are entitled to enjoy their human rights in all spheres of life. Domestic violence is a form of discrimination against women and it violates women’s

¹²⁸ UDHR, UN General Assembly, 1948

rights. Rights education should take into consideration Burundian culture and address negative cultural practices that promote domestic violence.

- Legal literacy, aimed at changing the attitudes of the refugee society in particular and the Tanzanian society in general towards women is paramount. Information dissemination is essential to help refugee and other women to use the law where there is domestic violence. If women are to become effective users of the justice delivery system, then there will be a reduction of domestic violence. This is based on the premise that an effective law alone without educating the people whom it is intended to benefit is meaningless.
- Gender sensitization of all people in the refugee camps is essential. Tsanga,¹²⁹ suggests that:

‘Patriarchy and gender are socially constructed and emphasized through culture, and then deconstructing these major foundations on which women’s subordination is based should be a fundamental starting point. Education and historical analysis involving the community is central in the deconstructing process so that people recognize the existence of tension and are able to strategise on how to deal with them effectively.’

Therefore there is a need to conduct gender awareness in all spheres of life beginning at the very lowest level of refugee society. It has to be included, for instance, in primary school curricula so that children learn from an early stage that boys and girls are equal and have the same value in society. Boys can do what girls can do and that biological build up is not important when roles are constructed by the society.

The newsletter IASOMA¹³⁰ on advocating an end of violence against women also suggests that:

‘...Challenging and dismantling of the structures of men’s power and privileges (*was necessary*) The redefinition of masculinity or, really, the dismantling of the psychic and social structures of gender that bring them such peril(*was also necessary*). The paradox of patriarchy is the pain, rage, frustration, isolation and fear among that half of the species for whom relative power and privilege is a given. Work must be premised on compassion, love and respect coupled with a clear challenge to negative masculine norms and their destructive outcomes.

There is a need to transform boys and girls’ upbringing so that they will know that they are all equal.

At the UNHCR level

- UNHCR should adopt a guideline which addresses domestic violence and which has equal emphasis on domestic violence in comparison to sexual violence.
- Trained people with counselling skills and legal knowledge should conduct counselling programmes on domestic violence so that survivors can receive sufficient assistance.

¹²⁹ Tsanga, Amy (1998) *Taking the Law to the People: Gender, law reform and community legal education in Zimbabwe*. Pg 111

¹³⁰ IASOMA, Newsletter, *The International Association for Studies of men*, Vol 6,2 June 1999 pg.9

UNHCR and its implementing agencies should employ officers with legal knowledge and counselling skills to deal with sexual and gender-related violence cases.

- Regular gender and women's rights awareness raising to sensitize service providers is essential for police, magistrates, hospital personnel, block leaders, women representatives and social workers.
- Refugee women should also hold ration cards not only men as heads of families. This will reduce violence against women, which results from the men selling food rations.

At the government level

Bringing justice to the people

- There is need for law reform which deals specifically with the unique problem of domestic violence. It is important to have such a law because the current law on assault punishes perpetrators with imprisonment only, which refugee women and the community do not desire. The reformed law should include other remedies such as peace orders, fines and compensation and not make imprisonment a mandatory punishment. The South African Domestic Violence Act should be used as a model because of its various range of remedies. This law should be made known to people. It would serve a lot of women.
- Tanzania government should comply with its international obligations by not denying refugees the right to work and right to movement, so that refugee would be able to work and reduce the idleness and boredom which results in drinking.

Implementation of the existing law

- Police should work in refugee camps at least for a minimum of one year and not six months because it takes time for them to be familiar with the refugee environment. The posting periods are too short, reducing their effectiveness in responding to refugee problems.
- A duty should be placed on the police to deal with domestic violence independently as they deal with other criminal cases.
- The Tanzania government should improve working conditions for magistrates so that people are attracted to work in remote areas like Kibondo. This can be done through giving them better salaries, better accommodation, motor vehicles and communication facilities.
- There is need for three or four magistrates in Kibondo district for the court to effectively deal with all cases, including domestic violence against refugees. Even when there is an appropriate law to deal with domestic violence cases, without judicial officers (Magistrates) as it is currently in Kibondo, this will have little effect.
- Women activist groups like Tanzania Women Writers' Association (TAMWA), Tanzania Women Lawyer's Association (TAWLA) and Tanzania Gender Networking Programme (TGNP), should extend their work to rural areas by establishing satellite offices or having mobile legal aid services conducting awareness raising on women's rights, and not focus on urban areas only.
- There is a need to carry out further and in-depth research on problems refugee women face in the camps specifically on domestic violence and the regulation of refugee marriages.

