

Refugee Law Project Working Paper No. 20

# “GIVING OUT THEIR DAUGHTERS FOR THEIR SURVIVAL”

REFUGEE SELF-RELIANCE, ‘VULNERABILITY’, AND THE  
PARADOX OF EARLY MARRIAGE



APRIL 2007

# REFUGEE LAW PROJECT

## Vision

**Human rights for all people in Uganda irrespective of their legal status. This vision is informed by relevant international laws as well as the Constitution of Uganda.**

## Mission

**To empower asylum seekers, refugees, deportees, IDPs and host communities in Uganda to enjoy their human rights and lead dignified lives.**

## Mandate

- **To promote the protection, well-being and dignity of forced migrants and their hosts.**
- **To empower forced migrants, communities and all associated actors to challenge and combat injustices in policy, law and practice.**
- **To influence national and international debate on matters of forced migration, and justice and peace, in Uganda.**
- **To be a resource for forced migrants and relevant actors.**

**All of the above is achieved through a combination of activities broadly categorised under legal aid and counselling, research and advocacy, and training and education.**

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## EXECUTIVE SUMMARY

The following report examines the widespread occurrence of early marriages in Uganda's refugee settlements and how this phenomenon relates to the 'vulnerability' and self-reliance paradigms which underpin official protection and assistance. In seeking to understand why so many refugees engage in early marriages—which are illegal under Ugandan and international law and widely recognised amongst refugees themselves as harmful—it argues that the practice must be viewed within the broader context of Uganda's settlements. In these settlements, restricted freedom of movement limits the majority of encamped refugees to subsistence farming, and affords them little or no opportunity to escape a life of poverty and physical insecurity.

Uganda's Self-Reliance Strategy (SRS) and its Development Assistance for Refugees (DAR) component were designed to enable refugees living in the country's agricultural settlements to provide for themselves rather than depend on external support, while fostering greater development in refugee-hosting areas. In practice, however, the strategy's narrow focus on subsistence agriculture and inadequate provision for freedom of movement for encamped refugees leaves them impoverished and dependent. Officials recognise that not all refugees can provide for themselves under this system, and accordingly, the 'vulnerable groups' paradigm is commonly used to identify and target additional assistance to refugees thought to be the most in need. Owing to financial or logistical constraints, however, many refugees who have been labelled 'vulnerable' by virtue of their membership of a particular group often do not receive any special assistance. Others who once received such assistance might find themselves removed from official lists. This denial of assistance despite having been labelled as vulnerable can lead to immense frustration, anger, and resentment. Moreover, by creating an expectation of entitlement, the 'vulnerable' label fosters dependency in contradiction to the SRS and actually discourages self-sufficiency. This is particularly true insofar as aid to vulnerable refugees often fails to encourage independence or support community-based mechanisms that are already working to fill gaps in official aid.

Despite the efforts of the Government of Uganda, UNHCR, and their partners, the failures of the SRS and DAR in an environment of declining donor funding—particularly to education and community services—lead a large percentage of refugees to pursue various necessary though flawed coping mechanisms to provide for themselves and their families. Early marriage is principal among these strategies, yet paradoxically, it also represents an infringement on the rights of those involved that generally exacerbates existing physical, social, and economic hardship. The 'vulnerable groups' approach might be expected to address early marriage, but in practice it often has the opposite effect. Insofar as it fails to address the widespread human rights violations present in the settlements, it effectively perpetuates the cycle of vulnerability and dependence in which many refugees view early marriage as their best—or only—means of survival. Therefore, the widespread nature of the phenomenon serves as an indicator of the failure of the 'vulnerable groups' paradigm and the Self-Reliance Strategy to adequately protect encamped refugees.

**COVER:** "They are giving out their daughters for their survival." Interview with police official, Kyenjojo town, 3 February 2006.

**ACKNOWLEDGMENTS**

**This report is based on field research conducted between February and November 2006 in four refugee settlements in Uganda—Kyaka II in Kyenjojo district, Kyangwali in Hoima district, and Rhino Camp and Madi Okollo in Arua district—and on preliminary consultations in Kampala in November and December 2005. The study was undertaken with funding from the Ford Foundation, with additional support from Comic Relief. The research teams consisted of Noah Gottschalk, Godwin Buwa, Bernadette Iyodu, Fred Lulinaki, Simon Ndaula, Tabitha Netuwa, and Eunice Owiny of the Refugee Law Project, and Joan Aliobe, Juliet Aliobe, Anne Amuron, and Pamela Mactolo. This report was written by Noah Gottschalk with valuable input from Chris Dolan, Lucy Hovil, and Moses Chrispus Okello. The author is particularly grateful to Elias Lubega, Fred Ssekandi, and Stephen Jjuuko for keeping us safe (and in good spirits)—despite rain, mud, and slow punctures—throughout the course of the fieldwork, and to the Uganda National Council for Science and Technology and the Office of the Prime Minister for permission to conduct the study. Finally, this report would not be possible without the insights of the numerous officials who agreed to be interviewed for this study and those of the hundreds of refugees who took time away from more immediate concerns to share their experiences with us.**

## KEY FINDINGS AND RECOMMENDATIONS

- The ‘vulnerable groups’ approach to refugee protection homogenises individual experience and capability and fails to address the needs of those it seeks to assist.
  - **Therefore, all relevant actors should implement a more sophisticated, rights-based approach to the specific circumstances of refugees.**
  - **In the short term, UNHCR should run an awareness campaign for relevant stakeholders to explain the thinking behind the shift from ‘Extremely Vulnerable Individuals’ to ‘People with Specific Needs’, as well as its practical implications.**
  - **Refugee youth who are particularly vulnerable to early marriage should be explicitly included in the category of ‘Child/Adolescent at Risk’.**
- Refugees place great importance on social age in addition to chronological age. A married person below 18, although a minor under Ugandan and international law, is considered a social adult. A married person typically enjoys an improved status within his or her community that may translate into a position of decreased vulnerability in the short term.
  - **Accordingly, all relevant actors should recognise the importance of social age within refugee communities, particularly insofar as it can mitigate or exacerbate individual vulnerability.**
- Defilement is one of the most common crimes committed in Uganda’s refugee settlements. A significant percentage of the perpetrators are underage refugee boys in consensual relationships with girls of approximately the same age. However, under current law, boys between the ages of 12 and 17 are considered to have the capacity to commit the crime of defilement, whereas girls of the same age are considered to lack the capacity to grant consent to intercourse. Officials have reported that this bias, and the legal paradox it creates, impacts upon nationals as well as refugees.
  - **The government of Uganda should reform the current defilement law, including by decriminalising *consensual* sexual relations between underage boys and girls of the same age. This is without prejudice to existing legislation governing the crime of rape.**
- Defilement is closely related to the phenomenon of early marriage. In most cases encamped refugee communities cannot afford the financial or social costs of reporting defilement. Instead, they arrange early marriages to conceal or otherwise legitimate such relationships. In many cases, the threat of being reported to the police is used to force boys to either pay bride price and ‘marry’ girls or pay fees to girls’ families and remain unmarried. Boys who are unable or unwilling to pay—with or without the help of their families—face years in prison. Interviews with nationals living in close proximity to refugee settlements suggest that this situation is also common amongst Ugandans in similar socio-economic situations.
  - **The government of Uganda and other concerned actors must recognise that the harsh criminal penalties for defilement actually encourage early marriages and their associated rights violations**

- **All relevant actors should encourage communities to seek means of resolving defilement claims other than the arrangement of early marriages, including by sensitising families and by training elders and other community leaders to better counsel and arbitrate between individuals and groups involved in dowry and marriage disputes.**
- **Increase financial and logistical support to community organisations—particularly those that involve both refugees and nationals—that educate young people on sexuality and the risks of premature sexual relationships. Moreover, relevant actors, particularly those involved with education, should implement activities and programmes that educate boys on the causes and consequences of SGBV and encourage them to make considered choices and plans for their futures.**
- Early marriage is also a response to poor economic conditions in the settlements. The almost exclusive focus of the Self-Reliance Strategy on small-scale subsistence agriculture prevents refugees from creating sustainable livelihoods. In a context where ‘vulnerable’ refugees in particular experience life as a daily struggle to meet basic needs, early marriages are often viewed as a flawed though necessary survival strategy. Girls living without parents are especially likely to marry early. Those with guardians are often forced to marry in order to secure bride price, while those staying alone commonly have no other means of meeting their needs.
  - **All relevant actors must recognise that early marriage is both a cause of and a response to reduced livelihood options, and provide viable alternatives.**
  - **The government of Uganda and its partners should diversify the Self-Reliance Strategy through incorporating IGAs and micro-credit schemes and by creating greater opportunities for refugee and host involvement.**
  - **UNHCR and its partners must identify and monitor informal foster arrangements as well as situations of official guardianship.**
- Early marriage is at times a response to physical insecurity in the settlements. Many parents and guardians consider this practice the best means of protecting girls from assault and sexual violence.
  - **Security must be improved in the settlement, both by increasing the number of police in the settlement and by improving their ability to move throughout the settlement.**
- Refugees who have been victims of sexual assault encounter considerable difficulties in reporting their cases to the authorities. Even when they do, there is seldom any follow-up. Refugees also express significant dissatisfaction with the treatment of juvenile suspects.
  - **The government must reduce legal and financial obstacles to the reporting of cases of rape and sexual violence, including by enhancing the ability of police to conduct investigations and take suspects into custody. With respect to the latter, reception and detention facilities for juvenile suspects should be constructed or designated.**
- Despite improved training of police, current deployment policies prevent officers from developing the necessary skills to deal with refugee protection issues.

- **The Uganda Police in particular should reconsider the current system under which police officers are transferred after 6 month assignments. A longer period would enable the consolidation of training, experience, and institutional knowledge in a core group of police who are specialised in working with refugees**
- The community services sector assesses and responds to needs across other sectors, providing a direct link to the most vulnerable members of refugee communities, but is hampered by lack of adequate funds.
  - **All actors—and particularly donors—must recognise the fundamental importance of community services to refugee livelihoods and increase support to the sector.**
- Refugee community workers bridge the gap between official actors and community structures, but are often forced to sacrifice their own needs in carrying out this vital role.
  - **UNHCR and its partners should expand the network of refugee community workers and offer them compensation that is commensurate with their efforts.**
- The elimination of funding for secondary education has had serious consequences for all encamped refugees, with refugee girls suffering disproportionately. Officials link high drop-out rates to an increase in crime and other social problems within settlements.
  - **UNHCR and its donors must resume support for secondary education. Increasing the participation of girls might require further incentives in the form of individual scholarships.**
  - **Incorporate a greater focus on mental health and psychosocial issues within existing health services.**
- Female students who become pregnant are forced to drop out of school; most end up in early marriages and few are ever able to continue their studies.
  - **Policies that force pregnant girls to leave school must be reconsidered, and all relevant actors must reduce the barriers that young people who have discontinued their education face in attempting to return to school, including by educating communities on the rights of children—and especially girls—to return to school at any age.**
  - **Increase the number of girls and young women assisted by community services’ ‘Teenage Mamas’ programmes in particular, and financial and psychosocial support for young mothers and their families in general to enable more young women to return to school after giving birth. Alternative educational structures, including special classes outside of traditional school hours, should also be explored.**

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**GLOSSARY OF ABBREVIATIONS**

AAH	<i>Aktion Afrika Hilfe ev</i>
CDW	Community Development Worker
CF	Community Facilitator
DAR	Development Assistance for Refugees
DASS	Danish Assistance to the Self-Reliance Strategy
ded	<i>Deutscher Entwicklungsdienst</i> (German Development Service)
DISO	District Internal Security Officer
DPC	District Police Commander
DRC	Danish Refugee Council
EVI	Extremely Vulnerable Individual
GoU	Government of Uganda
GTZ	<i>Deutsche Gesellschaft für Technische Zusammenarbeit GmbH</i> (German Technical Cooperation)
IDP	Internally Displaced Person
IGA	Income Generating Activity
IMC	International Medical Corps
IOM	International Organization for Migration
IP	Implementing Partner (of UNHCR)
JRS	Jesuit Refugee Services
LC	Local Council(lor)
LRA	Lord's Resistance Army
NFI	Non-Food Item
NGO	Non-Governmental Organisation
NRC	Norwegian Refugee Council
OHCHR	Office of the United Nations High Commissioner for Human Rights
OP	Operational Partner (of UNHCR)
OPM	Office of the Prime Minister
PLWHA	People Living With HIV and Aids
PSN	People with Specific Needs
RDO	Refugee Desk Officer
RLP	Refugee Law Project
RWC	Refugee Welfare Council(lor)
SGBV	Sexual and Gender-Based Violence
SPLA/M	Sudan People's Liberation Army/Movement
SRS	Self-Reliance Strategy
TPO	Transcultural Psychosocial Organization
UAM	Unaccompanied Minor
UGX	Uganda Shillings (1,800 UGX approximately equals 1 US Dollar)
UNHCR	United Nations High Commissioner for Refugees
UPE	Universal Primary Education
URCS	Uganda Red Cross Society
Watsan	Water and Sanitation
WFP	World Food Programme

## INTRODUCTION

The disadvantaged physical, social, economic, and psychosocial position that refugees generally occupy within host societies by virtue of their displacement represents a failure of protection and justifies their consideration as ‘persons of concern’ to the United Nations High Commissioner for Refugees (UNHCR). Since the early 1990s, however, UNHCR and other actors working with refugees have recognised that refugees are not homogenous in terms of their vulnerability levels. Therefore, individuals with some defining characteristic distinguishing them from the perceived ‘norm’ of other refugees<sup>1</sup> have frequently been referred to as members of ‘vulnerable groups’, prompting the production of a series of guidelines on the protection concerns of a number of such groups thought to have specialised needs, notably refugee women and children.<sup>2</sup>

Definitions vary between and within local contexts, but the groups of people generally considered ‘vulnerable’ within this paradigm include orphans, unaccompanied minors (UAMs), the elderly—particularly those who are unaccompanied (UAEs)—people with disabilities (PWDs) and the chronically ill, including people living with HIV and Aids (PLWHA). From within these groups, government, NGO, and UN actors working with refugees in Uganda have singled out a smaller number of refugees—referred to as Extremely Vulnerable Individuals (EVIs)—as the most in need of additional assistance and protection. Despite some recent attempts to introduce standardised guidelines, however, the system for identifying EVIs differs not only from camp to camp, and even within camps,<sup>3</sup> and therefore the line between ‘vulnerable’ and ‘extremely vulnerable’ is vague and unclear. A number of factors, including a growing concern with diversity and political correctness,<sup>4</sup> have led UNHCR-Geneva to introduce the phrase ‘People with Specific Needs’ (PSNs) to describe refugees they previously described as ‘vulnerable’. Behind this sea of acronyms, however, are millions of individuals with very different experiences, needs, and capabilities.

Despite the complexities of refugee experiences and capacity, the majority of officials interviewed broadly described women and children, and to a lesser extent, the elderly, as ‘vulnerable’ and therefore in need of special consideration. These groups, however, are not a minority whose needs can easily be identified and accommodated. In fact, they typically form the majority of a settlement’s population. In Madi Okollo Refugee Settlement, for instance, 84.4 % of the population at the time of research were children of both sexes, adult women, and elderly of both sexes.<sup>5</sup> Including adult male refugees who are disabled, chronically ill, and/or HIV positive would only add to the percentage of refugees within the settlement who fit the common definition of ‘vulnerable’. An in-depth analysis of the reasons behind these numbers is beyond

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<sup>1</sup> The conception that it is possible to derive an ‘average’ or ‘normal’ refugee is itself a fallacy which ignores the complex and overlapping identities and experiences of refugees.

<sup>2</sup> UNHCR, *Guidelines on the Protection of Refugee Women*, Geneva 1991, UNHCR, *Refugee Children: Guidelines on Protection and Care*, Geneva 1994, UNHCR, *Good Practices on Gender Equality Mainstreaming*, Geneva 2001.

<sup>3</sup> Refugees commonly complained that the refugee leaders tasked with referring individual refugees to the relevant officials often make biased and seemingly arbitrary decisions, a claim which these leaders vehemently deny.

<sup>4</sup> Email from senior UNHCR official in Geneva, 05 December 2006, on file with RLP.

<sup>5</sup> Interview with settlement official, Madi Okollo, 27 October 2006

the scope of the present paper.<sup>6</sup> Suffice to say, treating such a large group as a ‘special case’ is not only illogical, but impossible on practical and financial grounds. It renders the term meaningless and its operationalisation impracticable.

Despite the official shift towards PSNs, actors working with refugees in Uganda continue to implement the ‘vulnerable groups’ approach. Indeed, there is little evidence on the ground to suggest that the new terminology has yielded any concrete changes. For the refugees these terms seek to describe, however, this is a matter of significant practical importance and not merely a question of semantics. For example, a refugee’s inclusion on an official list of vulnerable individuals might mean regular assistance with food and non-food items (NFIs), while friends, neighbours, and even family members who are not listed receive reduced or no rations under Uganda’s Self-Reliance Strategy (SRS).

The present report seeks to examine the ways in which the ‘vulnerable groups’ approach impacts upon refugee protection within the context of the failure of the SRS to effectively protect and promote the human rights of encamped refugees who enjoy little or no freedom of movement. It pays particular attention to the ways in which individual and collective self-reliance—through assistance from family, friends, and communities—is crucial to mitigating ‘vulnerabilities’ and how funding cuts—particularly to education—are undermining refugees’ abilities to help themselves and one another, and therefore compounding existing vulnerabilities. The report argues that in this context, refugees often view early marriage as an imperfect, but nevertheless necessary, survival strategy. The phenomenon thus represents a paradox: it is a response to widespread human rights violations and the lack of livelihood options within settlements, and yet it is itself a rights violation that in the longer term serves to perpetuate impoverishment and vulnerability.

### **Background: Uganda’s Refugee Settlements**

Uganda is home to at least 216,465 refugees, the majority of whom are Sudanese.<sup>7</sup> The second largest group of refugees are from the Democratic Republic of Congo (DRC), with smaller populations of Rwandese, Burundians, Ethiopians, Eritreans, Somalis, Kenyans, and others. With a handful of exceptions, these refugees are assigned by the Government of Uganda (GoU) to refugee camps located mostly in rural areas in the west and northwest of Uganda (See Annex 1: Map of Uganda). These camps are officially referred to as ‘settlements’ insofar as refugees are

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<sup>6</sup> Crisp offers a brief explanation: in addition to noting the statistical majority of “women, children, adolescents, the elderly and disabled” throughout the developing world, he offers five reasons that “longstanding refugee camps and settlements accommodate a preponderance of people with ‘special needs’...

- because able-bodied men are most likely to leave a camp and to look for work elsewhere in order to support themselves and their family;
- because the strongest members of a refugee population are usually the first to repatriate...;
- because refugees who are able to survive without assistance may not choose to live in a camp but will prefer to be ‘spontaneously settled’ in their country of asylum;
- because some refugee households and communities choose to disperse in different locations...in order to minimize risk and maximize opportunities; and,
- because the birth rate of populations caught up in humanitarian emergencies (and consequently the number of children) is often substantially higher than that of the local population.”

Jeff Crisp, “No Solutions in Sight: The Problem Of Protracted Refugee Situations In Africa”, UNHCR New Issues in Refugee Research Working Paper No. 75, January 2003, p. 8.

<sup>7</sup> United Nations, Consolidated Appeals Process (CAP): Uganda 2007, p. 1.

given basic tools and other NFIs upon arrival, along with small plots of land for subsistence farming. Food rations initially supplied by the UN's World Food Programme (WFP) are gradually reduced in accordance with the Self-Reliance Strategy, which will be analysed in greater depth in Section 2.1. Although this report focuses on those dwelling in settlements, thousands of refugees live outside of this system of official assistance and protection; these 'self-settled' refugees have been the subject of several previous RLP research studies.<sup>8</sup>

Refugees in Uganda are the responsibility of the Office of the Prime Minister's Directorate of Disaster Preparedness and Refugees (OPM). Although this department is heavily dependant on UNHCR for financial and logistical support, it is the government that is ultimately accountable for refugees' welfare. Indeed, the high degree of UNHCR involvement with refugees in Uganda can sometimes obscure the fact that government bears the fundamental legal obligation to protect and promote the rights of refugees.

Within the settlements, OPM and the Uganda Police are responsible for security. The function of camp management—typically divided into a number of sectors including Water and Sanitation (Watsan), Health, and Education—is the responsibility of Implementing Partners (IPs) funded by UNHCR. In the four settlements visited, GTZ, AAH, and ded run the majority of these sectors,<sup>9</sup> allowing UNHCR to focus on legal protection. Operational Partners (OPs) such as the Transcultural Psychosocial Organization (TPO) and International Medical Corps (IMC), on the other hand, are involved in specific areas such as sexual and gender-based violence (SGBV) and generally provide their own funding for operations, which are run in coordination with IPs and UNHCR.

Uganda's local settlement strategy, governed by the new Refugees Act (2006), is regularly touted by the GoU and UNHCR as an improvement over the camp-based refugee management strategies in Kenya and Tanzania, where refugees are not given access to agricultural land and remain completely dependent on official aid. Nevertheless, local settlement remains in marked contrast to the policy of Local Integration envisioned as a durable solution to refugee crises, which allows refugees and hosts to co-exist.<sup>10</sup> Indeed, insofar as Uganda's policy makes official protection and assistance contingent on confinement within a settlement, it contravenes the country's international human rights obligations<sup>11</sup> and violates Article 26 of the 1951 *UN Convention Relating to the Status of Refugees*, which provides refugees "the right to choose their place of residence and to move freely within its territory subject to any regulations applicable to aliens generally in the same circumstances."

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<sup>8</sup> See for example, Jesse Bernstein, "A Drop In The Ocean': Assistance and protection for forced migrants in Kampala," Refugee Law Project Working Paper No. 16, May 2005; Moses Chrispus Okello, Noah Gottschalk, and Katinka Ridderbos, "There are no Refugees in this Area': Self-settled Refugees in Koboko", Refugee Law Project Working Paper No. 18, November 2005

<sup>9</sup> Some sectors had been handed over by the IPs to government in accordance with the Self-Reliance Strategy.

<sup>10</sup> For further information on this issue, see Lucy Hovil, "Self-settled refugees in Uganda: An alternative approach to displacement?", *Journal of Refugee Studies*, forthcoming; "We are all stranded here together: The local settlement system, freedom of movement, and livelihood opportunities in Arua and Moyo districts," Refugee Law Project Working Paper 14, February 2005; Sarah Dryden-Peterson and Lucy Hovil, "A Remaining Hope for Durable Solutions: Local Integration of Refugees and Their Hosts in the Case of Uganda", *Refugee*, Vol. 22, No. 1, May 2006.

<sup>11</sup> In particular, International Covenant on Civil and Political Rights, Article 12 (1).

## **Methodology**

This report is the outcome of a yearlong research study investigating the “Human Rights of Refugee Children, Young People, and their Families” in Uganda’s refugee settlements. It is based on more than 2 ½ months of field research in Kyenjojo (3-20 February 2006), Hoima (20 April-11 May 2006), and Arua (12 July-3 August 2006; 22 October-5 November 2006) districts. In addition to informal interviews and discussions that were not recorded, a total of 982 individuals—approximately half of them female—were interviewed in these three districts, the majority of them refugees living in Kyaka II, Kyangwali, Rhino Camp, and Madi Okollo Refugee Settlements, respectively. Approximately 53 percent of refugees interviewed were Sudanese, 35 percent were Congolese, and 12 percent were refugees of other nationalities and Ugandans living in close proximity to the settlements. To the extent possible and dependent on official permission being granted interviews were conducted with government officials and UN and NGO staff working in or responsible for managing these settlements. Interviews were also conducted with nationals living within or nearby settlements as well as with self-settled refugees and nationals living in Arua town.

Almost all of these interviews were conducted directly in English, Kiswahili, French, Bari, and Arabic by researchers fluent in those languages, but a very small number were conducted using fellow refugees—usually family members, neighbours, or friends—as informal interpreters in order to include the perspectives of people who did not share a common language with researchers.

In addition to upcountry interviews, preliminary consultations were carried out in Kampala in November and December 2005, including a focus group discussion with refugee women and another with youth, and two key informant interviews with refugee youth leaders. The latter individuals, the majority of whom have left settlements owing to a lack of educational and economic opportunities there, provided information on conditions that led them to leave the settlements as well as contacts with youth and other leaders within the settlements. They also provided important feedback on early drafts of the interview map, helping to make them more culturally and practically appropriate to the context of the settlements. In the course of the research, the interview map was further developed to accommodate not just the initial concerns such as education, economic opportunities, health and nutrition, but also the phenomenon of early marriages which appeared to underpin concerns around all of the above. Despite these developments, the interview map maintained many of the same key themes in order to ensure consistency and comparability. While using the interview map as a guide, interviews were semi-structured to allow the interviewee as much ownership of the process as possible.

One of the most important initial methodological concepts, which was subsequently reinforced by these consultations, was the focus on social age as opposed to biological or chronological age of refugees.<sup>12</sup> This decision manifested itself in the use of the terms ‘youth’ and ‘young people’,

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<sup>12</sup> The use of the term ‘chronological’ reflects the arbitrary, constructed nature of an age of majority based solely on years since birth. Biological age is the common denominator between social and chronological age: a refugee who is prepubescent, and therefore a biological child, could not be considered a social adult even if he or she married. Similarly, an unmarried refugee of 18 or 19 would in many ways still be considered a child by his or her society until marriage. The author is grateful to Christina Clark for suggesting this methodological focus. For a definitive explanation of the concept of social age, see Christina Clark, *Beyond Borders: Political Marginalisation and Lived*

which are typically self-applied by refugees, as opposed to the word ‘children’, which is typically associated with legal standards pertaining to the age of majority, which in Uganda is 18. Social age has particular importance for refugees in Uganda, many of whom come from cultures that link adulthood with marriage and raising a family rather than with chronological age. This distinction has important implications for education, early marriage, defilement, and—ultimately—the notion of vulnerability, as will be demonstrated below. Therefore, while this report mostly refers inclusively to ‘young people’, it will make reference to ‘children’ where appropriate in order to clarify the rights specifically accorded to refugees under 18 years of age.

The approach adopted was qualitative rather than quantitative, and research teams endeavoured to include refugees of all possible ages<sup>13</sup>, nationalities, physical location in the settlements<sup>14</sup>, and other identifiable circumstances. The aim of this methodology, given the large number of interviews conducted, was to gain a rich understanding of the lives of individuals and to identify the broad issues that impact refugees across specific groups. In many cases, researchers followed up on interviews with a ‘vulnerable’ individual by conducting subsequent interviews with parent/guardians, other relatives, neighbours, and—when possible—officials familiar with the individual in order to provide a full portrait of the situation. The research methodology was enhanced by the inclusion of legal and psychosocial experts from RLP’s Legal Aid & Counselling Department on the field teams. Doing so enabled shared analysis of data collected, thereby strengthening the RLP’s subsequent legal aid, counselling and educational interventions. Preliminary research findings were presented in two Briefing Papers,<sup>15</sup> both of which were initially distributed to stakeholders for comment. The draft of this report was circulated to key actors prior to its publication, and their comments have been incorporated to the extent possible. Moreover, key points arising from discussions at the report’s launch seminar will be presented on the RLP website.

Section 1 examines the phenomenon of early marriage and analyses the circumstances that lead young people to become involved in them. Section 2 describes the theoretical model for refugee self-reliance in Uganda and its shortcomings. It also identifies the obstacles that refugees—and the officials working with them—face in practice and how refugee youth in particular are affected by these obstacles, especially with respect to education. Section 3 explores official understandings of ‘vulnerability’ and how they impact upon the interventions that UNHCR and its partners undertake to meet refugees’ needs and address the phenomenon of early marriage. Section 4 explores the ways in which refugees support one another—and particularly the most ‘vulnerable’ among them—and examines the limits of such self-help. Accordingly, it proposes an alternative model to ensure the needs of refugees are met and their rights are upheld. Finally, Section 5 concludes that a rights-based approach is the best means to ensure that refugees are able to live meaningful and dignified lives and are not forced to adopt negative coping strategies such as early marriage.

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*Experiences of Congolese Young People in Uganda*, Unpublished DPhil thesis, Department of International Development, Oxford University, 2006.

<sup>13</sup> Interviewees ranged from pre-teen children to adults in their 70s.

<sup>14</sup> Interviewees were drawn from every possible village/cluster in each settlement.

<sup>15</sup> RLP Briefing Paper, *Refugees in Rhino Camp and Arua town*, October 2006 and RLP Briefing Paper, *Madi Okollo Refugee Settlement: A Different Approach to Refugee Management*, December 2006.

## 1 REFUGEE YOUTH AND THE PHENOMENON OF EARLY MARRIAGE

The following section highlights the paradox that early marriages in Uganda's refugee settlements are a response to violations of human rights—including the right to education<sup>16</sup> and the right to life, liberty, and security of person<sup>17</sup>—but also represent a human rights violation in and of themselves. Research indicates that the majority of early marriages in refugee settlements are not consecrated through a religious ceremony or even accompanied by a celebration. Instead, they are typically arranged as a hasty response to sexual relationships between young people—at least one of whom is a minor—that have resulted in pregnancy. Although they differ in some respects from traditional pre-displacement marriages, the marriages conducted in the settlements are fully, if grudgingly, recognised by refugee society as a reality of life in Uganda. Before they were displaced, some parents explained, early marriage was closely related to income levels: those with greater means got married later and those who married young did so in response to difficult circumstances. One woman explained the link between her own early marriage and instability in Sudan, while also demonstrating the link with education: “I stopped school early, and got married early, at 14. That one is [what happens in] war conditions.”<sup>18</sup>

Clearly, refugees in Uganda—who are unable to move from these isolated settlements, forced to depend on subsistence farming, and trapped in poverty—commonly regard early marriage as a legitimate, albeit flawed, survival strategy during this time of displacement and encampment. Nevertheless, under current law in Uganda, girls under 18 may not marry and sexual intercourse with minor girls constitutes defilement, a capital crime.<sup>19</sup> Despite the consequences, however, refugees often see no other option, much to the frustration of officials trying to enforce the law. As a police officer familiar with refugee issues explained, “When we investigate they say, ‘But I have given my daughter,’”<sup>20</sup> and so the matter is closed. This section highlights three factors that encourage the widespread practice of early marriage among refugee youth in Uganda. It suggests that the phenomenon—and the persistent underlying physical and financial insecurity it seeks to ameliorate—represents a failure of protection within the SRS and ‘vulnerable groups’ paradigm that serves to perpetuate a cycle of vulnerability in Uganda's refugee settlements.

Section 1.1 demonstrates that teasing, peer pressure, and sexual harassment—including threats of sexual violence—are part of this cycle of vulnerability. The hostile climate they create discourages girls from attending school, thereby causing them to be increasingly vulnerable to sexual violence in and around their homes and fields. As will be detailed in Section 1.2, this reality, within the context of isolated and insecure settlements, leads parents and guardians to seek early marriages as a means of ensuring girls' physical safety. Moreover, as Section 1.3 demonstrates, many of these marriages also relate to economic security; insofar as encamped refugees in Uganda experience myriad obstacles in the pursuit of self-reliance and sustainable livelihoods, life in the settlements is a daily struggle to meet even the most basic of their needs.

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<sup>16</sup> International Covenant on Economic, Social and Cultural Rights, Article 13 and Convention on the Rights of the Child, Article 28

<sup>17</sup> International Covenant on Civil and Political Rights, Article 6 (1) and Article 9 (1), respectively.

<sup>18</sup> Interview with 30 year old Acholi Sudanese woman, Kyangwali, 2 May 2006

<sup>19</sup> On 18 April 2007, Parliament amended the Penal Code Act, including by expanding the definition of defilement to include sex with an underage boy by replacing the word “girl” with “another person”. See Annex 2, Amendments to Penal Code Act. At the time of writing, the Amendment was awaiting presidential assent and publication in the Laws of Uganda by the responsible ministry.

<sup>20</sup> Interview with police official, Kyenjojo town, 3 February 2006

Given these realities, early marriages are often regarded by those involved as a necessary, if deeply flawed, survival strategy. This is despite the fact that they are illegal under Ugandan and international law—as will be detailed in Section 3.3.1—and widely recognised amongst refugees themselves as harmful. As a police official lamented, “They are giving out their daughters for their survival.”<sup>21</sup>

### **1.1 Sexual Harassment, Peer Pressure, and Early Marriage**

In all settlements visited, refugees recognised the fundamental connection between early marriage and education. All refugee youth—even those with some means of financial support—face a variety of obstacles to their education, including the cost of school uniforms and supplies and the need to help parents with agricultural activities, particularly at planting and harvest times. Girls must surmount additional impediments that are often justified on the basis of culture, including the gendered-division of household labour and the popular perception that sending girls to school is less likely to benefit the family. As one young woman explained, in addition to directly forbidding their daughters from attending school, some parents indirectly discourage girls from studying:

The girls [aren't given a] chance to read in the night. When you come back home they want you to go and collect water and so some girls end up being the last [ranked] in the class. They get ashamed on their own and simply drop out of school.<sup>22</sup>

The continual teasing, verbal abuse, and sexual harassment from family, friends, neighbours, and schoolmates—and even from teachers—reported by female students in all four settlements represent additional obstacles that exacerbate the effects of these cultural norms. One 15 year old girl being raised by her older sister described how she walks 2 ½ hours each way to school so that she can live at home and help her sister. As the only female P7 student in her area, she is regularly taunted by other youth—many of them married—who do not study: “They say ‘see, you’re an orphan and you’re studying. Do you think your sister can afford to pay for you?’” As a result of this peer pressure, she said, “I can feel bad. When they’re asking me like that they can discourage me. Even me I can see how my sister lives so how can she buy books and pay school fees?”<sup>23</sup>

Despite these negative comments, she explained, “What encourages me to study well in P7 is that I could get a scholarship. Even my sister believed I would get a scholarship.” But now, she continued, “it is nowhere to be seen. Even those who were studying, they chased them.”<sup>24</sup> Both girls and boys are affected by such teasing, but girls in particular are frequent targets of sexual harassment including threats of sexual violence. For instance, a group of girls explained that their male classmates used numbers to describe girl’s body types, using “Figure 1” to refer to girls with “collapsed [flat] breasts” and “Figure 2” to describe girls with “shooting [protruding] breasts and bigger bottom.”<sup>25</sup> A boy in another school in the same settlement confirmed this practice, explaining how girls are discouraged from continuing their education once they have

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<sup>21</sup> Interview with police official, Kyenjojo town, 3 February 2006

<sup>22</sup> Interview with 20 year old Pajulu Sudanese woman, Rhino Camp, 20 July 2006

<sup>23</sup> Interview with 15 year old Hutu Congolese girl, Kyangwali, 22 April 2006

<sup>24</sup> Interview with 15 year old Hutu Congolese girl, Kyangwali, 22 April 2006

<sup>25</sup> Focus Group Discussion with girls in Senior Secondary School, Madi Okollo, 3 November 2006

reached puberty: “Other girls get [verbally] abused in school [for example] that they have big breasts, [so] she should just get pregnant now because she is ready.”<sup>26</sup>

Harassment does not only come from students. Interviewees in all four settlements reported incidences of teachers impregnating students and either eloping with the girl or running away and leaving her behind. In Kyangwali, for example, a young woman described how her married P4 teacher coerced her into having sex with him at school when she was 16: “He was working on [getting] resettlement...and he told me that once he goes, he would pay [my] fees. So I agreed to have sex with him.”<sup>27</sup> She explained that when she became pregnant, she was forced to leave school and raise the child alone: “It was at the end of the year and...[I told him] and that is when he fled back to Congo...He had left [his wife and children] in Congo and I suppose he went back to them.”<sup>28</sup>

A young man in secondary school in Madi Okollo reported, “Some teachers are also impregnating their students,” and he complained that he and his fellow male students were “competing with them seriously”<sup>29</sup> for girls. Accordingly, he and a number of his colleagues saw no problem with relationships between students starting in school, claiming that some of the boys and girls involved “will decide to marry when they complete S6.”<sup>30</sup> When asked why he decided to marry, the same young man admitted, “I was really ashamed by my colleagues when they were all having wives and so that is when I decided.”<sup>31</sup> Delaying marriage until the completion of S6—or even S4—however is extremely rare for girls living in the settlements. To the contrary, most refugee girls become involved in early marriages for a host of reasons, including factors linked to such sexual harassment and peer pressure.

## **1.2 Early Marriages and Physical Security**

Settlements can be dangerous places to live. Located in isolated rural areas of Uganda, their agricultural orientation means they are spread out over large areas<sup>32</sup>; although some refugees live nearer to neighbours than others, almost all live quite far from understaffed police posts and OPM offices. Officials working in all four settlements cited assault, defilement, and simple theft as the most common crimes. Although less common, more serious crimes such as rape and murder were also reported, and contribute to the subjective fear of violence that many refugees—particularly women living without adult male relatives—expressed to researchers.

Alcohol abuse is common in the settlements, and is often related to the lack of educational and economic opportunities amongst encamped refugees. As one official explained: “If these boys...drop out of school and parents cannot afford [secondary] education, what do you expect of them? They just resort to drinking.”<sup>33</sup> In practice, officials working in all four settlements blamed alcohol abuse for increased incidences of petty crimes, assault, domestic violence, sexual

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<sup>26</sup> Interview with teenage Acholi Sudanese boy, Madi Okollo, 4 November 2006

<sup>27</sup> Interview with 18 year old Muniyabwisha Congolese woman, Kyangwali, 23 April 2006

<sup>28</sup> Interview with 18 year old Muniyabwisha Congolese woman, Kyangwali, 23 April 2006

<sup>29</sup> Interview with 18 year old Latuku Sudanese man, Madi Okollo, 3 November 2006

<sup>30</sup> Interview with 18 year old Latuku Sudanese man, Madi Okollo, 3 November 2006

<sup>31</sup> Interview with 18 year old Latuku Sudanese man, Madi Okollo, 3 November 2006

<sup>32</sup> For instance, Kyangwali, with a population of 18,000 at the time of research, covers 91 km<sup>2</sup> while Rhino Camp, which hosts approximately 20,000 refugees, is 225km<sup>2</sup>.

<sup>33</sup> Interview with government official, Arua town, 24 October 2006

assault, rapes, and even murder. Insofar as alcohol contributes to a sexually threatening atmosphere, it encourages parents to seek marriages for their daughters—whatever their ages—as a means of protecting them from SGBV. Referring to the large number of girls who are sexually abused, one police official working closely with refugees explained the dilemma that parents and other guardians face: “The only way [to prevent this] is to marry you off, so you find there is a very high rate of marriages and pregnancy of adolescents.”<sup>34</sup>

Therefore, although such marriages are illegal and constitute defilement, many parents consider them a practical necessity representing the lesser of two evils. Paradoxically, the majority of those who brew alcohol are women—and even girls in their early teens—who lack alternate income generating activities to pay for school fees, food, and other necessities. For example, one widowed woman explained cultivation alone was not enough to provide for her four children: “What can I do? Just from digging I can’t get the children soap and clothes. There is nobody to help me.”<sup>35</sup> Although she described it as hard work and dangerous, she said brewing the local alcohol known as *waragi* was her only means of supporting her family:

I sell it at the market and use the money to buy food for the children...Men come here and they are drunk and beat me...even 2 times per month! They can hit me with sticks because they have no money [to pay].<sup>36</sup>

One of these men, she explained, raped her at her home, and she became pregnant. Nevertheless, she said she has no choice but to continue brewing alcohol: “The children are hungry and I have to give them food – where else will I get the money to feed them?”<sup>37</sup>

Although not as common as defilement, rape represents another serious threat to the physical security of refugees living in settlements. Girls and women reported that they feared assault whilst carrying out everyday tasks such as fetching water and firewood, or walking to school, church, or the market, especially given the low population density in most areas of the rural settlements and the presence of only a handful of police. In the words of a 19 year old orphan living with her sisters:

We are fearing...the situation because the [nationals living] within the settlement are making bad things... if you are going to the market they want to rape you, and if you are a boy, they will take your bicycle. You know the market is far.<sup>38</sup>

Moreover, women living either by themselves or with other females explained that they were commonly targeted by men who knew they lacked adult males to ‘protect’ them. One such woman described how she came to be living alone after her husband was killed in Congo and how she became separated from her two children while fleeing to Uganda. She explained that inebriated men would threaten her and other women at their homes: “Men even take the drug they call *bhang* [marijuana] and come to the house at night...they can also come after drinking.”<sup>39</sup> She proceeded to describe the first of three such incidents that she survived:

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<sup>34</sup> Interview with police official, Kyenjojo town, 3 February 2006

<sup>35</sup> Interview with 32 year old Acholi Sudanese woman, Kyangwali, 5 May 2006

<sup>36</sup> Interview with 32 year old Acholi Sudanese woman, Kyangwali, 5 May 2006

<sup>37</sup> Interview with 32 year old Acholi Sudanese woman, Kyangwali, 5 May 2006

<sup>38</sup> Interview with 19 year old Madi Sudanese woman, Rhino Camp, 22 July 2006

<sup>39</sup> Interview with 33 year old Tutsi/Munyabwisha Congolese woman, Kyangwali, 3 May 2006

It was around 7 or 8 pm – there was no moon...I was preparing the food [in front of the hut] and someone arrived saying he was a visitor for me...he said he loved me and I would be his wife but I said ‘I’m not here to look for a man’. He was just saying nonsense but he wouldn’t go. He began to grab me – he was very tall, like 2 metres, and he [lifted me] like a baby...I couldn’t move...I said ‘My God, if he has Aids I’ll get it and die and I’ll never see my children’ so [I prayed]...He couldn’t [carry] me into the house because the door doesn’t open wide enough. I said I would report him to the police and the commandant, and he said ‘What can they do to me?’

Many refugees expressed little confidence in the ability of official actors—and particularly police—to protect them from violence in the settlement. Structural factors are much to blame for this reality. For example, when asked to describe obstacles to protection, a government official focused on the financial and other difficulties facing police working in the settlements.<sup>40</sup> Chief among the problems he mentioned was the lack of manpower; in Rhino Camp, for example, this means there is only one officer to every 1500 refugees, not to mention nationals living in the area. Such understaffing is common throughout Uganda’s refugee settlements, and indeed, most of the country with the exception of Kampala and a few major towns.

Although the introduction of a community policing approach was widely cited as improving the handling of crimes—and particularly SGBV—and yielding improved relations between refugees and nationals, police are significantly hampered by their extremely limited means of transportation and communication. Other problems mentioned by the official cited above included inadequate provisions for huts where individuals in need of special protection can be temporarily housed, and delays and mishandling in the Ugandan judicial system. Although most of these problems could be resolved with increased funding, he referred to police training as one key area in which additional work is necessary: “[There is a] lack of skills in handling protection cases by the police. So they need in-service training and workshops because most don’t have the training of handling refugees.”<sup>41</sup> Unfortunately he said, “After you have created capacity, after a very short time these [police] are transferred and new people are brought in, and [it] costs you again for more trainings.”<sup>42</sup>

The latter was a common complaint in all four settlements. Although the curriculum in which police officers train has been greatly expanded in recent years,<sup>43</sup> there is no guarantee that officers who gain on-the-job experience with refugees will be assigned to work with refugees, and even those who do are not exempt from the system in which all police are rotated to different posts throughout the country every 6 months. Although officers recognised that this was simply part of their job, most spoke of a desire to see the system reformed for the sake of the communities in which they work. Police interviewed in Kyaka II, for example, suggested that there be an overlap of at least a few days so that the departing officers could introduce their replacements to the settlement.<sup>44</sup>

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<sup>40</sup> Interview with government official, Arua town, 19 July 2006

<sup>41</sup> Interview with government official, Arua town, 19 July 2006

<sup>42</sup> Interview with government official, Arua town, 19 July 2006

<sup>43</sup> Interview with police official, Arua town, 23 October 2006. Such training includes refugee law modules provided by the RLP’s Education & Training Department.

<sup>44</sup> Interview with police officials, Kyaka II, 6 February 2006

In Arua, officials have associated the repatriation process with increased rates of crime, including defilement, within the settlements. Certain crimes are committed by nationals against refugees—particularly theft of animals and other property—owing to belief that it is time for them to go home. Moreover, southern Sudanese refugees suspected of crimes are taking advantage of the relative stability at home—especially since the signing of the Comprehensive Peace Agreement (CPA) in January 2005—to flee to Sudan, where tracing them is often impossible. According to police, OPM, and other relevant officials, most of those who flee have been accused of defilement. As one government official explained, “Defilement cases...are very difficult to follow now. Once [suspects] know there is some follow-up, they go to Sudan.”<sup>45</sup>

These shortcomings have a critical impact on the safety and security of refugees living in settlements. After recounting a recent incident in which three boys raped a girl who had gone to grind her ration of maize, the 19 year old girl quoted above reported how, while returning home from the market with empty soda bottles, she and her female neighbour survived an attempt by two boys to rape them outside a church near their homes. Her description of the incident demonstrates the dangers girls and women in particular face in the settlements while challenging traditional conceptions of female vulnerability:

We had just reached the church here [when] they stopped us. They had followed us...[and told us] ‘I love you, I want you as my girlfriend’...and said that they will give us 5,000 Shillings [less than 3 US Dollars] and they want to play sex with us. We refused...And they got annoyed. From there, the boy started to remove his shirt, he start to come and catch me so that he will throw me down, then I just pick a bottle...to beat him, but the bottle fell down, then I take a stool of the church and I start beating him. He now starts fighting. Allah, the boy was big! I then take a stick and start beating him and making noise. Meanwhile my friend also helped me beat. The other ran. I know his name because we were schooling in the same class in P3.<sup>46</sup>

Encouraging examples such as this are rare, however, and in the absence of effective official protection many refugees view marriages as the best—and often only—means of protecting women and girls from SGBV and other forms of violence. Paradoxically, refugees reported that girls and women who become pregnant from rape are sometimes forced to marry the rapist. This particularly affects underage girls without guardians. When asked how marriages were conducted in her settlement, one woman who herself survived a rape there explained that:

Those that don’t have [a father], they can get married younger...[sometimes when] somebody sees a girl, like in the centre, and knows...that she doesn’t have anybody [looking after her], he can take her and ‘marry’ her, rape her at 16, 17.<sup>47</sup>

Early marriages take place in an environment where relationships with men are commonly considered an acceptable means for single adult women—and especially widows—to meet their needs. Although they work to prevent *early* marriages, some officials working with refugees do not do enough to explicitly challenge this belief; indeed, a few may even actively encourage it. In the words of one widowed woman who became involved in such a relationship in the settlement: “One day [an official] addressed people and said women without help should get themselves men to take care of them because [officials] were not able to do every thing for [us].” She explained

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<sup>45</sup> Interview with government official, Madi Okollo, 27 October 2006

<sup>46</sup> Interview with 19 year old Madi Sudanese woman, Rhino Camp, 22 July 2006

<sup>47</sup> Interview with 35 year old Pojulu Sudanese woman, Kyangwali, 30 April 2006

that although such ‘marriages’ were often detrimental for the women involved, there were few alternatives:

These women are looking for how to survive: they cannot do certain things that need men. Even if you come crying to the leaders they won’t help you...[and yet] men keep laughing at women who don’t have husbands, and knocking at their doors, telling them to get men to help them. It’s too much for single women [so] that’s why they look around for men who end up mistreating them.<sup>48</sup>

Therefore, in a climate where relationships with men are widely viewed as necessary to protect women from the pervasive insecurity of the settlements, early marriages that themselves may constitute human rights abuses—and a form of sexual violence—are often seen as the only means of ensuring girls’ physical safety.

### **1.3 Early Marriages and Economic Security**

In addition to motivations of physical security, early marriages are often viewed as an essential economic survival strategy for girls and their guardians. Besides the financial benefits of a relationship with an economically productive man, girls—and more commonly their parents, relatives, or other guardians—receive bride price which can be used to meet certain needs including to start businesses, pay debts, buy more land, or even pay for education. As one UNHCR official explained, the desire for bride price is a major cause of early marriage; in fact, it is “the root cause actually, and what brings this up is poverty.”<sup>49</sup>

For example, when discussing early marriage, the brewer quoted above contrasted her relatively secure financial position in Sudan with her diminished circumstances in Uganda: “My father was [well off] in Sudan – he worked a lot and had money. My mother was good also [so] I married when I was 17.”<sup>50</sup> She lamented, however, that her economic situation in the settlement was such that her own 13 year old daughter might not have the opportunity to marry at an appropriate age: “If somebody comes with money that I can use to eat and feed the children, I will sell her.”<sup>51</sup> She explained that although the bride price would be “little”, it would be “enough to provide for us” and that if she herself met a man with money to support her family she would “go [with him] right away.”<sup>52</sup>

In the context of the settlements, education is typically the first sacrifice that refugees must make in order to survive. Indeed, when asked about the differences between national and refugee students, teachers pointed out that the inability to pay school fees and other financial constraints commonly leads to early marriage among refugees, particularly those staying without parents. For many teenage girls, staying with an extended family member or a foster parent could actually worsen their prospects for education as compared to staying with parents or even alone. As one female teacher explained,

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<sup>48</sup> Interview with 44 year old Muniyabwisha Congolese woman, Kyangwali, 10 May 2006

<sup>49</sup> Interview with UNHCR official, Arua, 26 October 2006

<sup>50</sup> Interview with 32 year old Acholi Sudanese woman, Kyangwali, 5 May 2006

<sup>51</sup> Interview with 32 year old Acholi Sudanese woman, Kyangwali, 5 May 2006

<sup>52</sup> Interview with 32 year old Acholi Sudanese woman, Kyangwali, 5 May 2006

Among the refugees, most of the girls are not staying with parents, and are with family members or others who are just helping them. They are not their real children, [these people are] just assisting them. So they see [girls] go early in the morning [to school] and coming late at night and not be contributing much to the house, and they don't like it. So some are told to get married, to get their own home.<sup>53</sup>

One young orphan—herself a Ugandan Acholi who became pregnant and was subsequently forced by her guardian to marry her Sudanese boyfriend and move with him to Madi Okollo—explained that orphans and other girls living without their parents in the settlement were particularly likely to view a sexual relationship and an eventual marriage with a boy or a man as the only means of meeting material needs: “Some girls don't have a mother or father so there is nobody to buy the things she needs, so she marries.”<sup>54</sup> An NGO official explained the detrimental effect of such relationships on girls involved, lamenting their inevitability in the absence of resources:

The girl begins to have a divided allegiance between school and the boy. In most cases the only way to prevent this is to support the girl but because of limitations at our level and at the community level this ‘solution’ would continue until the girl gets trapped into pregnancy and marriage.<sup>55</sup>

As a government official explained, male refugees sometimes take advantage of unaccompanied girls: “If you are a female and [a man is] interested in sex, [he] can use you because your father is not around.”<sup>56</sup> Indeed, a number of female students told the RLP that men came to the school grounds to proposition them for sex, offering them money for school fees and other needs. One NGO official working closely with refugees with specific needs recognised the link between vulnerability, limited livelihood options, and the unfeasibility of the Self-Reliance Strategy:

One reason they get settlements is self-reliance: if they dig they can sell [their produce] to buy basic necessities. We expect [self-reliance] within one year, apart from EVIs. It makes most of young girls become women at risk if there is a boy who can offer them soap, etc. It leads to abductions [for] attempted forced marriage.<sup>57</sup>

Crisp refers to such exploitative sexual relationships as “forms of *concubinage*” that—in addition to commercial prostitution—are “one of the most frequent means for refugees to survive in a protracted situation.”<sup>58</sup> Female students trapped in such relationships inevitably become pregnant, and are forced to drop out of school and seek the means to support another life, often with little or no assistance from the man who impregnated them. As a male teacher explained: “In a desperate attempt to survive, you can do anything, especially on the side of girls.”<sup>59</sup>

Many officials echoed this sentiment: without financial support, refugees often had little choice but to arrange marriages for themselves or for their daughters. While a number of officials interviewed have maintained that parents need sensitisation on the importance of education as

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<sup>53</sup> Interview with secondary school teacher, Kyaka II, 16 February 2006.

<sup>54</sup> Interview with 20 year old Acholi Ugandan woman, Madi Okollo, 29 October 2006

<sup>55</sup> Interview with NGO official, Madi Okollo 2 November 2006

<sup>56</sup> Interview with police official, Kyenjojo town, 03 February 2006

<sup>57</sup> Interview with NGO official, Kyaka II, 15 February 2006

<sup>58</sup> Crisp, “No Solutions in Sight”, p. 19.

<sup>59</sup> Interview with secondary school teacher, Kyaka II, 16 February 2006

means of discouraging early marriages, research indicated that the situation is actually more complex and is linked to established gender roles. Early marriage in many cases is viewed a means *to* education—of boys: “Of course, the parents want to get bride price out of girls so maybe they can educate the boys.”<sup>60</sup> Thus, sisters—whether older or younger—are frequently expected to marry in order to provide for their brother’s futures, underscoring the value placed on education despite limited resources and the need for greater awareness of the importance of educating girls and women.

Parents motivated by their own financial concerns may actively promote their daughters’ involvement in relationships inevitably leading to early marriages: “A number of our school girls you find them with a boyfriend who is known to the parents and [who] is giving some support to the parents and so the parents allow him to interact with her at any time.”<sup>61</sup> The same official continued to explain that “The set-up of the settlement provides rich ground for parents to push for early marriages. If they see the neighbours are well mannered they tend to encourage.”<sup>62</sup>

These financial motivations do not stop once a girl has been married. Although many girls might return to school once their first child is old enough to be cared for by a family member or friend, they are often prevented from doing so by husbands who want more children. In the context of agricultural settlements, the traditional practice of bearing many children who can help with cultivation remains important. Moreover, many refugees have recognised that under the system, having more children means a larger population on ration cards, and therefore more food that can be divided amongst the whole family. When rations are reduced in accordance with the SRS, this becomes a particular concern for students and others who unable to devote the majority of their time to agriculture. According to one young husband who returned to school after marriage, when he proposed that he and his wife use family planning, she refused:

When I tried to tell her to use family planning, to use condoms, she told me that I [was] joking. For her [she wants] to produce kids so that our ration card will increase, and [we get] more food...so I just put the thing aside to avoid conflict.<sup>63</sup>

Given the low rate of reporting relative to the high numbers of early marriages evident in the settlement, it appears that most cases are indeed resolved among families and within communities in a process that most refugees appear to recognise as a legitimate response. In addition to the financial incentive to arranging marriages rather than reporting a crime, the costs of pursuing a legal case represent a major disincentive to reporting. Refugees have explained that such costs might include paying money to Refugee Welfare Councillors (RWCs) to write letters attesting to the situation, transport costs for police and for the suspect to be brought to town, and the cost of attending trials.

Some refugees, however, have exploited the process for their own financial enrichment. As one young man complained, “Once you are caught with a certain girl, [her parents] just charge you money, even for just talking.”<sup>64</sup> In some cases, the threat of reporting defilement to the police is used to ensure that a boy or his family accepts the marriage and pays whatever amount of money

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<sup>60</sup> Interview with government official, Arua town, 24 October 2006

<sup>61</sup> Interview with NGO official, Madi Okollo 2 November 2006

<sup>62</sup> Interview with NGO official, Madi Okollo 2 November 2006

<sup>63</sup> Interview with 18 year old Latuko Sudanese man, Madi Okollo, 3 November 2006

<sup>64</sup> Interview with 15 year old Acholi Sudanese boy, Kyangwali, 5 May 2006

the girl's family demands. In other cases, males might be able to avoid what amount to forced marriages—some of which are also early for the male as well as the female involved—by paying 'penalty' fees to girls' families and remain unmarried.<sup>65</sup> The actual amount of money to be paid varies according to a number of factors including tribe, nationality, the financial position of the male and his family, and the age or education level of the female, but might range from 50,000 to 2,000,000 UGX.

In order to raise the necessary money, males often do *leja leja*, or casual labour, that—when available—enables them to earn a small daily wages as opposed to waiting for harvest time to sell produce. Many were forced to drop out of school to focus on such work. The consequences of not paying are severe. Boys who are unable or unwilling to pay—with or without the help of their families—face being accused of defilement. In addition to the risk of imprisonment, boys who will not or cannot pay are frequently subjected to harassment, ostracism from their communities, and even violence. One teenage student spoke of the risk of being attacked for not paying bride price, which in his community was often as much as two million Shillings: “So if you are [only] digging maize, especially with price fluctuations, you [can't afford this and] have to run away.”<sup>66</sup> Indeed, many young men in this situation see little alternative but to escape to other settlements, to towns, or increasingly, back to safe areas in their countries of origin.

Moreover, while girls are likely to experience pressure to drop out of school to get married to secure bride price for their parents or guardians, boys are more likely to be pressured to drop out of school to do agricultural work. Once they have dropped out, boys typically experience familial and societal pressure to marry and start families, making them unlikely to return to school. One young woman explained how initial demands that boys miss days of school to work eventually leads many to drop out altogether: “The only way [to survive] is cultivation, which is not that easy. Before school, kids have to work in the garden, then they are late and they might be sent back [home].”<sup>67</sup> As a result, refugees face a dilemma: “The very kids who are to help [parents] are the very ones to go to school so how can they concentrate [on their studies]?”<sup>68</sup>

## 2 REFUGEE SELF-RELIANCE AND VULNERABILITY

Early marriages clearly represent a survival strategy for encamped refugees. In theory, however, Uganda's Self-Reliance Strategy is intended to provide the means by which beneficiaries can overcome at least some of the vulnerabilities inherent in being a refugee, while also benefiting host communities. As a UNHCR report explained:

The promotion of self-reliance is essential in developing and strengthening [refugees'] livelihoods, protecting their dignity and enabling them to positively contribute to the local economy. Self-reliance is a form of empowerment, and is also considered a protection tool as it helps to reduce factors which make refugees vulnerable to various forms of violence and exploitation.<sup>69</sup>

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<sup>65</sup> RLP received several reports of boys being blackmailed into paying money to the families of pregnant girls with whom they claimed not to have had sex.

<sup>66</sup> Interview with 16 year old Acholi Sudanese boy, Kyangwali, 5 May 2006

<sup>67</sup> Interview with 20 year old Acholi Sudanese man, Kyangwali, 23 April 2006

<sup>68</sup> Interview with 20 year old Acholi Sudanese man, Kyangwali, 23 April 2006

<sup>69</sup> UNHCR, “Measuring Protection by Numbers 2005”, November 2006, p. 18. [www.unhcr.org/publ/PUBL/4579701b2.pdf](http://www.unhcr.org/publ/PUBL/4579701b2.pdf). Accessed 28 March 2007.

The widespread nature of early marriage indicates that these aims are not being realised in practice. Indeed, two major factors—limited freedom of movement and declining official assistance, particularly in the education sector—not only prevent refugees in Uganda from attaining true self-reliance, but in many cases exacerbate existing dependence and vulnerability. Following a brief analysis of the history and content of the Self-Reliance Strategy, this section will examine these two obstacles in greater detail, and assess their impact on refugee youth and their communities.

## **2.1 Self-Reliance Strategy and Development Assistance for Refugees**

Crisp links the evolution of the concept of refugee self-reliance with changing patterns of refugee crises in the second half of the twentieth century that necessitated the expansion of UNHCR's mandate beyond legal protection to include greater involvement with refugee livelihoods.<sup>70</sup> He notes that agricultural settlements like those in Uganda were pioneered throughout the developing world—and especially Africa—in the 1960-70s with the underlying assumption that they would promote self-reliance such that settlements could be handed over to host governments, thereby reducing the burden upon UNHCR and the international community as a whole. In practice, however, this was not the result:

By the early 1980s...few [settlements] had reached the level of self-reliance required for a 'hand over' to take place. Instead, UNHCR and its operational partners found themselves trapped in long-term 'care-and-maintenance' programmes, providing refugees with basic needs such as food, water, shelter, health care and education.<sup>71</sup>

Such programmes effectively keep the individuals living in these 'protracted refugee situations' dependent on external aid.<sup>72</sup> Despite the need for more substantial livelihood interventions in such cases, however, they were largely ignored by the UNHCR in subsequent years as the agency focused on the large-scale influxes and returns of the late 1980s and 1990s.<sup>73</sup> Indeed, it was not until the end of the decade that the agency began to focus on self-reliance for those in protracted refugee situations, and it was within this context in 1999 that UNHCR and the Office of the Prime Minister launched Uganda's Self-Reliance Strategy (SRS) to "improve the standard of living of the people of refugee hosting districts, including the refugees."<sup>74</sup>

The objectives of the SRS were "Empowerment of refugees and nationals in the area to the extent that they would be able to support themselves" and "To establish mechanisms that will

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<sup>70</sup> Jeff Crisp, "UNHCR, refugee livelihoods and self-reliance: a brief history", Evaluation and Policy Analysis Unit Background Documents, 22 October 2003. <http://www.unhcr.org/research/RESEARCH/3f978a894.html>. Accessed 28 March 2007.

<sup>71</sup> Crisp, "UNHCR, refugee livelihoods and self-reliance: a brief history"

<sup>72</sup> Previous RLP research in Moyo district, for example, has highlighted the dependence inherent in the local settlement system, contrasting the situation of encamped refugees—who are "restricted in their movement, heavily reliant on the refugee assistance structures, and...lack the empowerment necessary to be able to improve their situation"—with that of self-settled refugees, who "show creativity in the way in which they confront their current circumstances." Lucy Hovil, "Free To Stay, Free To Go?: Movement, Seclusion and Integration of Refugees in Moyo District", Refugee Law Project Working Paper No. 4, May 2002, p.1.

<sup>73</sup> Crisp, "No Solutions in Sight", p. 9.

<sup>74</sup> UNHCR, "Development Assistance for Refugees (DAR) for Uganda Self Reliance Strategy: Way Forward," Report on Mission to Uganda 14 to 20 September 2003, RLSS/DOS Mission Report 03/11, p. 3, ¶ 9.

ensure integration of services for the refugees with those of the nationals.”<sup>75</sup> The implementation of the SRS, however, remained stalled until 2002; by that time, there was increasing recognition of the need to incorporate emergency assistance to refugees into development programmes for refugee-hosting areas, and particularly the “economically marginalised, remote and under-developed” sectors of northern Uganda where the majority of refugees in the country are settled.<sup>76</sup> In order to accomplish this, Uganda was designated a pilot country for UNHCR’s new Development Assistance for Refugees (DAR) Programme. In addition to increasing burden sharing and development of the host community, the objectives of DAR are “Gender equality, dignity and improved quality of life of both refugees and host communities” and “Empowerment and enhancement of productive capacities and self reliance of refugees, particularly of women, pending durable solutions.”<sup>77</sup>

In spite of these noble goals, the SRS and its DAR component have yet to translate into sustainable livelihoods for refugees. Two aspects of this failure are particularly relevant for this paper. The first relates to the reduction of food assistance based on the assumption that refugees should be able to meet their own nutritional needs through cultivation in the settlements. As will be discussed below, although a large percentage of refugees in the settlements visited received reduced rations—with many receiving none at all—several obstacles have prevented them from achieving independent food security, leading to economic insecurity that translates into social problems including early marriage. The second aspect is the effort to end parallel service delivery by integrating the eight sectors of health, education, community services, agricultural production, income generation, environmental protection, water and sanitation, and infrastructure into government structures, thereby reducing the financial burden on the international community while building the capacity of Ugandan government institutions.<sup>78</sup> This handover process is not yet complete; nevertheless, negative repercussions have already been noted. For example, relevant actors in Rhino Camp—where education, health, and community services were handed over to Arua district—noted a marked deterioration in the quality of services in the latter two sectors. Some hinted that political pressure to demonstrate progress in implementing SRS had forced a premature handover. As a recent assessment of the prospects for a transition to DAR warned:

Mere transfer of responsibilities from NGO implementing partners to line departments, without proper assessment of absorption capacity and capacity building would not constitute ‘integration’ of services. In the long run transferring sectoral activities without an overall sectoral strategy may even impede the progress of SRS.<sup>79</sup>

Officials attributed many of the problems experienced in the handover to poorer, less flexible budgets on the part of the government and on the minor setbacks inherent in any transition, both of which might be resolved given greater time. Nevertheless, in the meantime, the gaps in the provision of adequate protection and assistance had critical consequences on refugee livelihoods, particularly for members of ‘vulnerable groups’. Indeed, a mid-term review of the

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<sup>75</sup> UNHCR, “DAR for Uganda SRS”, p. 3, ¶ 9.

<sup>76</sup> UNHCR, “DAR for Uganda SRS”, pp. 2-3, ¶ 5 and ¶ 10.

<sup>77</sup> UNHCR, “DAR for Uganda SRS”, p. 6, ¶ 20, ii.

<sup>78</sup> Government of Uganda and UNHCR, “Self-Reliance Strategy (1999–2003) For Refugee Hosting Areas in Moyo, Arua and Adjumani Districts, Uganda: Report of the Mid-term Review,” RLSS Mission Report 2004/03, April 2004, p. 3.

<sup>79</sup> UNHCR, “DAR for Uganda SRS”, p. 4, ¶12.

implementation of the SRS concluded that the programme was hindered by several overly-ambitious and otherwise unrealistic assumptions, failed to “factor in the effects of drought and other shocks”, and did not consider the “linkage between pursuit of self-reliance and coping strategies” nor make sufficient provision to “understand livelihood strategies of communities as a means to fine-tune the strategy.”<sup>80</sup> The impact of these flaws on the lives and livelihoods of refugees will be analysed in greater detail throughout this paper, beginning with an analysis of ways in which restrictions on freedom of movement foster dependency and vulnerability.

## **2.2 Freedom of Movement**

The RLP has extensively documented the adverse effects that restrictions on freedom of movement have on refugees in Uganda.<sup>81</sup> Although an in-depth analysis of these restrictions—which in practice take the form of often-circuitous administrative and bureaucratic obstacles—is beyond the scope of the current paper, a brief review of their psychosocial, financial, and human rights implications is fundamental to understanding the context in which the SRS has failed to enable encamped refugees to meet many of their most basic needs.

Even in Kyangwali, which the RLP has previously described as “one of the few settlements in Uganda that can reasonably claim a high level of refugee self-sufficiency,”<sup>82</sup> the lack of freedom of movement effectively undermines the core element of the SRS: the idea that, in lieu of external support, refugees can sell surplus harvests to earn money to meet basic needs. One of the main causes of this situation is the general inability of refugees living in any of the settlements to bring their produce to the open market where they might receive fair prices. Instead, they depend on middlemen—generally Ugandans—who descend upon the settlements during harvest time, buy cheaply from individual households, and then transport the foodstuffs to urban markets where they are sold at significant profits. Nationals living near the settlements are also affected by this unfair market system: some complained to the RLP that the presence of refugees has driven down the value of their own harvest. Unlike nationals, however, refugees are unable to move or to secure larger plots when soil fertility and yields decline from years of cultivating the same land without the possibility of crop rotation. As one RWC 2 Chairman in Rhino Camp said, “We have stayed here for more than 15 years but still we are very poor. This place here is like a desert. When you cultivate, the crops all die.”<sup>83</sup>

In addition to these economic effects, restrictions on freedom of movement also have important psychosocial consequences for refugees. As one NGO official working on questions of sexual and gender-based violence stated, “People need freedom of movement...when they’re squeezed in one place you cannot say there is peace.”<sup>84</sup> Indeed, a number of security officials suggested that encampment is directly linked to social problems including alcoholism, SGBV and defilement, and that these would be mitigated if refugees were allowed to self-settle.

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<sup>80</sup> GoU and UNHCR, “SRS Report of the Mid-Term Review”, pp. 8-10.

<sup>81</sup> In particular, see RLP Working Papers 4 and 14 and Lucy Hovil, “Self-settled refugees in Uganda: An alternative approach to displacement?”, *Journal of Refugee Studies*, forthcoming.

<sup>82</sup> Eric Werker, *Refugees in Kyangwali Settlement: Constraints on Economic Freedom*, RLP Working Paper No. 7, November 2002, p. 3.

<sup>83</sup> Interview with 35 year old Kakwa Sudanese man, RWC 2 Chairman, Rhino Camp, 15 July 2006

<sup>84</sup> Interview with NGO official, Rhino Camp, 3 November 2006

Countries that inhibit refugees' freedom of movement usually invoke the national interest in doing so. Uganda's new Refugee Act, for example, restricts the "free movement of a recognised refugees [sic] in Uganda...especially on grounds of national security, public order, public health, public morals, or the protection of the rights and freedoms of others."<sup>85</sup> A district official echoed these concerns about refugees in Uganda, who he said sometimes travelled outside of settlements without the necessary OPM permission. Although he said he was "not happy with their free movement"—describing it as "a security threat"—he recognised the negative effects that encampment has on refugees, and particularly on children: "From our side, it is not good [for refugees to move freely] but for them it is no problem. They should also give the opportunity to their kids to get exposed outside the camp."<sup>86</sup> He described this lack of exposure to the outside world as a major problem, saying: "It is as if they are detained."<sup>87</sup> Other security officials noted the contradiction between the Ugandan laws they were tasked to enforce and the best interest of refugees. As one police official noted:

It is other laws that are preventing [them to self-settle]. But if it were me I would say it's better for them to integrate. They could keep their own identities but the living is integrated among the locals. This is better.<sup>88</sup>

Another official offered a solution that would seek to address the rights and needs of refugees as well as the security interests of their hosts. Describing freedom of movement as a fundamental element of refugee protection along with "protecting their lives, their property...and allowing them to access services," he said refugees who "are able to meet certain basic needs" should be

free to stay in town here...although that freedom is within the context of what is expected of a refugee...[that they] respect the law of the country that hosts them, they should not indulge in political action or take part in the politics of the country, and that they should not use the country as a base for attacking their country.<sup>89</sup>

It is clearly possible to protect Uganda's national interests in a way that is consistent with the country's international legal obligations with respect to freedom of movement. The failure of the GoU to implement the necessary policies to grant refugees this right, however, represents a major obstacle to refugees' prospects for achieving self-reliance, with significant repercussions on their overall enjoyment of their human rights.

### **2.3 Funding Cuts and Other Budgetary Constraints**

The problems engendered by the lack of freedom of movement for refugees in Uganda have been compounded both by worldwide funding cuts to UNHCR—particularly for such 'non-essential' services as community service and education—and by the existence of competing funding priorities in Uganda. The result of such budgetary constraints is the emergence of gaps in the provision of protection and assistance for refugees, as will be demonstrated in Section 2.4 with respect to refugee youth. As an NGO staff member acknowledged, "Sometimes they need more than we can afford, so we prioritise"; when the situation is critical, "we try to advocate to other

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<sup>85</sup> The Refugees Act, 2006, Article 30 (2)

<sup>86</sup> Interview with district official, Hoima town, 21 April 2006

<sup>87</sup> Interview with district official, Hoima town, 21 April 2006

<sup>88</sup> Interview with police official, Arua town, 23 October 2006

<sup>89</sup> Interview with district official, Arua town, 18 July 2006

[partners].”<sup>90</sup> It may not be immediately possible, however, to find external organisations that can fill these gaps. As another NGO official explained, “It is very difficult to look for donors where people know UNHCR has already been there [and pulled out]. Everyone wants to come to a place where they are the first one and be proud of their results.”<sup>91</sup>

### 2.3.1 The Global Context

As a result of cuts to its own funding, UNHCR has chosen to reduce support for so-called ‘non-essential’ activities in order to continue funding life support sectors. This approach reflects the agency’s predisposition towards humanitarian relief, which—despite claims of a shift in focus to longer-term development—represents its ‘default’ response strategy.<sup>92</sup> Many officials working directly with refugees in Uganda, however, have argued that reductions in funding to ‘non-essential’ impact upon other areas, including those that are seen as urgent priorities. One government official referred to the “dwindling funding from UNHCR”, saying:

Now also the government gets constrained if UNHCR reduces yet we are still receiving [refugees] so what do you do?...We cannot deny people asylum based on international law but we have to keep pressuring UNHCR to fund.<sup>93</sup>

The impact, he said, was greatest on the “very important sectors for the welfare of refugees: Agriculture, Environment, [and] Income Generating Activities. These are the livelihoods.”<sup>94</sup> Indeed, as an NGO official explained, these sectors are fundamental to achievement of the SRS:

If we’re moving towards self-reliance and encouraging [refugees] to provide for themselves... these sectors are important to enable [them] to build capacity to care for themselves...Land is limited and the rainfall pattern is not so reliable so even if they produce the first year they might not be able to produce enough to take them up to the next year. Now this support is completely cut and there’s no way they’re going to provide for themselves. Even if they’ve saved seeds there’s no way they can save for more than two or three seasons and this will really obstruct the self-reliance we’re encouraging.<sup>95</sup>

Moreover, funding cuts have had a direct impact on community services, despite the fact that—in the words of the aforementioned assessment of the sector—“Support for and investment in the [community services] function goes to the heart of the overall effectiveness of UNHCR in meeting its mandate.”<sup>96</sup> It warned that budget cuts were forcing officials to “further and further reduce the numbers of those who are provided with any form of additional assistance based on their vulnerability,” leading them to adopt “various types of ‘hair-splitting’ machinations, to identify Extremely Vulnerable Individuals (EVIs) or the really, really very vulnerable.”<sup>97</sup> A

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<sup>90</sup> Interview with NGO official, Madi Okollo 2 November 2006

<sup>91</sup> Interview with NGO official, Kyangwali, 24 April 2006

<sup>92</sup> See Jeff Crisp, “Mind the gap!: UNHCR, humanitarian assistance and the development process”, New Issues in Refugee Research Working Paper No. 43, May 2001.

<sup>93</sup> Interview with government official, Arua town, 19 July 2006

<sup>94</sup> Interview with government official, Arua town, 19 July 2006

<sup>95</sup> Interview with NGO official, Madi Okollo, 3 November 2006

<sup>96</sup> CASA Consulting, “The community services function in UNHCR: An independent evaluation”, EPAU/2003/02, March 2003, p. v.

<sup>97</sup> CASA Consulting, “The community services function in UNHCR”, pp. 33-4, ¶ 97.

UNHCR-supported evaluation of its policy and guidelines on refugee women and their protection concluded that:

Today, more than ever, community services officers are given responsibilities too numerous and diverse for the quantity and expertise of people deployed. Not only does the importance of their roles appear to be under-appreciated – especially by protection officers – but, in UNHCR’s ongoing staff reduction process, the community services posts have been disproportionately cut.<sup>98</sup>

Another area that has been particularly affected worldwide is education. As will be discussed further in Section 2.4, UNHCR decided to gradually cut its support for secondary education in order to continue funding primary education for refugees in Uganda.

### **2.3.2 The Ugandan Context**

In addition to the downward global trend in funding, the difficulties that officials face in maintaining refugee programmes in Uganda are exacerbated by several factors that distinguish the country from others. Notably, the presence of one of the world’s largest populations of internally displaced people (IDPs)—approximately 1.7 million—living in squalid IDP camps throughout northern Uganda, has forced donors to prioritise and consequently limit funding to refugees in the country.

Moreover, in the three settlements visited that host Sudanese refugees, the shifting priorities that accompany the repatriation process have also reduced budgets. As a government official explained: “We’re always being told that more focus is on southern Sudan than on Uganda so don’t expect funds, expect cuts.”<sup>99</sup> Another official declared:

Everyone is focused now to go back home. [There is a] scaling down of activities by UNHCR and donor countries; everything seems to be focused in Sudan. Everything is focused now on repatriation. [They’ve] scaled down education, and most of activities. That’s why most of them are ever trying now to rush back home.<sup>100</sup>

Despite the fact that almost all Sudanese refugees interviewed expressed a desire to repatriate within the next few years, with security concerns, inclement weather, and logistical constraints delaying the process, only around 4,500 were able to return home in 2006.<sup>101</sup> Indeed, most officials interviewed believe that—barring any unforeseen changes<sup>102</sup>—repatriation will continue for at least the next several years, and even an optimistic projection of the 2007 repatriation numbers acknowledges that “given the natural growth of the population, the overall number of refugees is expected to remain stable.”<sup>103</sup> Accordingly, those refugees throughout the country

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<sup>98</sup> Women’s Commission for Refugee Women and Children [WCRWC], “UNHCR Policy on Refugee Women and Guidelines on Their Protection: An Assessment of Ten Years of Implementation”, May 2002, p. 40.

<sup>99</sup> Interview with government official Arua town, 19 July 2006

<sup>100</sup> Interview with OPM official, Madi Okollo, 27 October 2006

<sup>101</sup> United Nations, Consolidated Appeals Process (CAP): Uganda 2007, p. 7.

<sup>102</sup> Since the official repatriation process began in June 2006, it has frequently been halted. As recently as February 2007, repatriation was temporarily suspended owing to an outbreak of Meningococcal Meningitis in West Nile. It resumed in March 2007.

<sup>103</sup> United Nations, Consolidated Appeals Process (CAP): Uganda 2007, p. 15.

who are unable or unwilling to go home in the immediate future will continue to struggle to survive in an atmosphere of declining assistance.

## 2.4 The Impact of Funding Cuts on Refugee Youth and their Communities

Despite the admirable claims of the SRS and DAR, limitations on freedom of movement and funding cuts to programmes such as Income Generating Activities (IGAs) and loan schemes ensure that encamped refugees remain only superficially involved with the local economies of the areas where they live. Without meaningful local integration, they remain dependent on external assistance and susceptible to exploitation and abuse from nationals and fellow refugees. The funding cuts and budget constraints described above have a disproportionate impact on young people. Without the opportunity for advancement through education—particularly at the secondary, vocational, and university levels—they have little opportunity to escape this situation. As one recent report on the education of southern Sudanese refugees throughout East Africa noted about Uganda,

The settlements are isolated and evidence of trauma among refugee children is significant (Peltzer 1999: 111), work is hard to find, secondary schooling...is not free and severely limits refugee participation and, most seriously, refugees are forced to live in highly insecure and unstable territory.<sup>104</sup>

This situation is not unique to Sudanese; encamped refugees of other nationalities in Uganda suffer the same fate. Indeed, Harrell-Bond has criticised the very concept of refugee camps, all of which she describes as “artificial environments where everyone is restricted in their freedom of movement” and that are “not only unhealthy for children, but for everyone.”<sup>105</sup> Referring to the life of children living in Kyangwali—which hosts Sudanese, Congolese, Rwandans, and others—the district official quoted above not only compared children’s encampment to detention, but also suggested that “It may be psychological torture to grow up knowing that where they grow up is not their land and at any time they may have to move.”<sup>106</sup>

The negative implications of this unstable situation are compounded by inadequate provision for children’s education. As Harrell-Bond points out, “Although theoretically UNHCR ensures that at least primary schools are available for all children in camps, education never constitutes a priority.”<sup>107</sup> In April 2004, even before UNHCR’s latest rounds of cuts, a joint UNHCR-GoU assessment of the Self-Reliance Strategy took note of the problems created by declining UNHCR support to education. It reported “a marked drop out rate from primary to secondary level especially among refugee children, who would have previously been eligible for support from UNHCR,” and declared the “lack of consistent efforts to support income-generating activities and develop alternative livelihoods for both nationals and refugees to be a major gap in the

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<sup>104</sup> Marc Sommers, *Islands of education: Schooling, civil war and the Southern Sudanese (1983-2004)*, UNESCO, 2005, p. 180, referencing K. Peltzer, “Trauma and mental health problems of Sudanese refugees in Uganda”, *Central African Journal of Medicine*, 45(5), pp. 110-113.

<sup>105</sup> Barbara Harrell-Bond, “Are refugee camps good for children?”, *New Issues in Refugee Research* No. 29, August 2000, p. 1 and p. 6.

<sup>106</sup> Interview with district official, Hoima town, 21 April 2006

<sup>107</sup> Barbara Harrell-Bond, “Are refugee camps good for children?”, p. 8.

implementation of the SRS.”<sup>108</sup> Within this context, a government official remarked, “Refugees are well-protected overall” but

their welfare is not well-catered for. You go to a settlement to see their situation and really pity them, and with less funding it will even get worse. SRS really catered for them so much in making them self-sustaining. It supplements the little food they get and can take children to school, but now, no more. Education is not there.<sup>109</sup>

Indeed, an official in Kyangwali who credited refugees’ hard work for resolving the numerous challenges that existed in the early days of the settlement worried that “maybe the problems will come [back] because UNHCR is phasing out funding of secondary [education].”<sup>110</sup> In all four settlements visited, the linkage between social problems and the lack of educational opportunities was widely recognised by officials as well as by refugees themselves. One of the most commonly reported problems was early marriage and defilement, which few interviewees mentioned without also describing the obstacles that refugee youth face to education.

In the context of education, the evaluation of UNHCR’s policies on refugee women cited above concluded that “Adolescents are among the most under-served of the entire refugee population, with little to occupy their time, and few ways to prepare themselves for whatever durable solution might prove feasible.”<sup>111</sup> Indeed, many officials interviewed admitted privately that cuts to education were having serious repercussions on all areas of refugees’ lives. One suggested that UNHCR “need to rethink their position because it is going to affect so many people ...[and create] a lot of desperation....When you come to see the life people are leading because of that, it’s a real pity.”<sup>112</sup> Moreover, as an NGO official working closely with refugee education explained, these consequences impact upon *all* refugees, and not just youth: “When [adolescents] are not there [in school] they are left to do all sort of things...when they’re redundant we get more social problems than if they’re in school.”<sup>113</sup>

The Ugandan education system is divided into Primary School (P1-7) and Secondary School (S1-4 for ‘O’ Levels and S5-6 for ‘A’ Levels). While the incorporation of refugee students in Uganda’s Universal Primary Education System has provided nearly-free<sup>114</sup> education to thousands of young people who might not otherwise have had the opportunity to study, this accomplishment is diminished by the lack of provision for their secondary education. A government official expressed concern that without scholarships for further education, “Once [refugees] complete primary they end; they leave [school] and become idle. This has led to so many early marriages among girls.”<sup>115</sup> Moreover, as the NGO official cited above explained:

We’ve really argued with UNHCR so much on this...its going to cause more problems in not supporting secondary and yet supporting primary fully. The question is, what is the point that

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<sup>108</sup> GoU and UNHCR, “SRS Report of the Mid-Term Review”, Executive summary, vi.

<sup>109</sup> Interview with government official, Arua town, 24 October 2006

<sup>110</sup> Interview with NGO official, Kyangwali, 24 April 2006

<sup>111</sup> WCRWC, “An Assessment of 10 Years of Implementation”, p. 29.

<sup>112</sup> Interview with government official, Arua town, 19 July 2006

<sup>113</sup> Interview with NGO official, Madi Okollo, 3 November 2006

<sup>114</sup> Refugees and nationals alike pay a small contribution at most primary schools that covers expenses such as salaries for cooks.

<sup>115</sup> Interview with government official, Arua town, 24 October 2006

someone is going through primary while when education really is of use to someone is in secondary, to have skills for a gainful life?<sup>116</sup>

As early as 1997, Jesuit Refugee Services (JRS)—UNHCR’s chief partner for education in Uganda—recognised that

the growing number of students leaving [primary school] with good PLE results, and wishing to go forward to secondary school, raises issues for JRS about the future of the Secondary Education programme, and the level of personnel and resources it can commit.<sup>117</sup>

Since then, JRS has re-focused its efforts away from formal education and into such programmes as Peace Education, which seeks to provide refugee and host community leaders with the skills to resolve conflicts and to co-exist peacefully. Even the little remaining support to secondary education<sup>118</sup> will be phased out completely as JRS relocates its projects to southern Sudan, where the majority of current beneficiaries are expected to be living by the end of 2008.

The repatriation process aside, sponsorship programmes are the exception. The overwhelming majority of refugees in Uganda have no means of paying for secondary school. Not only does this reality prevent primary leavers from advancing in their education, but it also discourages many other young people from completing their primary education. Many parents, while expressing their desire for their children to study through tertiary education, see no prospects of sending them to secondary school, let alone university, and therefore are unwilling to continue the schooling of older children—especially girls—who they consider of more use in the home and in the fields.

In this atmosphere of poverty and deprivation, not only is education to a meaningful level no longer guaranteed, but the pressure the SRS places on refugees to meet their own needs through cultivation may actually encourage young people to forego studies. This is in contradiction with the Convention on the Rights of the Child, which, *inter alia*, recognises “the right of the child to be protected from economic exploitation and from performing any work that is likely to...interfere with the child’s education.”<sup>119</sup> In the words of one official, “Some [girls] are encouraged to leave school so they can dig to earn. If she feels she can’t be attended to by her parents, she [decides] she will get the hoe [and]...buy [sanitary] pads, etc.”<sup>120</sup>

Among the refugee children who drop out of school to support themselves and their families, many do so with the explicit hope of eventually raising enough money to return to school. In the process, however, girls are likely to become involved in sexual relationships with boys and men in the settlements. Although the circumstances of these relationships vary in a number of ways—including the degree to which girls exercise free choice—most result in early marriages which prevent all but a few from returning to school. Moreover, because adolescent female students are regularly subjected to pregnancy tests and expelled from school if they are positive, even those

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<sup>116</sup> Interview with NGO official, Madi Okollo, 3 November 2006

<sup>117</sup> Marc Sommers, “Islands of Education”, p. 190, citing JRS, “Adjumani 1993-1997”, Unpublished manuscript, 1997, p. 24.

<sup>118</sup> A sponsorship programme linked to JRS has committed to fund approximately 75 secondary students through to the S4 level.

<sup>119</sup> Convention on the Rights of the Child, Article 32(1)

<sup>120</sup> Interview with district official, Hoima town, 21 April 2006

girls who do not marry but become pregnant—a common occurrence given limited access to birth control—are forced to discontinue their education. In the words of a father of four who spoke of his desire to eventually complete his own secondary education:

Sometimes you find the [girl] has interest in going to school but has no money. So someone can come with money and say he will sponsor if she accepts [to have sex with] him. After that the guy will impregnate the girl and she will have to leave the school. After she has accepted the money, he says ‘you remain as my wife.’ More girls are not educated because of these problems.<sup>121</sup>

Although community services in all four settlements have some form of ‘Teenage Mamas’ programme that provides fees and scholastic materials to young mothers who wish to return to school, the numbers sponsored were relatively small compared to the number of drop-outs. To make matters worse, these programmes have been acutely impacted by budget cuts. In Rhino Camp, for example, only 21 mothers received support in 2006, half as many as the previous year.<sup>122</sup> Moreover, there are no guarantees that those who were able to return to fulltime education would be able to continue to an examination level such as Primary 7 or Senior 4. One young woman who was forced to leave school after she was raped and became pregnant at the age of 13 described how neighbours and family members mocked her desire to continue with her education. In spite of this ridicule, she returned to school when she was 16, and spent the next three years studying. After completing S3, however, two of her sisters became sick and died. All of the available money had been spent on hospital bills and the funerals, and so she was forced to drop out yet again.<sup>123</sup>

Boys and men who drop out, on the other hand, are generally more likely to return to school than girls and women. One reason for this is that other refugees or nationals are more likely to hire boys or men to do *leja leja* on their plots of land. Young men are also considered better able to travel alone outside of the settlements in search of higher-paying work.<sup>124</sup> Moreover, because males are traditionally responsible for paying bride price to girl’s families, many cannot afford to marry, and even those who can are less likely to become occupied with domestic work than their wives. Indeed, a group of married young men who had returned to secondary school after dropping out explained that their wives—who themselves had dropped out and gotten married—were the ones looking after the home and children while their husbands were in class. One of these young men explained that he dropped out of secondary school three years earlier because he had no means of paying for his education. In the intervening time, he got married and “was just looking for money for joining school again,” explaining that it took some time to raise the necessary funds because “when you get married there are a lot of problems, so I was just looking after them.”<sup>125</sup> That particular interviewee was lucky enough to have parents who paid bride price on his behalf, but such cases are rare. As a result, he noted that few of his peers were able to return to school once they had dropped out.

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<sup>121</sup> Interview with 29 year old Kakwa Sudanese man, Rhino Camp, 17 July 2006

<sup>122</sup> Interview with district official, Rhino Camp, 28 July 2006

<sup>123</sup> Interview with 19 year old Pojulu Sudanese woman, Rhino Camp, 26 July 2006

<sup>124</sup> For example, many refugees living in Kyangwali and Madi Okollo—almost all of them male—do seasonal *leja leja* in and around Kiryandongo settlement in nearby Masindi district because of the area’s reputation for fertility.

<sup>125</sup> Interview with 20 year old Lango Sudanese man, Madi Okollo, 3 November 2006

Clearly, funding cuts impact directly on students insofar as they can no longer afford to continue their education, but they also have an indirect effect on the quality of education for those who are able to remain in or return to school. One official, for example, noted that in the absence of sufficient funding for education, settlement schools use unlicensed and poorly-paid ‘contract teachers’, most of whom are refugees who left school after S3 or S4 and “don’t get salary, they get ‘motivation.’”<sup>126</sup> The use of such teachers, he said, has a negative impact on

the performance of our refugee children. It will get worse. The UNHCR has pulled out of education and stopped paying motivation. Without motivation you’d rather go and ‘motivate’ your hoe in the field...It is only getting worse. Many will drop out.<sup>127</sup>

Similarly, a 13 year old student described the impact of poor teacher salaries on his education:

School is just [so-so]. At times there is no good teaching....the teachers are not enough, and sometimes they do not go to school...because at times they are not paid and they say even if they teach there is no salary for them, [so they think its] better for them to dig at home.<sup>128</sup>

### **3 ‘VULNERABILITY’, EARLY MARRIAGE, AND REFUGEE PROTECTION**

As the preceding sections have demonstrated, the persistence of early marriage within Uganda’s settlements exposes failures within existing strategies for addressing refugee protection. In addition to the limitations of the SRS detailed in Section 2, the ‘vulnerable groups’ paradigm is problematic in several respects. On a theoretical level, it is a fundamentally homogenising approach that presumes a direct causal relationship between biology and vulnerability, and in this way, is based on similar assumptions to those that underpin racism and sexism.<sup>129</sup> On a practical level, it fails to mitigate the flaws of the Self-Reliance Strategy described in the previous section, exacerbating the already difficult circumstances in which encamped refugees lived.

In the words of one commentator, “Refugee aid programmes throughout Africa are littered with the term ‘vulnerable’ which is used so indiscriminately as to have almost completely lost any meaning.”<sup>130</sup> This section demonstrates that the practical application of the ‘vulnerable groups’ approach to refugees within the settlements visited—particularly in the context of restricted freedom of movement and dwindling budgets—has engendered further dependency, thereby threatening the self-reliance envisioned in the SRS. Section 3.1 examines the current vocabulary surrounding ‘vulnerability’ in greater detail, and Section 3.2 demonstrates how these approaches are implemented by community services in practice. Finally, Section 3.3 offers the case study of official responses to early marriage to demonstrate how current approaches have been unsuccessful in preventing the human rights violations that give rise to early marriage as well as the marriages themselves.

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<sup>126</sup> Interview with government official, Hoima town, 21 April 2006

<sup>127</sup> Interview with government official, Hoima town, 21 April 2006

<sup>128</sup> Interview with 13 year old Kuku Sudanese boy, Rhino Camp, 23 July 2006

<sup>129</sup> Chris Dolan, Personal Observation, 18 March 2006

<sup>130</sup> Oliver Bakewell, Community services in refugee aid programmes: a critical analysis, New Issues in Refugee Research Working Paper No. 82, March 2003, p. 12.

### 3.1 Vulnerable to What?: ‘Vulnerable Groups’, EVIs, and PSNs

Among the ‘people of concern’ to UNHCR are large numbers of individuals and groups who are considered to require particular attention. Although in its policy formulations, UNHCR is moving away from the term ‘vulnerable’ and the description of a refugee as an Extremely Vulnerable Individual, this vocabulary was still commonly used by officials, often interchangeably, and had been internalised by refugees themselves in all four settlements visited. This is despite a recommendation made by a UNHCR-commissioned assessment of its community services programmes in 2003 that:

The undifferentiated term “vulnerables” should not be used, as it quickly picks up nearly the whole population in a refugee camp, provides unnecessary and unhelpful labelling of people; nor does it not go far enough in identifying what individuals and groups are “vulnerable to,” and how risks are best averted and addressed.<sup>131</sup>

Indeed, while UN, government, and NGO officials, refugee leaders, and even the ‘vulnerable’ themselves frequently use the term, they rarely linked vulnerability to *something*. Employed in this way, the term lacks the linkage to the specific risks that ‘vulnerable’ refugees are vulnerable to. Bakewell has called for clarification in this regard, noting that the “definition of ‘vulnerable groups’ is so broad that it does little to assist in targeting assistance. Without knowing what a person is vulnerable *to*, it is impossible to know how to improve the situation.”<sup>132</sup> Therefore, he argues, it is necessary to examine the risks to which a person is vulnerable, which “might help to identify those who are in the worst position *and* the nature of the assistance they are likely to need.”<sup>133</sup>

The importance of identifying specific needs was affirmed by the Executive Committee of the High Commissioner Programme (ExCom)—a body composed of 70 state members that, among other duties, issues advisory conclusions to UNHCR on international protection—with respect to women and girls. It recognised that “Forced displacement can expose women and girls to a range of factors which may put them at risk of further violations of their rights”, but rather than treating them all as one homogenous group,

Identification and analysis of the presence and severity of these different factors help determine *which* women and girls are at heightened risk and enable targeted responses to be devised and implemented.<sup>134</sup>

This Conclusion highlights the importance of being recognised as having special needs insofar as those refugees classified as such may be entitled to certain additional forms of protection and assistance. This is particularly true for women and children—the largest and most commonly recognised ‘vulnerable groups’—for whom relatively clear guidelines exist with respect to their treatment. In addition to international covenants—to which Uganda is party—that enshrine their

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<sup>131</sup> CASA Consulting, “The community services function in UNHCR”, p. 104.

<sup>132</sup> Bakewell, “Community services in refugee aid programmes: a critical analysis”, pp. 12.

<sup>133</sup> Bakewell, “Community services in refugee aid programmes: a critical analysis,” p 13.

<sup>134</sup> ExCom Conclusion on Women and Girls at Risk (No. 105 (LVI) - 2006) [Emphasis added].

rights,<sup>135</sup> UNHCR has issued specific guidelines applicable to both groups in refugee situations.<sup>136</sup> The agency's Guidelines on the Protection of Refugee Women, for example, recognise that refugee girls and women "share the protection problems experienced by all refugees," but also:

have special protection needs that reflect their gender: they need, for example, protection against manipulation, sexual and physical abuse and exploitation, and protection against sexual discrimination in the delivery of goods and services.<sup>137</sup>

Therefore, the general protection and assistance needs—and the corresponding duties of UNHCR and its partners—for refugees who fall into one of these broad categories are reasonably straightforward. Having their needs met depends to a large extent on the relevant actor simply identifying them and allocating the necessary funding. For other individuals, however, including sub-groups within these larger populations, the situation is not always so clear-cut. Not only have their needs and rights not been as clearly elaborated, but when they are, it is commonly in the form of best practice standards and recommendations that do not carry the same weight as treaty law.

At the headquarters level in Geneva, UNHCR's increasing concern with re-examining the traditional 'vulnerable groups' approach is reflected in the introduction of the concept of 'people with specific needs' (PSNs).<sup>138</sup> In order to better respond to the rights of refugees with specific needs, the agency has also introduced a new database programme in 2005 called ProGres which aims to streamline the collection and storage of key information on individual refugees from registration through to durable solution. It is expected to facilitate the identification and monitoring of the protection and assistance needs of PSNs through a revamped classification system that enables each UNHCR national office to identify and implement the categories of specific needs that are applicable in that country.<sup>139</sup> In Uganda, officials at UNHCR Sub-Office Arua have taken the lead in identifying nine<sup>140</sup> separate but sometimes overlapping categories:

- Separated Children and Unaccompanied Minors<sup>141</sup>
- People with Disabilities<sup>142</sup>
- Older Person at Risk
- Child/Adolescent at Risk<sup>143</sup>
- Important Medical Condition<sup>144</sup>

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<sup>135</sup> Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and Convention on the Rights of the Child

<sup>136</sup> UNHCR, *Guidelines on the Protection of Refugee Women*, 1991 and UNHCR, *Refugee Children: Guidelines on Protection and Care*, 1994.

<sup>137</sup> UNHCR, *Guidelines on the Protection of Refugee Women*, ¶¶ 2 and 3.

<sup>138</sup> This new terminology has been slow to catch on. For example, a web-search of the phrase "people with specific needs" on UNHCR's webpage on 27 November 2006 revealed 4 documents containing this phrase, the earliest dating 23 February 2006. A search of the phrase "vulnerable groups" on the same day, however, revealed 641 online documents (and 1399 within the research database) which use the phrase, including the agency's 2007 Global Appeals.

<sup>139</sup> Interview with UNHCR official, Arua town, 2 November 2006

<sup>140</sup> Other categories, such as child soldiers, were not considered applicable in Uganda.

<sup>141</sup> Including UAMs, separated children, and children in institutional care and foster care

<sup>142</sup> Including physical impairments and moderate mental disability

<sup>143</sup> Including child-headed households and individuals associated with fighting forces and military recruitment.

- Single Parent
- Women at Risk<sup>145</sup>
- Special Legal and Physical Protection Needs<sup>146</sup>
- Pregnant/Lactating Women<sup>147</sup>

UNHCR officials have been implementing this new system in Arua since the beginning of 2006, and in May 2006 shared the categories with UNHCR offices country-wide and with the relevant partners in the district.<sup>148</sup> They are optimistic that this new system will better enable them to meet the individual needs of refugees. Although the extent to which other UNHCR offices were making use of these classifications was not clear at the time of research, it was evident that few if any partners had adopted these categories in practice, and that awareness of their existence was low. This was particularly true within community services, the sector most directly responsible for refugees with specific needs.

### 3.2 Community Services and Refugee Protection

Community services is one of the key areas through which UNHCR seeks to fulfil its mandate of refugee protection. Indeed, according to a recent evaluation of the sector, its purpose is “to ensure that all groups and segments of the refugee population have access to appropriate protection, assistance and services”<sup>149</sup> Bakewell notes that despite the fundamental and critical nature of the sector’s work, however, “community services is not in the same league of influence in the field or in funding as the priority ‘life support sectors’ of food, health, water and sanitation.”<sup>150</sup> This is despite the fact that community services workers are typically responsible for identifying needs across sectors—especially the key ‘life support sectors’—and liaising with the relevant sector heads to fill these gaps. This section will examine the ways in which the community services sector works in Uganda—and particularly its relationship with ‘vulnerable groups’—to better establish the role it plays in refugee protection.

#### 3.2.1 ‘Vulnerability’ and Refugee Protection in the Four Settlements

UNHCR has traditionally grouped programmes aimed at vulnerable groups under the community services sector, and indeed, most interviewees—both refugees and non-refugees—involved with community services described the responsibilities of their sector chiefly in terms of working with vulnerable groups. Bakewell has identified a dichotomy within the conceptualisation of the

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<sup>144</sup> Including people with chronic illnesses and psychological conditions

<sup>145</sup> Including single female household, women in polygamous marriages, and women unaccompanied by adult male family members

<sup>146</sup> Including refugees in prison or with family members in prison, survivors of SGBV/domestic violence, individuals requiring tracing/family reunion, survivors of torture, partners in mixed marriages, and refugees who pose a security threat to Implementing Partners and/or UNHCR staff

<sup>147</sup> Including high risk pregnancies; assessment is on an individual basis with regard to family situation and existence of a support system

<sup>148</sup> On 11 April 2007, UNHCR-Kampala distributed a slightly different version of this list that broadens the definitions of each of the categories—for example renaming the second category ‘physically or mentally challenged’—except for pregnant/lactating women, which it does not include. It is interesting to note that, while still in draft form at the time of writing, the list did not specifically mention refugees and appears to have been written with UNHCR’s work with internally displaced people in northern Uganda in mind.

<sup>149</sup> CASA Consulting, “The community services function in UNHCR”, March 2003, p. ix.

<sup>150</sup> Bakewell, “Community Services in refugee aid programmes: a critical analysis,” p. 1.

sector and its role. On the one hand, it can be considered part of a “welfare system” in which “refugee aid is to top up what cannot be provided by refugees themselves,” while on the other hand, it can be associated with a broader community development approach that encourages refugee self-help.<sup>151</sup> In practice, he says, the ‘vulnerable groups’ paradigm undermines the achievement of the latter:

The idea of ascribing a set of stereotypical needs to people and then setting out to meet them seems contrary to community services’ aspirations to the empowerment of refugees and the recognition of refugees’ potential for improving their own situation.<sup>152</sup>

In the four settlements visited, despite the tendency of many refugees and officials alike to associate community services primarily with the provision of material assistance to vulnerable groups, some did recognise the relationship between ‘vulnerability’ and broader refugee protection. For example, one NGO official explained that “[In the area of] protection, particularly for vulnerable groups, we have community services.”<sup>153</sup> Traditionally, refugee protection has referred to the physical safeguarding of refugees and their civil and political rights. This conception is expanding, however, to include economic, social, and cultural rights as well. To their credit, a number of officials asked to define refugee protection employed a holistic definition that includes both physical and socio-legal protection.<sup>154</sup> For example, in the words of one district official, “protection of refugees involves protecting their lives, their property, allowing them a free movement, and allowing them to access services.”<sup>155</sup> Moreover, a government official working closely with refugees explained, “We look at both lives and property of refugees. Assuring the safety of lives and property, safeguarding and then of course, looking at the protection of their rights as refugees.”<sup>156</sup> An NGO official divided protection into three basic areas: physical protection, which he classified as the responsibility of OPM, plus “Food [which] is protection of the lives of refugees [and] any other programmes like education or like health [that] are all pointing at one thing, to support the lives of refugees; this is seen as protection.”<sup>157</sup>

In Kyaka II, Kyangwali, and Madi Okollo the community services sector is the responsibility of GTZ, AAH, and ded, respectively. In Rhino Camp, on the other hand, ded handed over this sector to Arua district in 2004 under the terms of the Self-Reliance Strategy. In all of the settlements, community services works in collaboration with a three-tiered refugee leadership structure modelled on Uganda’s Local Council (LC) system. Although the exact structure varies depending on the size and lay-out of each settlement, each Refugee Welfare Council (RWC) seeks to respond to refugees’ needs at the grassroots level, with the RWC 1 representing a group of households, the RWC 2 representing a group of RWC 1s, and a single RWC 3 representing the entire settlement. The structure is by nature hierarchical: in many cases, before a refugee can

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<sup>151</sup> Bakewell, “Community Services in refugee aid programmes: a critical analysis,” pp. 11-2.

<sup>152</sup> Bakewell, “Community Services in refugee aid programmes: a critical analysis,” p. 12.

<sup>153</sup> Interview with NGO official, Rhino Camp, 27 July 2006

<sup>154</sup> In some cases, however, shifting paradigms have not resulted in tangible changes on the ground. For more on the distinctions between relief and protection, see Chris Dolan and Lucy Hovil, “Humanitarian protection in Uganda: a Trojan Horse?”, Humanitarian Policy Group Background Paper, December 2006. The authors note, for example, that in West Nile, “the tendency is for agencies to adopt the new language of protection, yet revert to traditional relief interventions when it comes to actual activities on the ground”, p. 1.

<sup>155</sup> Interview with district official, Arua town, 18 July 2006

<sup>156</sup> Interview with government official, Arua town, 19 July 2006

<sup>157</sup> Interview with NGO official, Rhino Camp, 27 July 2006

bring his or her concerns to UNHCR or an IP, he or she must first consult the RWC 1, who may write a letter either to the official concerned or refer the matter to the RWC 2, and so on. Many interviewees alleged that they were forced to pay bribes to their local RWC Chairperson—who are almost exclusively men working on a volunteer basis—in order to have their concerns forwarded to the relevant authority.

Aware of such instances, partner organisations have increasingly relied on refugees they themselves have trained to identify and respond to community needs. Such individuals are ‘employed’ as social workers, community health workers and community development workers; some are volunteers, while others receive a small monthly stipend between 35,000 and 60,000 UGX. They typically report to the NGO official who heads the relevant sector, most commonly community services. Many live in the communities where they work, such that, in the words of one social worker, in addition to “mobilis[ing] the community towards the self-reliance strategy,” and “identifying vulnerables and advocat[ing] for them,” refugee community workers are responsible for “bridging the offices of [implementing partners], OPM, and the community.”<sup>158</sup>

Interviews with community workers in all four settlements suggest that the majority of these individuals work long hours under difficult circumstances—often at the expense of their own household concerns—to identify and respond to the needs of their fellow refugees. Nevertheless, one of the most common complaints among such workers was the lack of support from official structures. For example, a social worker in Kyangwali who receives 53,000 UGX per month described how difficult it was to make the required 20 home visits per week in a settlement where many houses were far apart. To facilitate his work, he decided to join together with other colleagues so that each of them could buy a 90,000 UGX second-hand bicycle:

We make a group of four community workers and per month we decide to contribute money and get a bicycle for one. The next month, we do the same for another until we all have. For us and community health workers, if we want to get something to develop ourselves, there is nothing we can get from our incentive.<sup>159</sup>

Beyond physical assistance, the more intangible support that community workers received in fulfilling their crucial role also varied from settlement to settlement. In Rhino Camp and Madi Okollo, for example, even if non-food items (NFIs) are not available, community workers can refer individuals with psychosocial needs to SGBV Multi-Functional Drop-In Centres run by ded in partnership with UNHCR. In Kyangwali, on the other hand, such alternative structures were not as common, and officials and refugee volunteers working in the settlement complained of insufficient provision for sensitisations, particularly on health issues.

Above all, community workers in all four settlements complained that even if they could identify a need and report it to the relevant authority, assistance was not always available, particularly with regard to NFIs. As one Congolese community service worker explained:

I listen to the problems, that there is no soap, no plastic sheeting, no basins. I write it down then bring it to GTZ...who tries to get it from the store. But many people are unsatisfied!... If

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<sup>158</sup> Interview with 38 year old Munyabwisha Congolese man, social worker, Kyangwali, 25 April 2006

<sup>159</sup> Interview with 38 year old Munyabwisha Congolese man, social worker, Kyangwali, 25 April 2006

there is something, they can go to the office [to get it]...but [for] seven out of ten, there is nothing.<sup>160</sup>

She explained that when the necessary NFIs were not in stock, she would seek other, informal means of meeting refugees' material needs: "I arrive and I console them. I talk to the community, to the RWC 1 to see if they can help."<sup>161</sup> Another social worker summed up his anger and frustration with the failure of community services to provide solutions to the individual problems he identified within the settlement: "No, they don't [benefit]. Every community is not happy. What [AAH] used to give the community, they don't now...They [claim] that they will help but they don't take any action."<sup>162</sup>

### 3.2.2 Internalising 'Vulnerability'

Despite the introduction of the new categories of PSNs by UNHCR, old categorisations—some of them unique to different partner organisations—continue to be applied, creating significant confusion for refugees and even for officials. As one admitted in Rhino Camp, there are

two separate lists of vulnerable persons: [one] according to UNHCR criteria, and [another for] those we are assessing with 100% ration according to WFP. You could say there's a difference in opinion arising out of this.<sup>163</sup>

In order to clarify this situation and to "ensure the accuracy of statistics and better targeting of assistance," the community services assessment cited above recommended that UNHCR and its partners "utilis[e] comparable terminology in discussing 'vulnerable' groups and individuals."<sup>164</sup> Although efforts to standardise the two lists were ongoing in Rhino Camp, the need to assess individuals on a case-by-case basis means the process is a lengthy one. In the meantime, many refugees with specific needs are left without assistance and are forced to pursue alternative means of survival. Indeed, the RLP met a large number of refugees in all four settlements whose names had disappeared from such official lists, sometimes temporarily, other times permanently. Upon further investigation, it became clear that some had merely ceased to fall into a 'vulnerable' category—such as a child head of household turning 18—and had not had the system adequately explained to them. In many other cases, however, no reasonable justifications were forthcoming. One young man living in Kyangwali provides a typical example: after fleeing Congo without his parents or adult relatives at the age of ten, he and his two younger siblings initially received specialised support, but this had stopped approximately six years later, when he was 16:

They were just reducing [rations] slowly, slowly [until] at the end they said there is no more ...But for orphans and widows they said they [still] would be giving and then we were receiving as 'vulnerable' but [since] 2<sup>nd</sup> February 2004 I have not received.<sup>165</sup>

<sup>160</sup> Interview with Congolese woman, community service worker, Kyaka II, 14 February 2006

<sup>161</sup> Interview with Congolese woman, community service worker, Kyaka II, 14 February 2006

<sup>162</sup> Interview with 20 year old Acholi Sudanese man, volunteer social worker, Kyangwali, 5 May 2006

<sup>163</sup> Interview with district official, Rhino Camp, 28 July 2006

<sup>164</sup> CASA Consulting, "The community services function in UNHCR", p. 38, ¶107.

<sup>165</sup> Interview with 18 year old Muniyabwisha Congolese man, Kyangwali, 23 April 2006

When he tried to resolve this situation, he discovered that he was no longer listed as ‘vulnerable’, but his efforts to investigate the cause of this discrepancy in order to remedy it were ultimately unsuccessful:

There is a person who came from Kampala then said that all vulnerables should meet him and answer some questions. Then we went there and met him and they registered but found my name was not there. Then I decided to go and ask our chairman...to take me to the [AAH] office to see if I can keep getting food but the chairman said he didn’t have time...He dodged me and then I [gave up]...Today there is no assistance from [the officials]. [Only] the church is [sometimes] helping me and other neighbours and I try to look for food to see how I can survive.<sup>166</sup>

As described above, personnel working with refugees in the four settlements continue to use the phrase ‘vulnerable groups’ to describe refugees with specific needs. Nevertheless, many recognised the limitations of this terminology, particularly when self-applied by refugees:

According to them, ‘vulnerable’ equals assistance so they tend to deny [other means of support] and leave it upon the IP to decide what to do, when clearly a vulnerable individual in any set-up must be supported by family. Assistance cannot be denied, but [should be] given with the knowledge that...[there is] no way that the agency will meet 100 percent of a person’s need.<sup>167</sup>

Amongst refugees themselves, many had internalised the categorisation as ‘vulnerable’, some clearly out of a desire for the extra assistance they believed it would entitle them to. As Bakewell has noted, “Refugees understand the term well and know that those who are deemed to be ‘vulnerable’ should be eligible for some extra assistance.”<sup>168</sup> As an official working closely with refugees with specific needs said, “once you give the label, it sticks in their mind that they are [vulnerable],” despite the fact that “some vulnerabilities are not permanent, they are transient.”<sup>169</sup> When asked if it might be possible to sensitise refugee communities on the various categories and what assistance they might entail, he replied:

It is very difficult to do [that] to the general population...most of our trainings are for the leaders but generally speaking, when it comes to a mentality inculcated as part of dependency syndrome, it is very difficult. They will refuse to understand.<sup>170</sup>

Numerous officials interviewed spoke of ‘dependency syndrome’ as an obstacle to the work of community services. Bakewell, however, has characterised this preoccupation as “a major weakness in the way that community services has been conceptualised”, stating that it is “a greater reflection on the aid agencies than the refugees.”<sup>171</sup> Indeed, the assessment of the community services function describes ‘dependency syndrome’ as a distraction from “the role that UNHCR’s own management and operating procedures play in creating ‘dependency’ and narrowing the scope of refugee self-sufficiency and ‘self-reliance.’”<sup>172</sup> It noted that “in all settings, refugees are actively engaged in every possible type of productive work, based on the

<sup>166</sup> Interview with 18 year old Munyabwisha Congolese man, Kyangwali, 23 April 2006

<sup>167</sup> Interview with NGO official, Rhino Camp, 27 July 2006

<sup>168</sup> Bakewell, “Community Services in refugee aid programmes: a critical analysis,” p. 12

<sup>169</sup> Interview with district official, Rhino Camp, 28 July 2006

<sup>170</sup> Interview with district official, Rhino Camp, 28 July 2006

<sup>171</sup> Bakewell, “Community Services in refugee aid programmes: a critical analysis”, p. 9.

<sup>172</sup> CASA Consulting, “The community services function in UNHCR”, pp. 63-4, ¶ 188.

opportunities and resources at their disposal” and that in fact, dependency can be “the product of host government regulations limiting freedom of movement and the right to work or engage in economic activity.”<sup>173</sup>

The community services sector plays a vital role in refugee protection. This position is undermined, however, by its budget limitations and by its implementation of an assistance paradigm that excludes many refugees and fails to develop sustainable livelihoods for others, leaving them dependent on external assistance. The next section demonstrates that, in addition to these constraints, the success of official interventions to combat early marriage is further threatened by key misconceptions concerning the phenomenon.

### **3.3 Official Responses to Early Marriage**

The widespread occurrence of early marriages is indicative of a general failure by all concerned actors to protect the rights of refugees, and particularly refugee youth. Officials are working on a number of levels to reduce the occurrence of early marriages, and some have recognised the link between the practice and underlying conditions in the settlements. Nevertheless, interviews demonstrate that two common misconceptions regarding early marriage among officials—that they are solely a cultural phenomenon and that refugees are ignorant of Ugandan defilement law—limits the efficacy of interventions that are already hampered by resource constraints. Before analysing the impact of these false perceptions—and the realities they misconstrue—it is first necessary to examine the legal status of early marriages and the crime of defilement.

#### **3.3.1 The Legal Implications of Early Marriages in Uganda**

Early marriages are widespread in all the settlements visited, despite being illegal under international and Ugandan law. The Convention on the Elimination of All Forms of Discrimination Against Women, to which Uganda is a party, specifies that “The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage....”<sup>174</sup> The African Charter on the Rights and Welfare of the Child, to which Uganda is also a party, goes even further. In addition to prohibiting “child marriage and the betrothal of girls and boys”, it states that “effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years....”<sup>175</sup> Indeed, Uganda’s Constitution states that “Men and women of the age of eighteen years and above, have the right to marry and to found a family”, specifying that “Marriage shall be entered into with the free consent of the man and woman intending to marry.”<sup>176</sup> Early marriages in Uganda not only violate accepted international norms and the country’s Constitution, but also constitute the crime of defilement, a capital offence.

Research indicates that a large number of would-be criminal cases are settled within refugee communities without the involvement of the Ugandan authorities. As a police officer explained, financial motivations play a major role in this decision:

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<sup>173</sup> CASA Consulting, “The community services function in UNHCR”, pp. 63-4, ¶188-9.

<sup>174</sup> Convention on the Elimination of All Forms of Discrimination against Women, Article 16 (2).

<sup>175</sup> African Charter on the Rights and Welfare of the Child, Article 21(2).

<sup>176</sup> The Constitution of the Republic of Uganda 1995, Article 31 (1) and (3).

Some of the offences committed they tend not to report because the law will take the course and they will not benefit. Like assaults....Most of the people tend to negotiate and get paid [because] when taken to face the law [there is] no benefit.<sup>177</sup>

Defilement is no exception. Although it is described by police, officials working with refugees, and refugees themselves as one of the most common crimes committed within the settlements, relatively few cases are reported. Interviews in all four settlements suggest that rather than going to police, most refugees arrange what amount to early marriages between girls and their alleged defilers. As an OPM official explained, refugees only report such cases to police when the families involved “fail to reach an understanding...The agreement is always made between parents [but] if the parents don’t want their daughter to marry the boy, that’s when they’ll report [defilement], or if the boy is of a different tribe.”<sup>178</sup>

Not all early marriages are the same, however. Evidence suggests that while most girls—both young and old—tend to marry (with little or no say in the matter) when they become pregnant, many girls in their late teens exercise a greater deal of choice in marrying male classmates or neighbours who they have been ‘dating’. Nevertheless, interviews in all four settlements demonstrate that a significant portion of defilement charges are brought against boys under 18 who are accused of having consensual sex with schoolmates, neighbours, and girlfriends. This is because Ugandan law considers all sexual relations with girls under 18 to be defilement, whether the act was consensual or not and regardless of the age of the male. According to Section 129 of the Uganda Penal Code, “Any person who unlawfully has sexual intercourse with a girl under the age of eighteen years commits an offence and is liable to suffer death.”<sup>179</sup> This is based on the presumption that a minor girl is incapable of granting consent.<sup>180</sup> Meanwhile, Uganda’s Children Act establishes the age of criminal responsibility at 12.<sup>181</sup> Consequently, boys between 12 and 17 who engage in sexual intercourse with girls in the same age group are treated as perpetrators despite their own status as minors.<sup>182</sup> One official working closely with defilement cases explained the practical complications of this legal situation:

One thing that is very difficult is that Ugandan law and refugee guidelines from UNHCR have no clear information on how to handle a minor boy who is a perpetrator – when taken to police he is considered a juvenile and released. Police will say ‘We have no place to keep him.’

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<sup>177</sup> Interview with police official, Rhino Camp, 28 July 2006

<sup>178</sup> Interview with settlement official, Madi Okollo, 27 October 2006

<sup>179</sup> The Penal Code Act, Cap. 120, Section 129 (1). The phrase “unlawfully” in this section has been the subject of debate. It seems most likely that it was originally intended to provide an exemption for people married under two laws. The first, the Customary Marriages (Registration) Act [Chapter 248 Laws of Uganda (Revised) Edition] provided for a minimum marriage age of 14 for girls and 16 for boys, and the second, the Marriage and Divorce of Mohammedans Act [Chapter 252 Laws of Uganda (Revised) Edition], recognised marriages performed under Islamic law. Under the latter, girls could be married once they had started menstruation. Both of these laws, however, were superseded by the 1995 Constitution of Uganda, which sets the age of marriage at 18 in Article 31 (1).

<sup>180</sup> In *Uganda v Joseph Mulindwa*, the High Court held, *inter alia*, that “consent is irrelevant in cases of defilement...[a minor girl] is presumed to be incapable of consenting to sexual intercourse...” *Uganda v Joseph Mulindwa* (1975) HCB 206, cited in Lillian Tibatemwa-Ekirikubinza, *Criminal Law in Uganda: Sexual Assaults and Offences Against Morality*, Kampala: Fountain Publishers, 2005, p. 51

<sup>181</sup> The Children Act, Cap. 59, Section 88.

<sup>182</sup> The recently-passed amendment to the penal code contains a more explicit recognition of a minor boy’s rights as a child. See Annex 2.

Meanwhile he is making mistakes here [yet might be] capable of exploiting [these] loopholes.<sup>183</sup>

Interviews with parents confirmed that repeated incidences of police releasing minor boys accused of defilement after a few days further discourages parents from reporting such cases. Most parents were unaware of the legal requirements imposed upon police to either place suspects under 18 in a juvenile holding cell—which most districts lack—or to release them,<sup>184</sup> and instead blamed this practice on corruption. Albeit for different reasons, defilement suspects above 18 are sometimes also released without serving a sentence. As an official explained, even if defilement is reported, delays often render medical examinations inconclusive; moreover, “People don’t have the money to follow up cases so these people are arrested and taken, and after the complainant doesn’t come [to court], [the suspects] are released.”<sup>185</sup> Parents confirmed that their desire to seek legal redress for defilement was often prevented by practical considerations, including costs which sometimes included transporting suspects from the settlements to town.

In addition to such direct expenses, parents also spoke of an indirect cost of reporting defilement; they compared sending boys to prison to ‘robbing’ a household of its productive resource. In a context where the parents of the girls and boys involved have to live in such close proximity, the social tensions that such a loss might produce were often considered too costly. As an NGO official explained:

Law itself has weaknesses. When we go for sensitisations...they ask us ‘Why do you want to spoil our relationships with our people? You arrested the man and he comes back in 2 days and the relationships are spoiled.’ So they would prefer to settle within [the community].<sup>186</sup>

A teacher summed up the challenges that parents and guardians face in seeking legal redress for defilement: “Taking someone to police can also bring more problems...in three days you find the boy back...So parents have given up.”<sup>187</sup> Instead, they typically seek a solution that will guarantee the physical and economic security of their daughters, themselves, and the rest of their families.

### 3.3.2 Official Attitudes towards Early Marriage

Nearly all officials interviewed cited early marriage as a major problem in the settlements, yet many regard the phenomenon as merely a cultural problem—an indication of refugees’ failure to adjust to the Ugandan way of life—or a result of their lack of knowledge of Ugandan law and specifically the age of consent. One police official expressed a common view amongst officials working with Sudanese refugees:

Culturally they have not done much according to our laws but socially, in development, economically, [and in] education, they are very active....[but they] can’t accept to change [their] culture. As much as we sensitise about cultural changes it does not seem to come.<sup>188</sup>

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<sup>183</sup> Interview with NGO Official, Madi Okollo, 2 November 2006

<sup>184</sup> The Children Act, Cap. 59, Section 89-91.

<sup>185</sup> Interview with NGO official, Madi Okollo, 2 November 2006

<sup>186</sup> Interview with NGO official, Madi Okollo, 2 November 2006

<sup>187</sup> Interview with secondary school teacher, Madi Okollo, 3 November 2006

<sup>188</sup> Interview with police official, Arua town, 23 October 2006

Officials working with refugees of other nationalities made similar complaints. As one said, “It is something to do with their culture. Here [in Uganda] somebody must be 18 or older but in Congo they find it acceptable [to marry younger].”<sup>189</sup> Indeed, a Congolese teacher admitted that attaining the legal age of majority at 18 is not necessarily a precondition for marriage in his country: “This issue of saying 1-17 is a child and 18 and above is an adult, this idea is not there...provided certain things happen scientifically, they think she is old enough [to marry].”<sup>190</sup>

Nevertheless, other Congolese refugees explained that while some young people married in their late teens prior to displacement, such marriages were conducted when both partners were considered ready and with the support and involvement of family as well as local cultural and religious institutions. They admitted, however, that these marriages were closely related to financial situation: as income levels fell as a result of poverty or conflict, the age of those involved also dropped.

As detailed above, circumstances in Uganda force many girls to marry at a significantly younger age than was traditionally the norm. When asked about this phenomenon, one Congolese woman explained, “It’s not good...it is a result of the suffering here.”<sup>191</sup> Similarly, she said, early marriages in the DRC typically resulted from difficult financial and other circumstances:

It is not the majority [who marry early in the DRC]...It depends on the place: those in villages versus those in cities...Maybe in the villages there are people who do not study and do not have jobs and are unoccupied [unemployed] so they are obliged to marry.<sup>192</sup>

Refugees of other nationalities described early marriages in their countries in similar terms. Moreover, interviews with Ugandan nationals living in and around settlements discounted the argument that early marriage is a mere relic of culture. These Ugandans, most of whom come from different tribes than the refugees, live in similar—but by no means equivalent—conditions as their refugee neighbours. For them as for the refugees, early marriage was explained—in overwhelmingly negative terms—as a response to poor living conditions. Therefore, the prevalence of early marriage amongst both nationals and refugees in Uganda serves as an indicator of more complex dynamics within these communities.<sup>193</sup>

The importance of culture in the lives of refugees in Uganda is indisputable, but in the context of the settlements, survival must take precedence. For example, an elderly woman in a polygamous marriage explained that economic circumstances prevented her from following the tradition of effectively divorcing daughters whose husbands failed to pay dowry by returning them to their parents’ home: “If there was food [here], then I would bring her back,”<sup>194</sup> she said. Her co-wife agreed with respect to her own daughters, and lamented, “I cannot bring them back. If I bring them here there is no food for eating.”<sup>195</sup> Although some refugees—particularly those involved in arranging early marriages—appeared uncomfortable justifying the phenomenon on a financial

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<sup>189</sup> Interview with NGO official, Kyaka II, 16 February 2006

<sup>190</sup> Interview with Congolese primary school teacher, Kyaka II, 17 February 2006

<sup>191</sup> Interview with 30 year old Nande Congolese woman, Kyaka II, 12 February 2006

<sup>192</sup> Interview with 30 year old Nande Congolese woman, Kyaka II, 12 February 2006

<sup>193</sup> See Lucy Hovil and Moses Chrispus Okello, RLP Working Paper No. 21, forthcoming.

<sup>194</sup> Interview with 51 year old Sudanese Acholi woman, Madi Okollo, 29 October 2006

<sup>195</sup> Interview with 60 year old Sudanese Acholi woman, Madi Okollo, 29 October 2006.

basis and instead defended their actions with an appeal to culture, a number of official actors recognised the often disingenuous nature of this argument. They explained that culture could be an excuse or a distraction from the underlying problems in the settlements that refugees are seeking to address. As one explained, “Whenever there’s a financial [incentive], culture is brought in.”<sup>196</sup>

Finally, despite the common belief that lack of knowledge of Uganda’s age of consent causes early marriages, research findings indicated widespread knowledge amongst refugees of the age of consent in Uganda. This accomplishment must be credited to the ongoing sensitisations on the issue that IPs, OPs, and UNHCR itself have sponsored. Indeed, every refugee interviewed about ‘defilement’ understood that the term referred to sex with a girl under 18. ‘Early marriage’, on the other hand, was widely understood to refer to those marriages taking place before the individual was ready. ‘Readiness’ was linked by many to education level; for them, the marriage of a girl of any age—even over 18—who had not completed education to an examination level such as P7 or S4 constituted an ‘early marriage’ with negative implications, particularly for the female partner.

This reality is demonstrated by the fact that despite awareness campaigns surrounding the age of consent, refugees continue to subordinate this criterion for marriage to other concerns. Perhaps by consequence, many admitted to lying about their age to avoid detection. As one official explained, “If you find a girl of P7 who conceives and you try to follow up they will just tell you she’s 22 and since there are no birth certificates [our efforts] just wind up defeated.”<sup>197</sup> Another official agreed: “When you go to talk to these girls about marriage she will say she is 18 so you don’t bring in the law.”<sup>198</sup>

### 3.3.3 Official Interventions to Combat Early Marriage

Given the two misconceptions detailed above, official interventions to combat early marriage are sometimes misdirected. Culture, for example, may appear too ingrained or sacrosanct to challenge, while sensitisation campaigns on the age of consent are often facile responses that fail to address the more fundamental issues of economic and physical insecurity that lead refugees to engage in early marriages. Both refugees and officials admitted to experiencing particular frustration when official messages regarding defilement seemed disconnected from the realities of life in the settlement. This is compounded by severe financial limitations. As one NGO official explained, “If there were funds, we could do something, but to sensitise people and then do nothing, it makes everything nothing.”<sup>199</sup> A teacher concurred: given refugees’ immediate and practical needs, he said, counselling students often has little impact: “It can be that what you are saying is good, but without resources, your words become weak, watered down.”<sup>200</sup>

For example, as one NGO official explained, “Girls come to us because their parents are trying to force them to marry [but] we don’t have school fees to pay for her secondary education.”<sup>201</sup> When these girls return home and report this to their families, “The parents will say that [the

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<sup>196</sup> Interview with NGO official, Arua town, 4 November 2006

<sup>197</sup> Interview with NGO official, Madi Okollo 2 November 2006

<sup>198</sup> Interview with NGO official, Kyaka II, 15 February 2006

<sup>199</sup> Interview with NGO official, Kyaka II, 17 February 2006

<sup>200</sup> Interview with secondary school teacher, Kyaka II, 16 February 2006

<sup>201</sup> Interview with NGO official, Madi Okollo 2 November 2006

UNHCR and NGOs] ‘say you need to study but they’re not funding you.’”<sup>202</sup> Not surprisingly, therefore, most girls currently in this position have little choice but to marry. This situation has only been compounded by the recent discontinuation of UNHCR scholarships that had enabled a number of girls whose parents were demanding they marry to attend boarding schools and therefore escape such parental pressures. As the same official explained, “We’ll go for counselling and the parents will improve their attitude for one week, but then they’ll just go back.”<sup>203</sup> An official in Kyaka II expressed similar frustrations: “They agree when you talk to them but when you leave they condone the same act.”<sup>204</sup>

Therefore, in this context of resource constraints and refugees’ underlying need for survival, what official interventions are possible often have little concrete effect. Although sensitisations should not be abandoned altogether, they must honestly and realistically reflect the conditions under which refugees are living. Even so, they will have little practical meaning if official actions are unable to address the circumstances that lead refugees to pursue early marriages.

## **4 REFUGEE SELF-HELP AND ITS LIMITS**

As the preceding sections have demonstrated, without security, education, and genuine economic opportunities—linked to enhanced freedom of movement—refugees will remain vulnerable to human rights violations including early marriage. Contrary to stereotypes of dependency, however, refugees themselves are mobilising their human and financial resources to fill the gaps in official protection and assistance within their communities. Nonetheless, they face a variety of obstacles in caring for the most ‘vulnerable’ among them.

### **4.1 Refugee Self-Help and Community Reliance**

Officials seeking to better address the needs and rights of refugees must build upon existing community-based models of assistance. Accordingly, this section examines the myriad ways that—despite a system that fosters dependence and stifles independence and creativity—encamped refugees have mobilised to provide assistance to one another, and particularly to the most ‘vulnerable’ among them.

Many interviewees explained that prior to displacement they would have handled social problems and met the needs of particularly ‘vulnerable’ neighbours within their communities. Writing about Congolese refugees, Shelly Dick refers to this practice as ‘family or community reliance’, suggesting that “‘self-reliance’ is perhaps an imposed Western concept, and the Congolese may not value ‘self-reliance’ in the same way that aid workers do.”<sup>205</sup> Interviews with Sudanese refugees in Uganda reinforce this claim, and evidence suggests that many refugees of all nationalities actually prefer to handle problems in this manner. To the contrary, some described the process of continually approaching officials for assistance as ‘begging’, and in any case admitted that they had little faith that their needs would be met in this way, worrying that it could even be counterproductive. As one Congolese woman said, “It is not good to push big

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<sup>202</sup> Interview with NGO official, Madi Okollo 2 November 2006

<sup>203</sup> Interview with NGO official, Madi Okollo 2 November 2006

<sup>204</sup> Interview with NGO official, Kyaka II, 15 February 2006

<sup>205</sup> Shelly Dick, “Review of CORD Community Services for Congolese Refugees in Kigoma Region, Tanzania”, June-July 2002, p. 22, cited in CASA Consulting, “The community services function in UNHCR”, p. 65.

people; it can cause other problems.”<sup>206</sup> Instead, they felt they could only rely on their own families and communities for support.

One of the most common ways that refugees help one another is through the provision of small-scale individual assistance on an ad hoc basis. This might include sharing a meal with a neighbour who has been too ill to fetch firewood to cook, going to the health centre with someone from the same tribe to act as an interpreter with national staff, or lending a friend a bicycle to help him or her transport goods to the market. Such assistance, while widespread, is irregular and transitory by nature. In many cases, refugees depend on their Refugee Welfare Council to seek more sustainable support. For example, a RWC leader explained that although on a personal level he had “nothing to offer [orphans]...it is my responsibility to go with them to the [community services] office so sometimes they can help with clothes, some rations.”<sup>207</sup> In addition to this role of serving as a link between communities and officials, another way that local leaders assist refugees with specific needs is by re-allocating to them—with or without the involvement of settlement officials—the houses and plots of refugees who leave left the settlements for repatriation, resettlement abroad, or other reasons. For example, a student explained that after spending several years with an informal guardian, the man “didn’t want me to [continue to] study so we quarrelled...I told the chairman of the bloc that I want a plot. He saw me suffering with that man...and so he told me to take [an abandoned] plot and build a house.”<sup>208</sup>

Another way that refugees work to address problems within their communities is through the formation of clubs. Drama clubs such as the Kyaka II Refugee Anti-Aids Club (KRAAC) and AIDS Fighters Club in Rhino Camp use theatre, music, and dance to educate their communities about HIV, defilement, SGBV, health and hygiene, and other relevant issues. In Kyangwali, the Congolese Burundian Rwandan Sudanese Educate Club (COBURWAS) organises students to do paid agricultural work for other refugees and nationals and with the money they earn, they buy school books that are shared among members. They are also engaged in volunteer community work such as fixing roads and providing basic assistance to orphans and disabled people, and with the support of an American student organisation, are trying to open their own bank account and raise money to support further activities.<sup>209</sup>

COBURWAS is an exception, however, and most of these organisations remain highly dependent on UNHCR and its partners to carry out activities. For example, the RLP was invited to attend an event organised by the AIDS Fighters Club that sought to bring refugees and nationals together to educate the community as a whole about HIV/Aids. At the last minute, however, the event was cancelled as the necessary funds were not received from the organisation that had promised to sponsor it. Similarly, while this report was being written, an officer of the KRAAC reported that the organisation has been forced to suspend all its activities since its chief sponsor, Feed the Children, is no longer an OP in the settlement and a replacement was not forthcoming.

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<sup>206</sup> Interview with Aloor Congolese woman in her 20s, Kyaka II, 19 February 2006

<sup>207</sup> Interview with 24 year old Rwandan man, Kyaka II, 10 February 2006

<sup>208</sup> Interview with 18 year old Muhunde Congolese man, Kyangwali, 26 April 2006

<sup>209</sup> For further information on the organisation and how it relates to COBURWAS, see [www.educateafrica.org](http://www.educateafrica.org).

In addition to spiritual, emotional, and moral support, church- and mosque-based organisations are also involved in providing more tangible support to their communities, for example by organising their congregations to assist disabled, elderly, and other less-physically capable members with agricultural work.

Moreover, the RLP discovered several instances of refugees who share common needs coming together within the settlements and living near one another. Sometimes, as in the case of a group of unaccompanied minor students living near a school in Kyaka II, this was organised by officials. In many other cases, however, the refugees organised themselves independently or with the support of community leaders to establish such ‘communities’. Nonetheless, not all officials were happy with such informal arrangements. As one said, “We avoid to put all disabled plots [for example] next to each other. We mix them...we don’t make a village of vulnerable persons.”<sup>210</sup> Indeed, while in some instances, ‘vulnerable’ refugees may benefit from living in close proximity to others in a similar situation—such as young mothers living without male relatives who might find safety in numbers or unaccompanied students who might study together—in other cases, such individual might gain more by living near non-‘vulnerable’ refugees. For example, one young woman spoke in terms of mutual benefit in describing how she and her parents support a disabled man they met upon arrival in the settlement:

He told my father that he didn’t have the ability to build a house or cultivate, that the bandits could harm him, brutalise him. So...[we moved next door and] my father cultivates our plot as well as [his] and we share all the food.<sup>211</sup>

When asked about this relationship, the man himself explained: “There is nobody who has told them to ‘help this guy.’ We are from the same country, but a different tribe...[but] we are like a family; I don’t take from them; I say ‘let us use it together.’”<sup>212</sup>

As detailed in Section 3, refugees also support ‘vulnerable’ individuals in particular and their communities in general by electing to work in various community support roles. Others ‘work’ unofficially as formal or informal foster parents to UAMs. Many of the latter explained that they met such children as they were fleeing their countries and brought them to Uganda. Although some were registered as UAMs upon arrival, other guardians—particularly those who formed an attachment with unaccompanied children or were unaware of the special attention that UAMs might receive—declared them to be their own so that they would not be separated from one another.<sup>213</sup> One man described how the child he met while escaping fighting in his village has become part of his family:

About 4 kilometres from my house [in Congo]...I saw him on the road, near his house, crying. I asked him where his parents were and he told me they had died. I told him to come with us. For me, he is now like my own child. I had 5 children, but now, I have 6 children.<sup>214</sup>

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<sup>210</sup> Interview with NGO official, Kyaka II, 17 February 2006

<sup>211</sup> Interview with 20 year old Laiga Congolese woman, Kyaka II, 9 February 2006

<sup>212</sup> Interview with 38 year old Nande Congolese man, Kyaka II, 9 February 2006

<sup>213</sup> Officials have also pointed out that sometimes the opposite is true: some refugees claim their own children as UAMs in the hopes of receiving extra assistance.

<sup>214</sup> Interview with 37 year old Nande Congolese man, Kyaka II, 14 February 2006

It is not only children who are assisted in this manner. One man who fled Congo with his wife and two of his children explained how they met an elderly woman on the way:

We asked her what her situation was...I asked her who protected her...She said she didn't have anyone. [We] saw it was possible to help her so...my wife brought her into the family and she has been with us ever since.<sup>215</sup>

Sometimes it is the 'vulnerable' refugee him or herself who seeks out guardianship. One teenage boy who became separated from his parents in Congo explained that the foster mother he and his two brothers were assigned upon arrival in Kyaka II was physically abusive to them. Although he reported this to community services, he was not immediately relocated, and so "We left there and...We came searching for a person who spoke the same language [to care for us]."<sup>216</sup> The man who now serves as their guardian—despite being only 8 years older than the oldest brother—explained how he was moved to take the brothers in:

[The eldest brother] told me the day that they return to DRC, to their parents, they could tell them that I had been the one who was responsible for them and who looked after them...[So I said] Yes, if they said [they needed help for] 12 years, I'd be here for 12 years, if it was 3 months, then for 3 months.<sup>217</sup>

In addition to preparing food and protecting them, he explained that his role as guardian has a moral dimension:

I counsel them on moral issues...I train them for life in the future...[through] education and to learn how to cultivate the plot...to respect older people and authorities and the value in that. [I teach them] to not smoke cigarettes, to not get into fights, to not play in bad things like fighting or with girls....They treat me like their father...like a big brother and them like my little brothers.<sup>218</sup>

Clearly, these various forms of refugee self-help and community reliance are crucial in filling gaps in official protection and assistance to 'vulnerable' refugees. Moreover, they serve to empower refugees to take an active role in protecting and promoting the human rights of their friends, neighbours, and communities.

## **4.2 The Limits of Refugee Self-help**

The positive examples cited in the preceding section demonstrate refugees' resilience and capacity to support one another in the face of hardship and deprivation. Nevertheless, a number of constraints both systemic and individual limit the efficacy of these models of self-help and community-reliance. On the systemic level, although most refugees could look beyond their own problems to point to others who were worse off than they were, many admitted that their preoccupation with their own survival within the settlement system prevented them from offering the necessary assistance. On the individual level, instances of exploitation and abuses of power

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<sup>215</sup> Interview with 50 year old Mugegere Congolese man, Kyaka II, 14 February 2006

<sup>216</sup> Interview with 16 year old Mugegere Congolese man, Kyaka II, 11 February 2006

<sup>217</sup> Interview with 24 year old Mugegere Congolese man, Kyaka II, 11 February 2006

<sup>218</sup> Interview with 24 year old Mugegere Congolese man, Kyaka II, 11 February 2006

threatened refugees' physical and economic well-being and undermined their enjoyment of their human rights.

#### 4.2.1 SRS, 'Vulnerability', and the Limits of Community Care

The purpose of community services is to meet some of refugees' most basic needs and fulfil their most fundamental rights. Funding cuts, however, have led much of the sector's work to be handed over to refugees, either officially in the form of refugee community workers, or unofficially, insofar as refugees mobilised their own communities to fill gaps in the ways described above. The SRS has exacerbated this trend, yet paradoxically, made it more difficult for refugees to engage in such self-help activities by limiting their livelihood options.

According to previous research carried out in refugee-hosting areas of West Nile by a UNHCR staff member who was himself directly involved in the creation of the Self-Reliance Strategy, refugees interviewed about the potential impact of the SRS were less concerned with reductions in food rations than with the policy's implications for the quality and availability of service provision, particularly with regard to education.<sup>219</sup> Moreover, they recognised that—in a context where they are forced to work small, increasingly infertile plots of land without the freedom of movement necessary to access the open market to sell produce at fair prices—the SRS undermined their ability to provide for the neediest among them:

They also fear that the self-reliance strategy might cause problems for the more vulnerable groups within the refugee community. Community care, they argue, is not feasible while the refugees are struggling to become self-sufficient, since this does not give them time to undertake community work. Community structures are being rebuilt slowly and so are not yet capable of integrating the more vulnerable.<sup>220</sup>

In order to achieve the twin goals of refugee self-reliance and local development, the staff member suggests an approach he refers to as 'refugee self-management' that would "respect...the skills and knowledge that are available in the refugee community" and also "allows for further relations and interaction between the refugees and the hosts."<sup>221</sup> Crucial to this system, he says, is that "Refugees ought not to be mere recipients of aid, but should be enabled to undertake initiatives to improve their own livelihoods."<sup>222</sup>

Given the obstacles the SRS places on independent community care, however, this may not always be possible without targeted external support. For example, one single woman raising six children on her own illustrated how the challenges of life in the settlement were compounded by her role as an unsupported foster parent:

If I don't work hard then we don't eat...When I was allocated this plot, I was told by the community services of AAH that there was a young boy here and I should take care of him. I thought they would put his name also in the ration card but until now they have not. So that has added a burden on me [because] our rations have been reduced by [sharing the food with] an

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<sup>219</sup> Jozef Merckx, "Refugee Identities and Relief in an African Borderland: A Study of Northern Uganda and Southern Sudan," *New Issues in Refugee Research Working Paper No. 19*, June 2000, p. 24-5.

<sup>220</sup> Merckx, "Refugee Identities and Relief in an African Borderland", p. 25.

<sup>221</sup> Merckx, "Refugee Identities and Relief in an African Borderland", p. 29.

<sup>222</sup> Merckx, "Refugee Identities and Relief in an African Borderland", p. 29.

additional person...The child is just an additional problem... [but] I am continuing to give assistance to him because if I send him away, where will he go? He may get mistreated where he goes.<sup>223</sup>

Many other individuals shared this willingness to assist fellow refugees who were worse off than they were, despite the additional strain it imposed on already limited resources. With respect to orphans and UAMs, for example, despite numerous instances of disputes and other problems within official and unofficial foster families—including the cases of forced early marriage described above—the RLP identified many examples of positive relations. One woman described how her children were willing to make sacrifices for the sake of the five orphans she fostered:

They get on well; even my two children I live with have not taken me badly for taking care of [the orphans]. They understand that that these children need help too. Even when they go out there and get [money/food] they bring for these orphans too.<sup>224</sup>

Given the necessary support, many more refugees could offer such assistance to neighbours and friends, but insofar as life in the settlement is characterised by the persistent pressure to focus on self-preservation and survival, such positive individual examples will remain the exception. Indeed, the evaluation of UNHCR's community service function cited above has described that the objective of self-reliance as 'antagonistic' to the models of refugee self-help described above, noting that:

Where refugees are expected to be 'self-reliant' one cannot assume they will contribute large amount of volunteer labour to addressing collective social problems. Efforts to promote 'self-reliance' place a premium on the time and energy of refugees, who must increasingly expend time on meeting survival needs.<sup>225</sup>

This is true not only for individual refugees, but also for refugee community workers. The difficulties they face are further exacerbated by systemic factors. For example, a Ugandan health official working closely with refugees explained that insofar as incentives to refugee community health workers were being phased out, "It is not easy for someone to spend a lot of time [volunteering]."<sup>226</sup>

Besides preventing individuals from *receiving* adequate support from their fellow refugees, the obstacles detailed above may actually increase poverty and vulnerability for those who seek to render such assistance. This was recognised by a UNHCR consultant in Masindi's Kiryandongo settlement, who pointed out that unregistered refugees living amongst registered ones—which is common in all four of the settlements visited—not only live in an "extremely precarious" situation without official support, but also impact negatively upon registered family and friends "who are morally and culturally obliged to assist them, which most are absolutely willing to do."<sup>227</sup> As a result, she says, "registered family units which might stand a chance of achieving

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<sup>223</sup> Interview with 28 year old Acholi Sudanese woman, Kyangwali, 27 April 2006

<sup>224</sup> Interview with 60 year old Congolese woman, Kyangwali, 28 April 2006

<sup>225</sup> CASA Consulting, "The community services function in UNHCR", p. 66, ¶ 197.

<sup>226</sup> Interview with health official, Kyangwali, 24 April 2006

<sup>227</sup> Tania Kaiser, "UNHCR's withdrawal from Kiryandongo: anatomy of a Handover," New Issues in Refugee Research Working Paper No. 32, October 2000, p. 4.

some sort of economic stability are often undermined by the presence of their unregistered relatives, in the face of institutional refusal to provide the latter with any assistance at all.”<sup>228</sup>

#### 4.2.2 Exploitation and the Abuse of Power

In addition to these systemic factors, individual instances of exploitation undermine the positive models of refugee self-help that exist in the settlements and indicate a need for closer involvement from official actors. For example, while all girls may experience pressure—either directly as a result of conditions they face or indirectly through their parents—to get married for the sake of physical and economic security, girls who are living with other relatives or foster families are at particular risk of coerced early marriages, as recognised in Section 1.3. Unaccompanied and separated girls who live together with other separated young people, on the other hand, can oftentimes more easily continue with school insofar as they benefit from shared household work and moral support from others in a similar position without the pressure to provide bride price. Moreover, as the incident reported by the 19 year old girl in Section 1.2 demonstrates, women may successfully rely on one another in the absence of traditional male ‘protectors’ to defend themselves against rape and other forms of violence.

Nevertheless, although there are many successful examples of refugees supporting one another within their own communities, this model of self-help should not be seen as a substitute for official assistance. In a number of instances, community members have taken advantage of ‘vulnerable’ individuals under their care. As described above in Section 1.3, perhaps the most common example of this reported to RLP is the forced early marriage of unaccompanied and separated girls staying mostly with unofficial foster families. Too often, such incidents go unreported or only come to the attention of officials when a girl drops out of school. By then it is often too late for a meaningful intervention.

Moreover, although many individuals rely on friends and neighbours to help them informally with specific needs—sometimes compensating them for their work by cooking lunch or something of the like—this situation is sometimes exploited. For example, a widowed woman looking after 8 children—an orphaned nephew plus seven of her own, including newborn twins—explained how, in the absence of official assistance, she asked a neighbour to help her repair her hut:

I came here by myself, without my husband, so there is rape...Like for me, I asked a man to help me fix the house because I couldn't do it myself. Then he asked me for money but I couldn't pay. I'm alone here so when he came back at night, he came in [the hut] and raped me. That's how I had the twins...[The officials] wanted to make a report but couldn't because the man left [the settlement].<sup>229</sup>

Another woman staying alone with four of her children as well as an orphaned nephew told the story of a married church leader who offered to assist her. When he became increasingly demanding, however, asking among other things to be her ‘boyfriend’, she refused him. She recounts what happened next: “One night...he broke my door and entered my house. He wanted

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<sup>228</sup> Kaiser, “UNHCR’s withdrawal from Kiryandongo”, p. 4.

<sup>229</sup> Interview with 35 year old Pojulu Sudanese woman, Kyangwali, 30 April 2006

to rape me in front of my children.”<sup>230</sup> Luckily, he did not succeed, but when she tried to report this assault, the man retaliated: “He reported me to the office [lying and telling them] that I’m a Ugandan citizen, that I’m beating his wife. [But] that man, they voted him to be a social worker in this bloc.”<sup>231</sup> Other refugees reported that they were prevented from reporting crimes because the perpetrators were related to the RWC leaders.<sup>232</sup>

Moreover, despite their generally positive role in the settlement, some refugee community workers perpetuate negative coping strategies. For example, one UAM living with two minor siblings reported that when he sought assistance from a social worker, he was told that his 14 year old sister was “old enough to marry and after that she would be able to support us.”<sup>233</sup> He explained that this attitude was all too common:

Orphans are very many now. If you...have a big brother or sister [the social workers] say ‘let the brother or sister marry and help the rest’...[But] it is a bad idea because she was still young and [the social worker] wanted her to drop out of school.<sup>234</sup>

In some cases, however, UNHCR and IPs have successfully intervened to protect ‘vulnerable’ refugees from exploitation. For example, in Madi Okollo, refugee community facilitators discovered that two unaccompanied girls were being sexual harassed by the male UAMs that they were staying with. As an official explained, they had originally come together to provide for their own safety and security in the settlement, and “When they were young [the boys] had no intimate feelings, but as they grew they were having [sexual] feelings [and] several attempts were made to rape these girls.”<sup>235</sup> Officials removed the girls from the household and placed them with foster families, “and they’re now peacefully studying.”<sup>236</sup> Regular follow-up visits are conducted to ensure the situation remains stable.

It is important to note that not all cases of exploitation are necessarily purposeful or malicious. In some cases, reduced or non-existent survival options in the absence of official assistance place refugees with specific needs in conditions that are effectively exploitative. For example, many young children who are being ‘looked after’ by elderly relatives—often grandparents—are actually the ones caring for their supposed guardians. For those children whose older relatives are physically incapable of providing for themselves, let alone a child, this typically means fetching water and firewood, cooking, cleaning, and even cultivating, usually to the detriment of their own studies. For example, RLP came across adolescent and even some preadolescent children who had been sent away from their parents—and from school—to tend for elderly relatives living in other areas within the same settlement or in other settlements. Moreover, young girls were sometimes sent to help extended relatives care for smaller children. Despite the lack of intent towards exploitation, however, the impact on such children in terms of their social and educational development is the same.

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<sup>230</sup> Interview with 30 year old Acholi Sudanese woman, Kyangwali, 2 May 2006

<sup>231</sup> Interview with 30 year old Acholi Sudanese woman, Kyangwali, 2 May 2006

<sup>232</sup> For instance, a woman in Kyangwali explained that her physically abusive husband was the brother of the RWC leader, who could or would not challenge his brother to stop the abuse. Interview with 25 year old Muniyabwisha Congolese woman, Kyangwali, 29 April 2006

<sup>233</sup> Interview with 16 year old Tutsi Congolese boy, Kyangwali, 26 April 2006

<sup>234</sup> Interview with 16 year old Tutsi Congolese boy, Kyangwali, 26 April 2006

<sup>235</sup> Interview with NGO official, Madi Okollo, 2 November 2006

<sup>236</sup> Interview with NGO official, Madi Okollo, 2 November 2006

## 5 TOWARDS A NEW MODEL OF REFUGEE PROTECTION IN UGANDA

This paper has demonstrated that despite myriad individual and systemic constraints, encamped refugees employ creative strategies to meet their needs and the needs of their communities within the general atmosphere of poverty and physical insecurity that characterises the settlements. In some cases, however, these circumstances have led refugees to adopt coping strategies, some of which—such as early marriage—are contrary to international human rights and national law. To rectify this situation and to fulfil Uganda’s legal obligations, officials must adopt a new, rights-based approach to protection that will enable refugees to live their lives in dignity and security and prepare them for eventual durable solutions.

### 5.1 Protection through Supporting and Monitoring Refugee Self-help

The descriptions of refugee self-help and its limitations in the preceding section are clear examples of the reality that, while refugees may fill gaps in official assistance by helping one another on an ad hoc basis, this is no substitute for the effective protection of refugees—and particularly those most vulnerable to exploitation and abuse—by the agencies and individuals charged with their care. Consequently, there is a need for increased and better targeted involvement from officials to support refugee communities in assisting their members without undermining their own socio-economic position. Officials must also continue to monitor and prevent abuses. Such involvement is in line with a rights-based approach to refugee protection that is espoused in UNHCR’s own guidelines but not yet implemented in practice.

#### 5.1.1 Psychosocial and Financial Support

Displacement and encampment undermine the traditional role that families and communities have in helping one another. As UNHCR has warned with respect to refugee children, “A family that is split apart or under serious stress may not fully meet the physical and emotional needs of their children” and therefore such families “may need assistance in using their own coping techniques and rebuilding their support links.”<sup>237</sup> Accordingly, because children’s needs are “met most effectively within the context of family and community” UNHCR’s Policy on Refugee Children directs staff members to “strengthen the capacities of refugee families to meet their own needs and improve the participation and situation of refugee women, thereby contributing significantly to the welfare of their children.”<sup>238</sup> Psychosocial support plays a key role in the process, yet the RLP has found this to be seriously lacking in all four settlements visited. Official actors working with refugees must therefore increase the emotional and psychosocial support that refugees receive, including through the inclusion of stronger mental health components within existing health services and enhanced psychosocial programmes within schools.

Even if individuals and communities have the human resources to assist their fellow refugees, they usually lack the physical resources—including time, money, and supplies—to do so effectively. Without abdicating their mandate to protect and assist, and without dismantling existing community services programmes, officials must increase financial support to refugee

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<sup>237</sup> UNHCR, *Refugee Children: Guidelines on Protection and Care*, Geneva, 1994, Chapter 4, III

<sup>238</sup> UNHCR, *Refugee Children: Guidelines on Protection and Care*, Annex A: UNHCR Policy on Refugee Children, ¶23

groups and individuals that are already working on behalf of their communities. Thus, for a relatively small price, UNHCR and IPs could ensure that initial interventions on behalf of refugees with specific needs continue to be effective throughout the course of protracted displacement. For example, officials sometimes have paid a small wage to volunteers to construct houses for ‘vulnerable’ refugees upon their arrival in settlements, or at the very least, provided the necessary materials. In some cases this was the only additional assistance that such individuals received throughout the course of their stay in the settlement. The RLP encountered a number of instances where these houses had collapsed over time but community members were not able to take time away from their own concerns to repair them. Therefore, providing a financial incentive to groups of concerned refugees will enable them to assist others without neglecting their needs and those of their families.

### 5.1.2 Monitoring

With respect to children, the UNHCR affirms the importance of “ongoing, community-based monitoring...[of] children's well-being” that should be carried out “on an individual basis as much as possible, but...always view[ing] children as members of a family and a community.”<sup>239</sup> This guidance can be applied to all people with specific needs, but it is particularly true for girls living without their parents in the settlements insofar as they are likely to become involved in early marriages. As the UNHCR itself has recognised, because “Most unaccompanied children are taken care of spontaneously by the community through informal foster care”, finding such informal arrangements is the first step to meeting this goal: “By looking for unaccompanied children, the needs of the children and their informal foster families can be identified.”<sup>240</sup> Therefore, increased monitoring of and provision for the needs of such girls is an important means of reducing the incidence of early marriages in settlements.

In practice, however, evidence suggests that officials operating with limited—and often decreasing—programme budgets tend to become involved in such situations only when problems are reported rather than actively seeking them out. Building the capacity of refugee communities to meet their own needs is certainly an important goal. Nevertheless, as this report has demonstrated, an overwhelmingly reactive approach effectively encourages guardians to seek their own means of meeting their needs and the needs of UAMs, with all too many resorting to early marriages. Increased home visits and the hiring of greater numbers of community workers will reduce the instances of refugees’ adopting negative survival strategies, including early marriage, prostitution, exploitative labour situations, and various forms of deception and manipulation of the system.<sup>241</sup>

Clearly, officials must adopt a more proactive approach that would not only eliminate a key motivation for early marriage, but also improve the living situation of UAMs overall. As the guidelines warn “Where problems are not obvious, there is often a tendency to assume that no problem exists.”<sup>242</sup> Part of this proactive approach would be to seek greater involvement of refugees in determining what types of specific needs exist within their communities. The

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<sup>239</sup> UNHCR, *Refugee Children: Guidelines on Protection and Care*, Chapter 12.

<sup>240</sup> UNHCR, *Refugee Children: Guidelines on Protection and Care*, Chapter 4, IV.

<sup>241</sup> These techniques include recycling—leaving the settlement and returning and re-registering as a new person to claim double rations—and create the appearance of vulnerability by dividing families with the expectation that ‘single’ mothers and ‘unaccompanied’ minors will receive special assistance.

<sup>242</sup> UNHCR, *Refugee Children: Guidelines on Protection and Care*, Chapter 12.

community services assessment recognises that vulnerability is “a relative concept that can only be understood based on the specifics of each refugee situation,” and therefore that refugees must “be more involved in identifying local vulnerability issues and in developing community-based solutions.”<sup>243</sup> In order to do so, officials must provide the necessary psychosocial and financial support to foster community-reliance while continually monitoring and assessing the progress of such efforts and seeking to identify problematic cases before they slip through the cracks.

## 5.2 Conclusions

Although in some respects an improvement over the ‘vulnerable groups’ paradigm, the phrase ‘People with Specific Needs’ is a fallacy; all refugees have different experiences and capacities as well as individual needs specific to them. Before these needs can adequately be met, actors working with refugees, particularly in the community services sector, must understand how individuals’ circumstances and capacities impact on their ability to take care of themselves. In this way, “The aim [of community services] should be to help people in the aspect of life in which they are vulnerable and recognise the other aspects of life where they are not vulnerable.”<sup>244</sup> To do so, however, UNHCR must move beyond the needs-based approach that characterises the way in which the agency conducts its work:

Ironically, given its focus on protection and rights guaranteed to refugees with respect to host states, UNHCR has yet to adopt a clear human-rights framework for its humanitarian aid activities and still operates largely within a needs-based approach to assistance.<sup>245</sup>

Within this context, and in an atmosphere of dwindling financial resources in which the provision of assistance must be prioritised, officials are forced to reduce the number of people considered to be in need of external support. This practice is justified on the basis of self-reliance, but as this report has demonstrated, the limited material assistance to EVIs does not strengthen the capacity of their communities, and leaves those not considered ‘vulnerable’ without the necessary means to advance beyond mere survival. Bakewell has referred to this situation of simply ‘topping-up’ refugees’ own efforts as a “poverty trap” in which “recipients have to show they are poor to receive any help, and they are discouraged from improving their own situation, as their gains will be offset against any grants.”<sup>246</sup> To truly encourage refugees to develop sustainable livelihoods, UNHCR and its partners must adopt a rights-based approach to refugee protection that allows them to make full use of their inherent capacities and potential.

Fulfilment of the right to education, for example, is a key prerequisite for the development of sustainable livelihoods, and therefore crucial for the achievement of true self-reliance. Crisp, however, has noted that although “It is taken for granted in most countries that a society’s level of economic growth and prosperity is intimately linked to the quality of education and training that its citizens receive”, with respect to *refugee* education on the other hand, “the international community as a whole does not seem to have adopted the same position.”<sup>247</sup> He cites Sperl’s assessment of the fundamental importance of education within assistance and protection programmes:

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<sup>243</sup> CASA Consulting, “The community services function in UNHCR”, p. 35 ¶102 and p. 37 ¶106.

<sup>244</sup> Bakewell, “Community Services in refugee aid programmes: a critical analysis”, pp. 13.

<sup>245</sup> Bakewell, “Community services in refugee aid programmes: a critical analysis”, p. 17.

<sup>246</sup> Bakewell, “Community services in refugee aid programmes: a critical analysis”, p. 11.

<sup>247</sup> Crisp, “No solutions in sight”, p. 27.

Residence in refugee camps, undesirable as such, should be treated as an opportunity to provide the residents with new or upgraded skills so as to help them reconstruct their livelihood when the opportunity arises. To this effect education, training and literacy programmes aimed at *all* sectors of the population should not, as so often, be seen as ancillary but as vital, primary and no less important than the provision of food and health care.<sup>248</sup>

Therefore, fulfilment of the rights of refugees—including to health, education, freedom of movement, and life, liberty, and security of person—is among the best means of eliminating such harmful survival strategies as early marriage and instead promoting refugees' capacities to develop sustainable livelihoods and enjoy meaningful and dignified lives.

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<sup>248</sup> Stefan Sperl, "International refugee aid and social change in northern Mali," *New Issues in Refugee Research Working Paper No. 22*, July 2000, p.12, quoted in Crisp, "No solutions in sight", p. 27.

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**ANNEX 1: MAP OF REFUGEE SETTLEMENTS IN UGANDA**



Source: UNHCR, Global Report 2005: Uganda (June 2006)

**ANNEX 2: AMENDMENTS TO THE PENAL CODE ACT (EXCERPT)**

A Bill for an Act

ENTITLED

**THE PENAL CODE (AMENDMENT) ACT, 2006**

**An Act to amend the Penal Code Act**

BE IT ENACTED by Parliament as follows:

**1. Abolition of corporal punishment**

(1) Corporal punishment is abolished and accordingly, all references to corporal punishment in the Penal Code Act in this Act referred to as the principal Act, are repealed.

(2) Without prejudice to the general effect of subsection (1) of this section, Section 125, subsection (2) of section 129 and section 205 of the Penal Code Act, are amended by the repeal of the words “with or without corporal punishment”.

**2. Section 129 of the Penal Code Act replaced**

The principal Act is amended by substituting for section 129 the following new sections—

**“Defilement of persons under eighteen years of age**

129. (1) Any person who performs a sexual act with another person who is below the age of eighteen years, commits a felony known as defilement and is on conviction liable to life imprisonment.

(2) Any person who attempts to perform a sexual act with another person who is below the age of eighteen years commits an offence and is on conviction, liable to imprisonment not exceeding eighteen years.

(3) Any person who attempts to perform a sexual act with another person who is below the age of eighteen years in any of the circumstances specified in subsection (4) commits a felony called aggravated defilement and is, on conviction by the High Court, liable to suffer death.

(4) The circumstances referred to in subsection (3) are as follows—

- (a) where the person against whom the offence is committed is below the age of fourteen years;
- (b) where the offender to his or her knowledge, is infected with Human Immunodeficiency Virus (HIV), Acquired Immune Deficiency Syndrome (AIDS);
- (c) where the offender is a parent or guardian of or a person in authority over, the

person against whom the offence is committed; or  
(d) where the offender is a serial offender.

(5) Any person who attempts to perform a sexual act with another person below the age of eighteen years in any of the circumstances specified in subsection (4), commits an offence and is liable on conviction, to imprisonment for life.

(6) In this section unless the context otherwise requires—  
“serial offender” means a person who has a previous conviction for the offence of defilement or aggravated defilement;

“sexual act” means penetration of the vagina, mouth, or anus, however slight, of any person by a sexual organ or the use of any object or organ by a person on another person’s sexual organ

“sexual organ” includes a vagina or penis.

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