



REPORT ON DOCUMENTED CASES OF SEXUAL AND GENDER-BASED VIOLENCE IN BIDI BIDI REFUGEE SETTLEMENT

JULY 2019 – MAY 2020

In partnership with



With the financial support of



**Funded by
European Union
Civil Protection and
Humanitarian Aid**

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ABOUT HRAPF

Human Rights Awareness and Promotion Forum (HRAPF) is an independent, non-partisan non-governmental organisation that works towards the protection of rights of marginalised communities in Uganda through the direct provision of legal aid services, legislative advocacy, human rights awareness, research and community capacity enhancement. HRAPF operates a specialised legal aid clinic for marginalised and Most at Risk Populations in Uganda and extends these services to victims of gender-based violence based in the Bidi Bidi Refugee Settlement, Yumbe in Northern Uganda.

ACKNOWLEDGEMENTS

Human Rights Awareness and Promotion Forum (HRAPF) wishes to thank many organisations, communities and individuals who have supported the development of the 2019/2020 report on Sexual and Gender-Based Violence (SGBV) within the Bidi Bidi Refugee Settlement.

A first word of gratitude goes to individual SGBV survivors, their families and the community leaders who have trusted us to handle their matters and fight for justice with them and on their behalf over the course of 2019/2020.

We would not have been able to develop this record of violations if it had not been for the support of government agencies and fellow protection partners working in the Settlement. We sincerely appreciate the relationships, coordination and partnership that we have with our various protection partners who also fight for justice for the marginalised refugee communities in Bidi Bidi. These partners include the Office of the Prime Minister (OPM), the Uganda Police Force, International Rescue Committee (IRC), World Vision International (WVI), Transcultural Psychosocial Organisation Uganda (TPO-Uganda) and Refugee Law Project (RLP).

Finally, we are grateful to Medecins du Monde (MDM) for their partnership including the physical hosting of the legal aid clinic and the financial support of the European Commission Humanitarian Office.

Human Rights Awareness and Promotion Forum (HRAPF) operates a legal aid clinic in Bidi Bidi Refugee Settlement in Yumbe district, with the specific purpose of ensuring justice to refugees and asylum-seekers within Bidi Bidi Refugee Settlement who have been victims of Sexual and Gender Based Violence (SGBV). SGBV can be defined as physical, sexual and psychological harm which is inflicted against a person's will and is based on gender norms and unequal power relationships. While women and girls are most often the victims of SGBV, men and boys can also be victimised. SGBV can be categorised broadly into sexual violence, physical violence, emotional and psychological violence, harmful traditional practices and socio-economic violence. SGBV affects the health, environment, economy and social structure of an entire community and in this case, the whole of Bidi Bidi Refugee Settlement.

During the course of its work, HRAPF documents cases of SGBV that are brought to its attention. It is these cases that are compiled to develop this report. The population served by this legal aid clinic would typically have faced SGBV either en route to Uganda at the hands of opposition military forces, or within the Settlement at the hands of their family and community members or intimate partners.

SGBV involves violation of various human rights, especially the right to freedom from inhuman and degrading treatment, and a number of other rights protected in various international human rights instruments, including the International Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (African Women's Protocol). Reporting on human rights violations is a crucial component in the fight against human rights abuses, as this provides evidence of the violations and documents details about the severity and extent of such violations. Such reporting is crucial in the fight to protect the rights of the marginalised and most vulnerable, including refugees and asylum-seekers who have been forced to flee their home countries and resettled in Uganda in search of peace and security. Refugees and asylum-seekers crossing the border from South Sudan and settling in Uganda are particularly vulnerable to face various violations as well as acts of SGBV.

This report documents and provides information on the cases of SGBV committed against refugees and asylum seekers within Bidi Bidi Refugee Settlement and reported to HRAPF's legal aid clinic. All cases recorded within this report were handled by HRAPF's legal aid clinic, many of them were referred by the SGBV unit at Bolomoni Health center III along with other duty bearers and service providers.

This report does not purport to cover all cases in Bidi Bidi Refugee Settlement, and neither does it intend to generalise the situation for all refugee settlements. It is intended to show a glimpse of SGBV in the settlements, and the need for more efforts to stamp it out. It is intended as part of building an evidence-base for advocacy against SGBV and can be used to inform the adoption of programming as well as laws and policies affecting refugee communities in Uganda.

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ACRONYMS

AIDS	Acquired Immunodeficiency Syndrome
ART	Anti-Retroviral Treatment
CFPU	Child Family and Protection Unit (of the Uganda Police Force)
FGM	Female Genital Mutilation
GBV	Gender-Based Violence
HIV	Human Immuno-deficiency Virus
HRAPF	Human Rights Awareness and Promotion Forum
ILO	International Labour Organization
IRC	International Rescue Committee
MDM	Médecins du Monde
OC	Officer in charge
OPM	Office of the Prime Minister
PLHIV	People Living with HIV
RLP	Refugee Law Project
RWC	Refugee Welfare Committee
SGBV	Sexual and Gender-Based Violence
TPO	Transcultural Psychosocial Organisation
UNHCR	United Nation High Commissioner for Refugees
UPF	Uganda Police Force
WVI	World Vision International

Asylum-seeker:	An individual who has left their home country and is seeking protection from persecution and serious human rights violations but whose claim has not been finally decided on by the country in which it has been submitted.
Case:	A separate set of facts involving violation of a law or a right and which is included in one file. A single case can involve multiple persons and multiple violations.
Gender-based violence	Violence targeted at individuals or groups of individuals on the basis of their gender.
Host community:	The country of asylum and the local, regional and national governmental, social and economic structures within which refugees live.
Perpetrator:	The person or institution responsible for causing a human rights violation.
Refugee:	A person who has fled their country of origin and is unable or unwilling to return because of a well-founded fear of being persecuted because of their race, religion, nationality, membership of a particular social group or political opinion.
Refugee settlement:	Land made available on a temporary basis in order to host refugees fleeing from an armed conflict in temporary homes. Humanitarian organisations provide essential services in refugee camps including food, sanitation, health, medicine and education. Refugee settlements are usually located at least 50km away from the nearest international border in order to deter raids and attacks on the occupants.
Sexual violence	Any act, attempt or threat of a sexual nature that results in physical, psychological and emotional harm. Sexual violence is a form of gender-based violence.
Sexual and gender-based violence	Physical, sexual and psychological harm which is inflicted against a person's will and is based on gender norms and unequal power relationships. Women, men, girls and boys can be victims of SGBV.
Violation:	An act that contravenes a law which guarantees a right. There may be multiple violations in a single case.

The report on documented cases of SGBV within the Bidi Bidi Refugee Settlement analyses cases of SGBV committed against refugees and asylum-seekers as recorded by HRAPF's legal aid clinic operating from within the Settlement. The report considers cases of SGBV recorded in the period July 2019 to May 2020. The report classifies cases of SGBV in five categories: sexual violence, physical violence, emotional and psychological violence, harmful traditional practices and socio-economic violence. The report considers the victims and perpetrators of these violations, and analyses the state's response to violations committed by non-state actors. The report does not include all the documented cases of SGBV committed against refugees and asylum-seekers within Bidi Bidi Refugee Settlement for the period under review, but only those cases which could be verified independently.

Key findings

1. There were 51 verified cases of SGBV against refugees and asylum-seekers within Bidi Bidi Refugee Settlement for the period of July 2019 to May 2020 arising out of 59 SGBV files handled by the HRAPF legal aid clinic situated in the Settlement.
2. Physical violence is the most common form of SGBV recorded. Out of the 51 verified cases, 22 were cases of physical violence, four were cases of sexual violence, 16 were cases of emotional and psychological violence, eight were cases of socio-economic violence and one was a case involving a harmful traditional practice.
3. Women and adolescent girls are the most vulnerable to SGBV within the Settlement. The direct victims of these cases of SGBV were 44 women, five adolescent girls, seven children and two men. A further 26 children were affected by these cases even though they were not the direct victims.
4. The majority of perpetrators were the male intimate partners of the victims (38 cases), followed by male relatives of the victims (five cases). Three cases of SGBV were committed by male members of the general community, one case was committed by the co-wife of the victim, one by the wife of a male victim and one by a male humanitarian worker.
5. Two cases were recorded in which the victims suffered SGBV due to the fact that they were prevented by the restrictive abortion regime from carrying out abortions and had no choice but to give birth to children which they had not planned to have.
6. The state intervened in eight of the 51 cases, however all the cases which were concluded and closed with a form of compensation to the victims were mediated by NGOs providing aid within the Settlement. Not one of the cases committed by non-state actors were conclusively investigated and resolved by the Police. The state did not take all necessary measures to prevent, investigate and prosecute these matters nor to provide reparations to the victims and is therefore also responsible for these violations.

Recommendations

To Parliament

1. Ensure that the Sexual Offences Bill is adopted with progressive definitions of sexual offences which are aligned with international human rights law and provisions for adequate sanctions and punishments for perpetrators of sexual violence.
2. Repeal section 141, 142 and 143 of the Penal Code Act which criminalises abortion with extremely narrow exception and adopt a new law to regulate abortion in the country and clearly indicate the circumstances under which abortion is not prohibited.

To the Uganda Police Force

1. Train Police officers to ensure that they are aware that the use of alternative dispute resolution procedures in SGBV cases should be strictly regulated and only allowed if it can be guaranteed that the victim has given her free and informed consent to resort to such a mechanism and there are no indicators that the victim will suffer further harm.
2. Ensure that Police officers are trained on an ongoing basis on gender-based violence and have an in-depth understanding of the societal factors which perpetuate SGBV, such as gender stereotypes and intersectional discrimination.
3. Increase the number of Police officers assigned to the Child Family and Protection Unit (CFPU) in Yumbe District in order to allow for effective responses to the SGBV cases that occur in the Settlement.

To the Office of the Prime Minister (OPM)

1. Continue to provide support to partners providing legal aid and other services for the survivors of SGBV in the Settlement.
2. Support partners in advocacy efforts against negative socio-cultural practices that violate the rights of refugees.
3. Continue to support efforts to raise awareness on issues faced by refugees among protection partners, duty bearers and the general public in order to foster deeper understanding and acceptance of the humanity and rights of refugees in the Settlement.
4. Engage in advocacy with health service providers to ensure access to Sexual Reproductive Health (SRH) services to victims of SGBV in order to promote respect for and observance of their right to health.

5. Develop the capacity of staff to report on violations faced by refugees and invest in accurate and effective reporting systems to ease collection and verification of data on the violation of rights of refugees.

To international humanitarian aid and human rights organisations

1. Continue to provide support and technical assistance to partners providing free legal aid service for the survivors of SGBV in the Settlement.
2. Support local partners in advocacy against negative socio-cultural practices that perpetuate conceptions of a sub-ordinate role for women in society.
3. Identify, monitor and document cases of SGBV suffered by refugees within the Settlement.
4. Continue to support efforts to raise awareness on issues faced by refugees among protection partners, duty bearers and the general public in order to foster deeper understanding and acceptance of the humanity and rights of refugees in the Settlement.
5. Engage in advocacy with health service providers to ensure access to Sexual Reproductive Health (SRH) services to victims of SGBV in order to promote respect for and observance of their right to health.
6. Increase financial resources allocated for the prevention and response to SGBV among refugees.
7. Strengthen protection and assistance programmes which address SGBV among refugees.

To local CSOs providing services within the Settlement

1. Strengthen systems in order to accurately document, monitor and report on cases of SGBV within the Settlement.
2. Continue to undertake awareness-raising programmes which promote an understanding of the harm associated with SGBV and inform about the available avenues of recourse for victims. These programmes should be aimed at the general community within the Settlement.

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1. INTRODUCTION

1.1 Introduction

This report seeks to highlight the instances of SGBV suffered by refugees and asylum-seekers within Bidi Bidi Refugee Settlement for the period of July 2019 to May 2020 as recorded by Human Rights Awareness and Promotion Forum (HRAPF). This is the first report of its kind to be released by Human Rights Awareness and Promotion Forum (HRAPF).

Uganda ratified the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) on 22nd July 1985.¹ This instrument places an obligation on state parties to take steps to eliminate the various forms of discrimination against women which exist within a society. The CEDAW defines 'discrimination against women' as:

any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying recognition, enjoyment or exercise by women ... on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.²

States are urged to abolish laws, policies, cultures and practices which constitute discrimination against women and to take steps to eliminate discrimination against women by any person, organisation or enterprise.³ The Committee on the Elimination of Discrimination Against Women (CEDAW Committee), which is the body tasked with interpreting the CEDAW, adopted a General Recommendation 19 in 1992 which stated that discrimination against women includes gender-based violence.⁴ The General Recommendation defined gender-based violence as 'violence which is directed against a woman because she is a woman or that affects women disproportionately'.⁵ Gender-based violence is furthermore defined to include 'acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion or other deprivations of liberty' and it is stated that such acts may breach other provisions of the CEDAW which do not specifically mention violence.⁶ The General Recommendation furthermore states that GBV 'impairs or nullifies the enjoyment by women of human rights and fundamental freedoms', particularly the right to life; the right not be subjected to torture or to cruel, inhuman or degrading treatment or punishment; the right to equal protection according to humanitarian norms; the right to liberty and security of person; the right to equal protection of the law; the

¹ HRAPF *A guide to the normative legal framework on the human rights of LGBTI persons in Uganda* (2019) 52.

² Art 1 of CEDAW.

³ Art 2(e) and (f) of CEDAW.

⁴ Committee on the Elimination of Discrimination Against Women, General Recommendation 19: Violence Against Women, Eleventh Session (1992) par.6.

⁵ As above.

⁶ As above.

right to equality in the family; the right to the highest standard attainable of physical and mental health and the right to just and favourable conditions of work.⁷

The CEDAW Committee adopted another General Recommendation in 2017, in order to update the previously adopted General Recommendation on GBV. This Recommendation reiterates that the prohibition of GBV has evolved into a principle of customary international law.⁸ The Committee also states that it considers GBV against women to be 'one of the fundamental social, political and economic means by which the subordinate position of women with respect to men and their stereotyped roles are perpetuated'⁹. The Committee states that other factors affecting women's lives, such as being a refugee, make women vulnerable to intersecting forms of discrimination.¹⁰

GBV against women is rooted in patriarchy and results from attempts of men to control women's productive and reproductive abilities, which include controlling their sexuality.¹¹ Across the board, gender-related factors such as typical gender roles and the need to 'punish' females for behaviour which does not fit their stereotypical gender norm contribute to social acceptance of GBV against women.¹²

It is important to note that, while the definition of GBV of the CEDAW Committee focuses on women as the victims of such violence, men are also affected and victimised by GBV.¹³

SGBV is a somewhat broader concept than GBV as it specifically includes sexual violence inflicted on the basis of gender. SGBV can be categorised in five broad categories namely sexual violence, physical violence, emotional and psychological violence, harmful traditional practices and socio-economic violence.¹⁴ Sexual violence includes rape and marital rape, child sexual abuse, defilement, incest, sexual exploitation, sexual harassment and sexual violence as a weapon of war.¹⁵ Physical violence includes physical assault and human trafficking.¹⁶ Emotional and psychological violence includes verbal abuse that is insulting, degrading or demeaning, confinement and isolation and the denial of basic resources for family survival.¹⁷ Harmful traditional practices include female genital mutilation, early and forced marriage,

⁷ As above at par. 7.

⁸ Committee on the Elimination of Discrimination Against Women, General Recommendation 35 on gender-based violence updating General Recommendation 19, (2017) par.2.

⁹ As above at par. 10.

¹⁰ As above at par. 12.

¹¹ B Muthien & H Combrinck 'When rights are wronged: Gender-based violence and human rights in Africa' in M Bahati Kuumba & M White (eds) *Transnational transgressions: African women, struggle and transformation in global perspective* (2004).

¹² CEDAW Committee (n 8 above) par. 19.

¹³ Muthien, n 11 above.

¹⁴ UNHCR *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response* (2003) 15.

¹⁵ As above at 16-17.

¹⁶ As above at 17.

¹⁷ As above.

honour killings and maimings, infanticide or infant neglect and denial of education for girls or women.¹⁸ Socio-economic violence includes discrimination and denial of opportunities and services to women and girls, social exclusion and obstructive legislative practice.¹⁹

As at June 2018, there were 985,512 South Sudanese refugees in Uganda, most of whom had resettled in Northern Uganda.²⁰ Refugees and asylum-seekers are inherently vulnerable to SGBV and other violations on the basis of gender due to the collapse of their family and social support structures and the fact that the Settlement is designed to be a communal, multi-household dwelling.²¹ Refugees and asylum-seekers find themselves in foreign territory and are no longer protected by the governments of their countries of origin.²² The socio-cultural practices, poverty and insecurity suffered by refugees and asylum seekers within the Bidi Bidi Refugee Settlement also contribute to their vulnerability to SGBV.²³ Gender roles and power imbalances between males and females, as well as alcoholism contribute to the prevalence of GBV in families.²⁴ Many South Sudanese families send the women and children to resettle in Uganda ahead of the man, which means that the UN agencies registers the woman as the head of the household and distributes food and other rations to her.²⁵ This is problematic for the power relations within a household, especially if the man who later joins his family fails or refuses to register as a refugee, which would also mean that there would be a shortage of food rations within the home.²⁶ Some traditional South Sudanese practices involve large dowries to be paid to the parents of the bride, which reduces female children to a source of income and renders them extremely vulnerable to forced and early marriage.²⁷

Despite efforts by United Nations High Commissioner for Refugees (UNHCR) and its agencies as well as civil society organisations engaging in advocacy on the promotion and protection of rights, a trend of high prevalence of all forms of GBV has continued in the Settlement.²⁸ In response to this situation, HRAFP has opened a legal aid clinic at Bolomoni Health Center III with the purpose of providing pro bono legal services to victims of SGBV in particular.

¹⁸ UNHCR (n 14 above) 18.

¹⁹ As above.

²⁰ UNHCR *Uganda Country Refugee Response Plan: The integrated response plan for refugees from South Sudan, Burundi and the Democratic Republic of the Congo January 2019 – December 2020* (2019) 6.

²¹ UNHCR (n 14 above) 22.

²² As above at 1.

²³ H Liebling, H Barrett & L Artz 'South Sudanese Refugee Survivors of Sexual and Gender-Based Violence and Torture: Health and Justice Service Responses in Northern Uganda' (2020) 17 *International Journal of Environmental Research and Public Health* 5.

²⁴ As above at 6.

²⁵ As above.

²⁶ As above.

²⁷ As above.

²⁸ UNHCR (n 20 above) 15.

1.2 Methodology

The information used in the compilation of this report was collected from cases handled at HRAPF's legal aid clinic referred by Médecins du Monde (MDM) and other actors working on SGBV issues within Bidi Bidi Refugee Settlement.

The data collection exercise focused on collecting quantitative as well as qualitative data on the number of cases and nature of SGBV suffered by refugees and asylum seekers within the Settlement. The cases presented in this report are the only ones which could be independently verified with available data, even though there are many more instances of SGBV which did occur during the period under consideration within the Settlement.

In total, 59 cases of SGBV were recorded within the Settlement for the period of July 2019 to May 2020. This report reflects the cases handled by the HRAPF legal aid clinic only.

The cases were verified by examining the case files and all supporting documents such as police forms, doctors' reports, mediation agreements, witness statements and photographic evidence. In some cases, the victims, referring entities as well as medical workers and legal aid service providers who worked on the cases were interviewed in order to clarify and verify facts of the cases.

1.3 Limitations

A total of 59 SGBV cases were recorded by HRAPF in the period under review. However, only 51 of these cases could be verified and therefore not all of the recorded cases are included and analysed in the report. It is important to bear in mind that a large number of SGBV cases continue to go unreported or are reported but not well documented and therefore not verifiable, so this report is in no way a complete and accurate depiction of all violations rooted in gender inequality suffered by refugees and asylum seekers living within the Refugee Settlement.

2. SGBV CASES RECORDED IN BIDI BIDI REFUGEE SETTLEMENT FOR THE PERIOD OF JULY 2019 TO MAY 2020

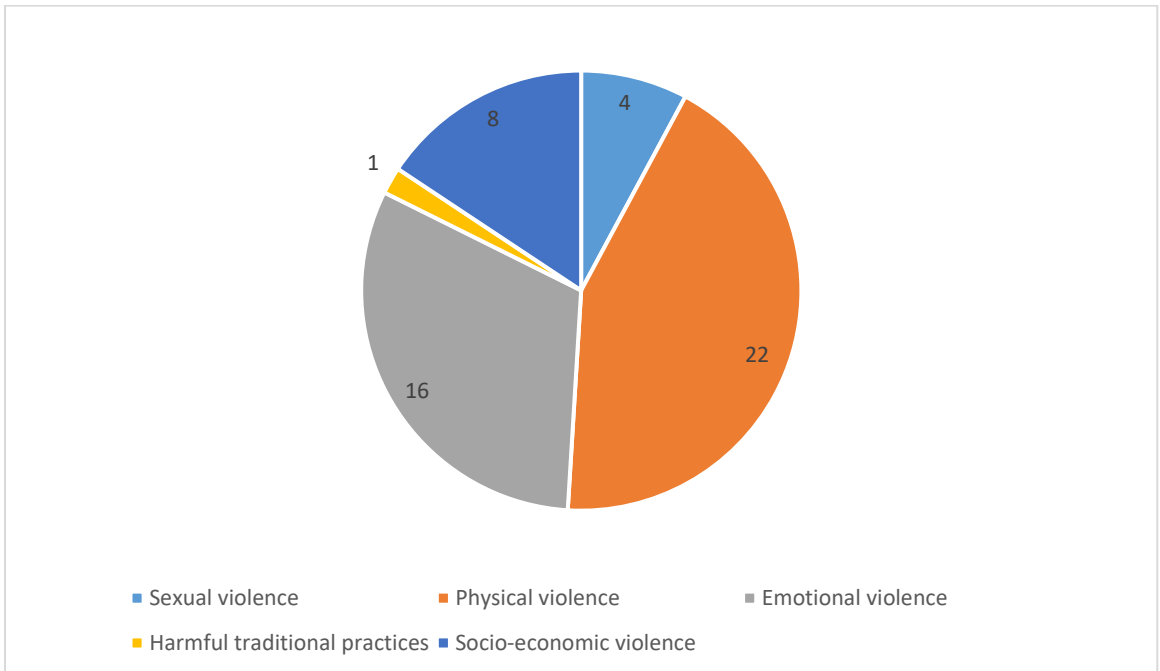
2.1 Introduction

This section of the report discusses the number of instances of SGBV recorded and verified to have taken place within Bidi Bidi Refugee Settlement for the period of July 2019 to May 2020. It also discusses the nature of SGBV cases recorded according to the five categories namely sexual violence, physical violence, emotional and psychological violence, harmful traditional practices and socio-economic violence.

2.2 Number of cases of SGBV

During the period under review, a total of 51 cases of SGBV were verified. These cases include four cases of sexual violence; 22 cases of physical violence; 16 cases of emotional and psychological violence; eight cases of socio-economic violence and one case concerning a harmful traditional practice.

CHART 1: Numbers of various categories of SGBV suffered within Bidi Bidi Refugee Settlement in period of July 2019 to May 2020



2.3 Nature of cases of SGBV

During the period under review, 51 cases of SGBV were recorded which can be classified under five particular categories.

2.3.1 Sexual violence

There were four cases of sexual violence recorded in the period under review. These three cases affected one woman and three adolescent girls. Sexual violence includes rape and marital rape, child sexual abuse, defilement, incest, sexual exploitation, sexual harassment and sexual violence as a weapon of war.²⁹

In the first case, a woman was attacked and raped by a stranger while she was travelling on foot to her uncle's home.³⁰ The woman fell pregnant as a result of the rape. In a similar case, a 16-year old girl was raped by a stranger while she was travelling from a funeral.³¹ In the third case, a 14-year old girl was defiled by her 19-year old boyfriend.³²

In the fourth case, a 16-year old girl was raped by a man who was a refugee and had been employed to provide humanitarian aid within the Settlement.³³ The girl became pregnant as a result of the rape. The Police arrested the perpetrator, however the relatives of the victim and the relatives of the perpetrator decided to settle the matter outside of the criminal justice system and the girl's relatives received a cow and UGX 600,000 as compensation.

It is believed that the instances of sexual violence within the Settlement is far higher than what these few cases reflect, but that these cases mostly go unreported due to the stigma attached to victimisation of a sexual crime.

2.3.2 Physical violence

The greatest number of SGBV cases recorded in the Settlement were cases of physical violence. Physical violence includes physical assault and human trafficking.³⁴ A total of 22 cases of physical violence were recorded in the period under review. These cases victimised 20 women, 7 children and two men.

Two cases were recorded in which people were beaten by in-laws who were angry about the fact that dowries were not paid to them. In the first case, a man was beaten by his brother's in-law who came to the brother's home to demand the unpaid dowry.³⁵ The in-law did not find

²⁹ UNHCR (n 14 above) 16-17.

³⁰ HRAPF/SGBV/2020/029.

³¹ HRAPF/SGBV/2020/035.

³² HRAPF/SGBV/2020/039.

³³ HRAPF/SGBV/2020/040.

³⁴ UNHCR (n 14 above) 17.

³⁵ HRAPF/SGBV/2020/016.

the man he was looking for and beat his brother instead. In another case, a 65-year old woman was beaten by her in-laws over unpaid dowry for their daughter.³⁶ Both these cases were assertions of male dominance over female sexuality and reproductive capacity, one of which directly affected a man.

The majority of physical violence cases arose out of domestic disputes where men attempted to assert their dominance over their wives and to control their wives' behaviour. A quarrel over sharing of food between a husband and wife ended with the wife suffering a beating from her husband.³⁷ Another woman was beaten by her husband for coming home drunk.³⁸ In another case, a woman was assaulted by her husband who accused her of causing division in the family by refusing to love her co-wife and to feed the children of her co-wife.³⁹ The man pushed the woman to the ground and beat her to the point of dislocating her jaw. Another woman, who had left home to go out to have a drink was followed by her husband who beat her in attempts to force her to return home.⁴⁰ Another woman was beaten by her husband for failing to bathe their child early in the evening as he had expected her to do.⁴¹ Another woman was beaten by her husband who accused her of stealing money from him.⁴² In another case, a woman was beaten by her husband because she stayed out later than he expected her to when she collected firewood and he suspected her of spending time with other men.⁴³ Another woman, who is one of three wives, also faced repeated physical abuse by her husband.⁴⁴ There was also a case of a woman who faced repeated beatings by her husband who would also force her and their six children out of their home whenever he came home drunk.⁴⁵ Another woman and her child was beaten by her husband upon returning from a funeral.⁴⁶ The man proceeded to set their house on fire.

In another case, the husband of a pregnant woman argued with her because she wanted to start a small business with capital she received from her brother, yet he did not want her to earn her own living.⁴⁷ During the argument, the man pushed the woman to the ground. She fell on her stomach and lost her pregnancy. In two other cases, women faced habitual physical abuse from their husbands.⁴⁸ Another woman was repeatedly beaten by her husband and feared that she could lose her pregnancy in the absence of a successful intervention.⁴⁹ Another woman's husband came home drunk and started collecting all the food in the house because

³⁶ HRAPF/SGBV/2020/012.

³⁷ HRAPF/SGBV/2020/026.

³⁸ HRAPF/SGBV/2020/001.

³⁹ HRAPF/SGBV/2020/006.

⁴⁰ HRAPF/SGBV/2020/037.

⁴¹ HRAPF/SGBV/2020/008.

⁴² HRAPF/SGBV/2020/030.

⁴³ HRAPF/SGBV/2020/024.

⁴⁴ HRAPF/SGBV/2020/010.

⁴⁵ HRAPF/SGBV/2020/031.

⁴⁶ HRAPF/SGBV/2020/033.

⁴⁷ HRAPF/SGBV/2020/043.

⁴⁸ HRAPF/SGBV/2020/044 & HRAPF/SGBV/2020/045.

⁴⁹ HRAPF/SGBV/2020/058.

he wanted to sell it.⁵⁰ When the woman tried to stop him, she was beaten by her husband. She left their home and fears to return. In another case, a woman's husband wanted to sell their sewing machine, even though it was the only source of income for the family.⁵¹ The woman tried to stop her husband from going through with the sale, which caused him to become angry and he beat her.

In two cases, women suffered physical violence because their husbands blamed them for misfortunes which were clearly not within their control. In one case, a woman was beaten by her husband who blamed her for the death of their children.⁵² The man also threatened to burn the house down and kill the woman if she did not leave their home. Another woman suffered a similar fate because her husband blamed her for the fact that their under-aged daughter had been defiled and became pregnant.⁵³

In one case, a man was a victim of ongoing domestic violence at the hands of his wife.⁵⁴ The man's wife had beaten him in front of their children on several occasions and once threw a chair at him in a fit of anger. In one case, domestic violence occurred when a woman was beaten by her co-wife during an argument over food rations.⁵⁵

2.3.3 Emotional and psychological violence

There were sixteen cases of emotional and psychological violence recorded in the period under review. Emotional and psychological violence includes verbal abuse that is insulting, degrading or demeaning, confinement and isolation and the denial of basic resources for family survival.⁵⁶ Fourteen women and two adolescent girls were the direct victims of emotional and psychological violence, while 17 children were also affected. The emotional violence was mostly perpetrated by intimate partners of the victims.

In one case, a woman and her child were abandoned by the father of the child, thereby denying them basic resources for family survival.⁵⁷ A 17-year old girl was chased out of the family home by her father after she became pregnant.⁵⁸ A woman and her children were abandoned by her husband, thereby denying them basic resources.⁵⁹ Another woman suffered psychological violence when her husband claimed that her unborn child was not his.⁶⁰ The woman's husband told her to go and look for the child's father and chased her away from their

⁵⁰ HRAPF/SGBV/2020/048.

⁵¹ HRAPF/SGBV/2020/051.

⁵² HRAPF/SGBV/2020/034.

⁵³ HRAPF/SGBV/2020/036.

⁵⁴ HRAPF/SGBV/2020/042.

⁵⁵ HRAPF/SGBV/2020/027.

⁵⁶ UNHCR (n 14 above) 17.

⁵⁷ HRAPF/SGBV/2020/002.

⁵⁸ HRAPF/SGBV/2020/028.

⁵⁹ HRAPF/SGBV/2020/023.

⁶⁰ HRAPF/SGBV/2020/003.

home. A 17-year old girl was abandoned by her boyfriend after she fell pregnant with his child.⁶¹ A woman and her eight children were abandoned by her husband after she fell pregnant with their ninth child.⁶²

A woman was accused by her husband of having an affair with another man.⁶³ The woman was sent away from their home and was left without refuge or sustenance. In another case, a woman approached HRAPF and the local area chairperson to support her in negotiating with her husband who refused to provide for the family.⁶⁴ When the husband found out about the planned mediation, he abandoned the woman and their children. In another case, a woman was distressed by the fact that her husband refused to buy soap for the family, which she considered a basic necessity.⁶⁵ Another woman's husband also refused to provide the basic necessities for the family, even though he had money.⁶⁶ A woman was threatened and intimidated by her husband and feared for her life.⁶⁷ Her husband also tended to sell the food in the house in order to buy alcohol, depriving the family of basic necessities. Another woman suffered emotional violence because her husband had affairs with a number of other women within the community and would rarely spend the night at their home.⁶⁸

In two cases, women were abandoned by their husbands because they gave birth to girls only.⁶⁹ In one of the cases, the woman's husband told her that she must 'suffer' for failing to give birth to boys after which he returned to South Sudan, abandoning his wife and four daughters.⁷⁰

A woman confronted her brother-in-law because he damaged the solar panel of their shared home.⁷¹ The brother-in-law responded by threatening the woman and locking all the family's food away.

Another woman was repeatedly verbally abused by her male neighbor who constantly insulted her and called her a 'witch' and other derogatory names in front of her children.⁷² The neighbor repeatedly told the woman to leave the village.

⁶¹ HRAPF/SGBV/2020/005.

⁶² HRAPF/SGBV/2020/011.

⁶³ HRAPF/SGBV/2020/046.

⁶⁴ HRAPF/SGBV/2020/049.

⁶⁵ HRAPF/SGBV/2020/052.

⁶⁶ HRAPF/SGBV/2020/053.

⁶⁷ HRAPF/SGBV/2020/060.

⁶⁸ HRAPF/SGBV/2020/059.

⁶⁹ HRAPF/SGBV/2020/015; HRAPF/SGBV/2020/019.

⁷⁰ HRAPF/SGBV/2020/015.

⁷¹ HRAPF/SGBV/2020/056.

⁷² HRAPF/SGBV/2020/057.

2.3.4 Harmful traditional practices

One case was recorded in which SGBV manifested in a harmful traditional practice, to the detriment of the victim. Harmful traditional practices include female genital mutilation, early and forced marriage, honour killings and maimings, infanticide or infant neglect and denial of education for girls or women.⁷³

In the one recorded case, an 18-year old woman was forced by her uncle to marry her boyfriend because she had fallen pregnant.⁷⁴ The woman did not want to get married to her boyfriend and sought HRAPF's services to help her avoid a union to which she did not consent. Even though the woman's relatives were not successful in forcing her into the marriage, she nevertheless suffered a violation of her dignity and rejection from her family for refusing to give in to their demands.

2.3.5 Socio-economic violence

There were eight cases of socio-economic violence recorded in the period under review. All of the victims in these cases were women and three children were also affected. Socio-economic violence includes discrimination and denial of opportunities and services to women and girls, social exclusion and obstructive legislative practice.⁷⁵

In two cases, women and girls suffered SGBV due to an obstructive legislative practice. In one case, a girl fell pregnant at the age of 16 with the child of her 17-year old boyfriend, but she could not abort the pregnancy as this is forbidden by the law.⁷⁶ In another case, a woman fell pregnant after being raped by a stranger, but due to the restrictive legal regime on abortion had no choice but to give birth to the child.⁷⁷

A case was recorded in which a woman and her husband had a misunderstanding about a goat which belonged to the woman as it was a gift to her from her father.⁷⁸ The man chased the woman and her three children away from the home and kept the goat for himself, thereby depriving her of the benefit of this asset. In another case, a woman's husband stole her money and food from her house which he took her co-wife's home.⁷⁹ The man also packed his own clothes and belongings and abandoned his wife. In another case, a man sold all the food that was in the house in order to buy alcohol, which left his wife to go hungry.⁸⁰ In another case, woman's husband came to her home, collected her three goats, bicycle and a sack of sorghum

⁷³ UNHCR (n 14 above) 18. HRAPF/SGBV/2020/016.

⁷⁴ HRAPF/SGBV/2020/004.

⁷⁵ UNHCR (n 14 above) 18.

⁷⁶ HRAPF/SGBV/2020/022.

⁷⁷ HRAPF/SGBV/2020/029.

⁷⁸ HRAPF/SGBV/2020/007.

⁷⁹ HRAPF/SGBV/2020/018.

⁸⁰ HRAPF/SGBV/2020/016.

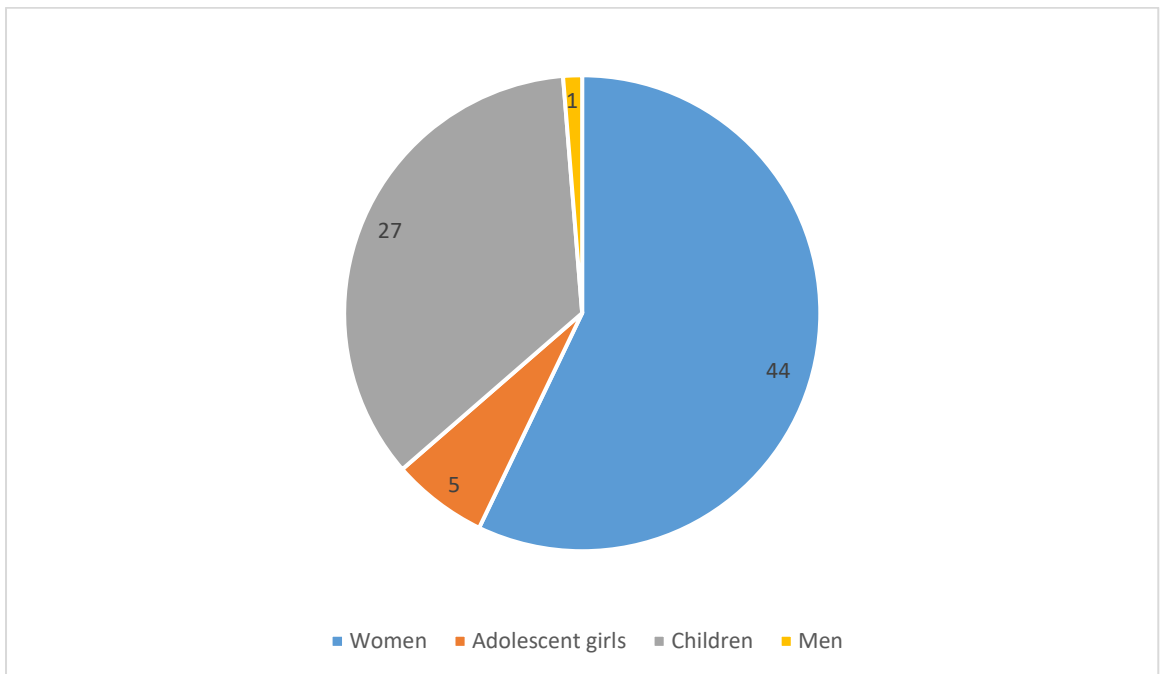
and delivered them to his second wife without her consent.⁸¹ Another woman who runs a small shop is deprived from the benefits of this shop as her husband collects all the profit that she makes while also refusing to provide for the family.⁸²

In one case, a woman’s husband went to her workplace and informed the management that he no longer wanted his wife to work there.⁸³ The employer decided to dismiss the woman since her domestic issues were spilling into her work life. The man therefore caused his wife to be denied the work opportunity which she previously enjoyed. HRAPF mediated the matter and the woman was reinstated.

2.4 Victims of SGBV

The 51 cases of SGBV directly victimised 44 women, five adolescent girls, seven children and two men. A further 20 children were also affected by these cases of violence, even though they were not the direct victims. Women and adolescent girls were by far the majority of the victims, although men and both male and female children were also affected by the SGBV.

CHART 2: Victims of SGBV in Bidi Bidi Refugee Settlement for the period of July 2019 to May 2020



⁸¹ HRAPF/SGBV/2020/047.

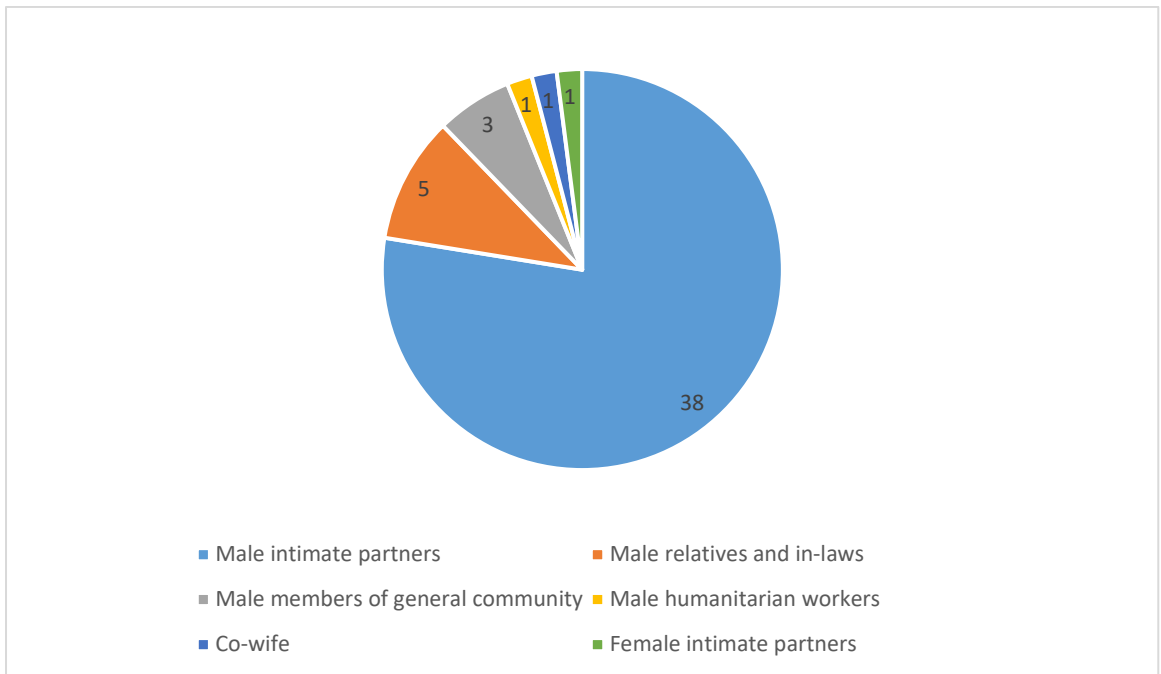
⁸² HRAPF/SGBV/2020/054.

⁸³ HRAPF/SGBV/2020/041.

2.5 Perpetrators of SGBV

The 51 instances of SGBV were perpetrated by 38 male intimate partners of the victims, one female intimate partner of the victim, three male members of the general community, one male humanitarian aid worker, five male relatives or in-laws of the victims and one co-wife to the victim. This means that 47 of the perpetrators were male. In two cases, the SGBV was not inflicted by a particular person, but rather by a restrictive abortion regime and therefore the state is responsible for these violations rather than a particular individual perpetrator.

CHART 3: Perpetrators of SGBV in Bidi Bidi Refugee Settlement in period of July 2019 to May 2020



This means that non-state actors were responsible for 49 out of 51 cases or 96.1% of SGBV, while the state through its restrictive abortion legislation was responsible for the remaining two cases.

2.6 Conclusion

This section set out the number and nature of SGBV suffered within Bidi Bidi Refugee Settlement in the period of July 2019 to May 2020. A total of 51 cases of SGBV were recorded, which includes sexual violence, physical violence, emotional and psychological violence, socio-economic violence and harmful traditional practices. The majority of the victims of SGBV were women and adolescent girls while the majority of perpetrators were intimate partners of victims, particularly husbands.

3. STATE RESPONSE TO CASES OF SGBV RECORDED IN BIDI BIDI REFUGEE SETTLEMENT FOR THE PERIOD OF JULY 2019 TO MAY 2020

3.1 Introduction

This section considers the state response to the cases of SGBV recorded in this report. The state is responsible for acts and omission by its organs and agents that constitute SGBV against women.⁸⁴ States are to take measures to prevent such acts or omissions by their organs and agents; investigate and prosecute cases of SGBV and ensure sanctions and reparations where needed.⁸⁵

Whereas non-state actors were directly responsible for 49 of the 51 cases of SGBV recorded in this report, the state can be held responsible for some of these actions perpetrated by non-state actors as it has a duty to prevent and address SGBV.

3.2 State responsibility to prevent and address SGBV by non-state actors

The CEDAW Committee has clarified the circumstances under which the state is to be held responsible for acts or omissions by private actors. Article 2 of the CEDAW creates an obligation of due diligence by requiring of states parties 'to take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise'.⁸⁶ States are responsible when they fail to take 'all appropriate measures to prevent as well as to investigate, prosecute, punish and provide reparation for acts or omissions by non-State actors' which result in GBV against women.⁸⁷ The 'due diligence' obligation requires of states to adopt and implement various measures to address and prevent GBV committed by non-State actors.⁸⁸ States are required to have laws, institutions and systems in place in order to address GBV and must also ensure that these operate effectively in practice.⁸⁹ Failure of States to take 'all appropriate measures' to prevent acts of GBV or to investigate, prosecute and punish these acts and provide reparation to the victims constitute human rights violations.⁹⁰ The state furthermore has a duty to ensure that asylum-seeking women and refugee women are not exposed to the violation of their rights as protected under the CEDAW, including when such violations are committed by non-state actors.⁹¹

⁸⁴ CEDAW Committee (n 8 above) par. 22.

⁸⁵ As above at par. 23.

⁸⁶ As above at par. 24(b).

⁸⁷ As above.

⁸⁸ As above.

⁸⁹ As above.

⁹⁰ As above.

⁹¹ CEDAW Committee General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations (2013) par.7.

The state is required to adopt legislation prohibiting all forms of GBV against women and girls in accordance with the CEDAW. To this end, Uganda has adopted legislation and constitutional provisions which prohibit domestic violence and female genital mutilation (FGM). Article 33 of the Constitution of the Republic of Uganda provides that women shall be accorded full and equal dignity with men.⁹² The provision obliges the state to protect women and their rights and prohibits laws, cultures, customs or traditions which are against the dignity, welfare or interest of women, or which undermine their status.⁹³

The Domestic Violence Act, 2010 provides for the protection and relief of victims of domestic violence as well as for the punishment of perpetrators. The Act sets out the procedure to be followed by Local Council Courts in addressing complaints of domestic violence.⁹⁴ The Act also make explicit the duties on Police officers in respect of domestic violence cases. Police officers are to assist victims who lodge complaints of domestic violence, including by providing assistance or advice to obtain shelter.⁹⁵ Police officers are also to ensure that victims undergo medical examination and receive medical treatment where signs of physical or sexual abuse are evident.⁹⁶ Police officers are also to advise victims of their right to apply for relief in terms of the Act and their right to lodge a criminal complaint.⁹⁷ The Prohibition of Female Genital Mutilation Act, 2010 makes it an offence punishable by imprisonment to carry out FGM.⁹⁸ The Act also makes it a criminal offence to discriminate against a female on the basis of the fact that she has not undergone FGM.⁹⁹ There remains legal provisions on Uganda's law books which restrict women's rights and autonomy, particularly section 141, 142 and 143 of the Penal Code Act which criminalises abortion with an extremely narrow exception.

According to the CEDAW Committee, the state is furthermore required to 'provide accessible, affordable and adequate services to protect women from gender-based violence, prevent its reoccurrence and provide or ensure funding for reparations'.¹⁰⁰ States are required to eliminate institutional practices which provide context for a negligent response to cases of GBV.¹⁰¹ This requires investigation of law enforcement and other public authorities for inefficiency and negligence in handling GBV cases.¹⁰²

⁹² Art 33(1) of the 1995 Constitution.

⁹³ Art 33(3) & 33(6).

⁹⁴ Sec 6.

⁹⁵ Sec 7(2)(a).

⁹⁶ Sec 7(2)(b).

⁹⁷ Sec 7(2)(c).

⁹⁸ Sec 5.

⁹⁹ Sec 11.

¹⁰⁰ CEDAW Committee (n 8 above) par. 26(b).

¹⁰¹ As above.

¹⁰² As above.

3.3 State response to cases of SGBV in Bidi Bidi Refugee Settlement

Despite the detailed obligations on the state to prevent and address SGBV, the machinery to protect women within the Bidi Bidi Refugee Settlement against SGBV and to investigate and prosecute cases of SGBV and ensure reparations are not functioning effectively at present.

Many of the cases of SGBV recorded in this report would include a criminal offence which would require the intervention of the Police in particular. However, only four out of the 22 cases of physical violence were reported to the Police despite HRAPF's advice to do so. The Police also only effectively handled two of the four cases of sexual violence recorded in this report. It appears that victims of SGBV do not have a profound faith in the Police to resolve their cases and to ensure that they are protected and compensated for the losses that they suffered. This is evident in the low numbers of cases reported to the Police and the fact that complainants would often not follow through with the subsequent steps in the investigation after reporting the matter. In cases where the Police are involved in addressing the SGBV suffered, they seem content to defer the matters to civil society service providers for mediation and resolving the conflict between parties. The troubling aspect of this practice is that serious crimes which ought to be prosecuted by the state are treated as civil matters which simply need to be mediated between two conflicting parties. In one case, an adolescent girl was raped by a humanitarian worker.¹⁰³ While the Police were initially involved in resolving the case, they ceased investigations after the relatives of the perpetrator compensated the relatives of the victim with a cow and UGX 600,000.¹⁰⁴

The Police did intervene in eight of the cases, in two of which arrests of some of the perpetrators were made.¹⁰⁵ However, in all the cases in which the victims received any form of reparations or where the matters were mediated between parties, this was facilitated by NGOs providing aid within the Settlement.

3.4 Conclusion

The state has by and large failed in its mandate to provide services to protect women from SGBV and its reoccurrence within the Settlement, as well as the obligation to ensure funding for reparations. There is need to take urgent steps to eliminate institutional practices which create a climate that encourages inefficient and negligent responses to cases of SGBV.

¹⁰³ See n 33 above.

¹⁰⁴ As above.

¹⁰⁵ See n 35 and n 36 above.

4. CONCLUSION AND RECOMMENDATIONS

4.1 General conclusion

This report finds that there were 51 verified cases of SGBV within the Bidi Bidi Refugee Settlement for the period of July 2019 to May 2020. Five categories of SGBV were identified, namely sexual violence, physical violence, emotional and psychological violence, harmful traditional practices and socio-economic violence. Physical violence is the most common form of SGBV to be recorded in the Settlement. The vast majority of victims of SGBV are women and adolescent girls, while the majority of perpetrators are the male intimate partners of the victims. Non-state actors were responsible for 49 of the violations, however the state did not take all necessary measures to prevent, investigate and prosecute these matters nor to provide reparations to the victims and is therefore also responsible for these violations. There is need for robust advocacy within the Settlement in order to address the prevailing issue of SGBV and its underlying causes.

4.2 Recommendations

To Parliament

1. Ensure that the Sexual Offences Bill is adopted with progressive definitions of sexual offences which are aligned with international human rights law and provisions for adequate sanctions and punishments for perpetrators of sexual violence.
2. Repeal section 141, 142 and 143 of the Penal Code Act which criminalises abortion with extremely narrow exception and adopt a new law to regulate abortion in the country and clearly indicate the circumstances under which abortion is not prohibited.

To the Uganda Police Force

1. Train Police officers to ensure that they are aware that the use of alternative dispute resolution procedures in SGBV cases should be strictly regulated and only allowed if it can be guaranteed that the victim has given her free and informed consent to resort to such a mechanism and there are no indicators that the victim will suffer further harm.
2. Ensure that Police officers are trained on an ongoing basis on gender-based violence and have an in-depth understanding of the societal factors which perpetuate SGBV, such as gender stereotypes and intersectional discrimination.

3. Increase the number of Police officers assigned to the Child Family and Protection Unit (CFPU) in Yumbe District in order to allow for effective responses to the SGBV cases that occur in the Settlement.

To the Office of the Prime Minister (OPM)

1. Continue to provide support to partners providing legal aid and other services for the survivors of SGBV in the Settlement.
2. Support partners in advocacy efforts against negative socio-cultural practices that violate the rights of refugees.
3. Continue to support efforts to raise awareness on issues faced by refugees among protection partners, duty bearers and the general public in order to foster deeper understanding and acceptance of the humanity and rights of refugees in the Settlement.
4. Engage in advocacy with health service providers to ensure access to Sexual Reproductive Health (SRH) services to victims of SGBV in order to promote respect for and observance of their right to health.
5. Develop the capacity of staff to report on violations faced by refugees and invest in accurate and effective reporting systems to ease collection and verification of data on the violation of rights of refugees.

To international humanitarian aid and human rights organisations

1. Continue to provide support and technical assistance to partners providing free legal aid service for the survivors of SGBV in the Settlement.
2. Support local partners in advocacy against negative socio-cultural practices that perpetuate conceptions of a sub-ordinate role for women in society.
3. Identify, monitor and document cases of SGBV suffered by refugees within the Settlement.
4. Continue to support efforts to raise awareness on issues faced by refugees among protection partners, duty bearers and the general public in order to foster deeper understanding and acceptance of the humanity and rights of refugees in the Settlement.

5. Engage in advocacy with health service providers to ensure access to Sexual Reproductive Health (SRH) services to victims of SGBV in order to promote respect for and observance of their right to health.
6. Increase financial resources allocated for the prevention and response to SGBV among refugees.
7. Strengthen protection and assistance programmes which address SGBV among refugees.

To local CSOs providing services within the Settlement

1. Strengthen systems in order to accurately document, monitor and report on cases of SGBV within the Settlement.
2. Continue to undertake awareness-raising programmes which promote an understanding of the harm associated with SGBV and inform about the available avenues of recourse for victims. These programmes should be aimed at the general community within the Settlement.

Books and chapters in books

Muthien, B & Combrinck, H 'When rights are wronged: Gender-based violence and human rights in Africa' in Bahati Kuumba, M & White, M (eds) *Transnational transgressions: African women, struggle and transformation in global perspective* (2004).

Journal articles

Liebling, H; Barrett, L & Artz, L 'South Sudanese Refugee Survivors of Sexual and Gender-Based Violence and Torture: Health and Justice Service Responses in Northern Uganda' (2020) 17 *International Journal of Environmental Research and Public Health* 5.

Reports

HRAFP *A guide to the normative legal framework on the human rights of LGBTI persons in Uganda* (2019).

UNHCR *Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response* (2003) 15.

UNHCR *Uganda Country Refugee Response Plan: The integrated response plan for refugees from South Sudan, Burundi and the Democratic Republic of the Congo January 2019 – December 2020* (2019) 6.

International instruments

Committee on the Elimination of Discrimination Against Women, General Recommendation 19: Violence Against Women, Eleventh Session (1992).

Committee on the Elimination of Discrimination Against Women, General Recommendation No. 30: Women in conflict prevention, conflict and post-conflict situations (2013).

Committee on the Elimination of Discrimination Against Women, General Recommendation 35 on gender-based violence updating General Recommendation 19, (2017) par.2.

Convention on the Elimination of all forms of Discrimination Against Women (1981)

Domestic legislation

The Domestic Violence Act, 2010

The Prohibition of Female Genital Mutilation Act, 2010

Background

Human Rights Awareness and Promotion Forum is a voluntary, not for profit, and non-partisan Non-Governmental Organisation. HRAPF works for the promotion, realisation, protection and enforcement of human rights through human rights awareness, research, advocacy and legal aid service provision, with a particular focus on minorities and disadvantaged groups. It was established in 2008 with a vision of improving the observance of human rights of marginalised persons in Uganda.

Legal Status

HRAPF is incorporated under the laws of Uganda as a company limited by guarantee.

Vision

A society where the human rights of all persons including marginalised persons and Most at Risk Populations are valued, respected and protected.

Mission

To promote respect and protection of human rights of marginalised persons and Most at Risk Populations through enhanced access to justice, research and advocacy, legal and human rights awareness, capacity enhancement and strategic partnerships.

HRAPF's Objectives

1. To create awareness on the national, regional and international human rights regime.
2. To promote access to justice for marginalised persons and Most at Risk Population groups.
3. To undertake research and legal advocacy for the rights of marginalised persons and Most at Risk Population groups.
4. To network and collaborate with key strategic partners, government, communities and individuals at national, regional and international level.
5. To enhance the capacity of marginalised groups, Most at Risk Populations and key stakeholders to participate effectively in the promotion and respect of the rights of marginalised persons.

6. To maintain a strong and vibrant human rights organisation.

Our target constituencies

1. Lesbian, Gay, Bisexual and Transgender (LGBT) persons
2. Intersex Persons
3. Sex Workers
4. Women, girls and service providers in conflict with abortion laws
5. People who use drugs
6. People Living with HIV and TB (PLHIV/TB)
7. Poor women, children and the elderly with land justice issues
8. Refugees

HRAPF Values

- Equality, Justice and Non-Discrimination
- Transparency, Integrity and Accountability
- Learning and Reflection
- Quality and Excellence
- Teamwork and Oneness
- Passion and Drive
- Networking and Collaboration

Slogan

Taking Human Rights to all

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