



ISSUE PAPER

CHILD MARRIAGE AMONG REFUGEES IN UGANDA

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PREFACE

Child marriage is a social and human rights challenge in Uganda. Despite the existence of a legal regime which clarifies the lawful age of marriage for both males and females at 18 years, the practice of marriage of minor girls continue throughout the country. Child marriage is a matter of concern, not only within the local Ugandan communities, but also among the refugee community, totalling about 1.5 million people, who reside in various parts of the country.

There are various recognised factors which render girls vulnerable to early marriage, such as patriarchal gender norms which view marriage at a young age as a means to ‘protect’ a girl from premarital sex and having children outside of wedlock. Social norms within Uganda also strongly associate marriage and child-bearing with identity and social status within the community. Many communities also place great value on bride price as a source of wealth. These factors, along with others, are at play even more strongly in the case of girls who have escaped conflict situations and live as refugees or asylum-seekers within Uganda.

This issue paper discusses the challenge of child marriage among refugees in Uganda and considers the impact of child marriage on refugee girls as well as steps that can be taken to reduce the incidence of child marriage among refugees.

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1. INTRODUCTION

Child marriage is the formal or informal union of a girl or boy under the age of 18 with another for the purpose of living together as husband and wife.¹ In Uganda, child marriage is a common phenomenon, particularly in rural and poverty-stricken areas of the country.² According to the 2016 Uganda Demographic and Health Survey, 43% of women aged 25-49 were married before the age of 18.³

In Ugandan society, child marriage is rooted in social norms and practices, as well as economic pressures which can seemingly be relieved by transferring the responsibility of taking care of girl children to their husbands and receiving a bride price in return.⁴ Child marriage is also prevalent within the refugee communities settled in various districts of Uganda.⁵

Uganda hosts approximately 1.5 million refugees who have fled from mainly neighbouring Burundi, Democratic Republic of the Congo and South Sudan.⁶ In 2018, there were 985,512 South Sudanese, 271,967 Congolese and 36,677 Burundian refugees in the country with a continuing influx.⁷ The majority of these refugees are living in refugee settlements, while others have integrated with the local population in towns and cities.⁸ Among these refugee communities, child marriage is a common practice in order to enforce patriarchal social and cultural norms and generate income for families living in abject poverty through bride price or dowry.⁹

Child marriage is a form of Sexual and Gender-Based Violence (SGBV) which is both a cause and consequence of the heightened vulnerability of refugees.¹⁰ Child marriage impairs the development of the girl child in particular and exposes girls and young women to domestic and sexual violence, early pregnancy and heightened risk of maternal mortality.¹¹

This issue paper considers the phenomenon of child marriage among refugees in Uganda. The paper firstly defines child marriage, after which the legal framework prohibiting child

¹ Sec 1 of Children Act, Cap 59.

² UNICEF *Ending child marriage and teenage pregnancy in Uganda* (2015) 28.

³ Uganda Bureau of Statistics *Uganda Demographic Health Survey* (2016) 73.

⁴ UNICEF (n 2 above) 25, 28.

⁵ Refugee Law Project *Giving out their daughters for their survival: Refugee self-reliance, 'vulnerability', and the paradox of early marriage* Working Paper No. 20 (2007) 13.

⁶ 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.

⁷ As above at 6.

⁸ R Nara, A Banura & AM Foster 'Exploring Congolese refugees' experiences with abortion care in Uganda: a multi-methods qualitative study' (2019) 27:1 *Sexual and Reproductive Health Matters* 265.

⁹ Refugee Law Project (n 5 above) 13.

¹⁰ UNHCR (n 6 above) 18.

¹¹ UNICEF (n 2 above) 3.

marriage in Uganda is discussed, followed by a consideration of the occurrence of child marriage among refugees in Uganda, the impact of this practice on refugees and recommended actions for addressing and curbing child marriage among refugee communities.

2. DEFINITION OF CHILD MARRIAGE

Child marriage can be defined as a marriage of a girl or boy before the age of 18 to either an adult or another under-aged person.¹² Child marriage includes formal marriages as well as informal unions according to which children under the age of 18 live with a partner as if they are married.¹³ Child marriage disproportionately affects girls and approximately 36.7% of women who were between the ages of 18-22 in 2016 were married when they were younger than 18.¹⁴

3. LEGAL FRAMEWORK REGULATING CHILD MARRIAGE

There are various international and regional instruments to which Uganda is party which specifically address and prohibit child marriage. Article 16 of the Convention on the Elimination of all forms of Discrimination Against Women prohibits child marriage and states that ‘the betrothal and the marriage of a child shall have no legal effect’.¹⁵ The United Nations Convention on the Rights of the Child prohibits traditional practices which are prejudicial to the health of the child.¹⁶ The Convention also protects children against sexual abuse and any coerced unlawful sexual activity.¹⁷

In terms of regional instruments, Article 21 of the African Charter on the Rights and Welfare of the Child provides that child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be eighteen years.

Under domestic Ugandan laws, child marriage is expressly prohibited. According to the Children Act, Cap. 59, a child has a right to be protected against all forms of violence, including child marriage.¹⁸ The Act also defines a child as a person below the age of 18

¹² The World Bank and the International Center for Research on Women (ICRW) *The economic impacts of child marriage* (2017) 1.

¹³ See Sec 1 of the Children Act, Cap 59.

¹⁴ The World Bank (n 12 above) 1.

¹⁵ Art 16(2).

¹⁶ Art 24(3).

¹⁷ Art 34.

¹⁸ Sec 42A of the Children Act, Cap 59.

years.¹⁹ The Penal Code of Uganda, as amended, furthermore criminalises sexual intercourse with a person under the age of 18.²⁰

Laws prohibiting child marriage, though an important starting point, are unfortunately not sufficient in themselves to prevent child marriage and can simply drive the practice underground.²¹ Many cultures equate adulthood with physical maturity and would therefore consider a girl to be ready for marriage once she has started her menstrual periods.²² For South Sudanese refugees in particular, there is a clash in the laws of their country of origin and Uganda's prohibition of child marriage.²³ In South Sudan, it is legal for girls to be married as soon as they reach puberty.²⁴ Consequently, girls are often abducted or taken across the border and back to South Sudan for the purpose of being married off.²⁵

4. THE PHENOMENON OF CHILD MARRIAGE AMONG REFUGEES IN UGANDA

Child marriage is caused by a variety of interrelated factors within the social, economic and cultural context of a particular society.

Cultural practices and values are major drivers of child marriage in Ugandan society as well as within refugee communities hosted in the country.²⁶ Identity and status within a family and community is often associated with marriage and child bearing, particularly for girls.²⁷ The role of spouse and parent is an ambition which wins social acceptance and recognition of a new social status of 'adulthood'.²⁸

In the case of refugees, poverty and insecurity are two of the major driving factors which expose girls to early marriage. The socio-economic status of the girl's family, in particular, is directly related to her vulnerability to be married before she reaches the age of 18.²⁹ Bride price is considered as a crucial source of wealth, particularly for households that have been displaced and are struggling to survive as refugees in Uganda.³⁰ Among South Sudanese refugees in particular, women and girls are viewed as commodities and bride wealth is an

¹⁹ Sec 2.

²⁰ Art 129 of the Penal Code Act, as amended in 2007.

²¹ UNICEF (n 2 above) 22.

²² As above at 21.

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* 6.

²⁴ As above.

²⁵ As above.

²⁶ UNICEF (n 2 above) 23.

²⁷ As above at 24.

²⁸ As above.

²⁹ UNICEF (n 2 above) 28.

³⁰ Liebling (n 23 above) 6.

essential cultural practice to support the local economy.³¹ Due to this practice, girl children are vulnerable to abduction, both at the hands of strangers and family members.³² Girls are furthermore taken across the border and back to the conflict-ridden situation which they had escaped in order to be married off in order to escape the prohibitive legal regime in Uganda.³³

In the context of refugee settlements, girls are socialised in order to prepare them for marriage, and investing in the education of girls is, in turn, viewed as a waste of money.³⁴ In some cultures, it is furthermore believed that girls become 'distracted' once they reach puberty and stop being of help in keeping the parental home.³⁵ Parents may think that it will therefore be more profitable to ensure that the girl gets married than to continue providing for her needs.³⁶

The socio-cultural practices, poverty and insecurity suffered by refugees within refugee settlements, along with the widespread challenge of alcohol abuse, also contribute to their vulnerability to sexual violence.³⁷ Child marriage is often a desperate attempt by parents to provide their daughters with some level of male protection.³⁸ This insecurity within the settlements also interplays with strong notions of patriarchy and gender inequality which view marriage as a needed solution to a sexual relationship or extra-marital pregnancy involving a young girl.³⁹ In some cases, child marriage is also viewed as an appropriate remedy following mediation between the family of a girl who had become pregnant due to defilement and the defiler.⁴⁰ Child marriage is also viewed as a tactic on the part of a girl's family to 'preserve her virginity' and prevent her from bearing children outside of marriage, while at the same time prolonging the time period in which a girl can bear children for her husband.⁴¹ It is thus a tactic of controlling female sexuality as well as the productive and reproductive abilities of women.⁴²

³¹ As above at 5

³² As above.

³³ Liebling (n 23 above) 6.

³⁴ Refugee Law Project (n 5 above) 14.

³⁵ Women Living under Muslim Laws (WLML) *Child, early and forced marriage: A multi-country study* (2013) 16.

³⁶ As above.

³⁷ Liebling (n 23 above) 5; Refugee Law Project (n 5 above) 15.

³⁸ J Svanemyr; E Scolaro; K Blondeel; V Chandra-Mouli & M Temmerman *The contribution of laws to change the practice of child marriage in Africa* Inter-Parliamentary Union (2013) 18.

³⁹ Refugee Law Project (n 5 above) 13.

⁴⁰ UNICEF (n 2 above) 22.

⁴¹ As above at 24.

⁴² WLUM (n 32 above) 17.

5. IMPACT OF CHILD MARRIAGE ON REFUGEES IN UGANDA

Child marriages have severe consequences for the empowerment, agency, sexual and reproductive health, security, economic independence, development and psychosocial well-being of the child involved.

Child marriage robs a child of their opportunity to have a childhood and to gradually develop their talents, skills and personality as they approach adulthood. This denial of freedom, development and choice of young girls can often lead them to suffer depression and low self-esteem.⁴³ Child brides are often isolated from other social structures and confined to their homes, which further impacts their mental and emotional well-being.⁴⁴ Child marriage also ends a girl child's education and makes it near impossible for her to ever return to school.⁴⁵ Child marriage has been cited as a barrier to girls' education in both the Koboko and Lamwo districts which host refugees from the Democratic Republic of the Congo and South Sudan respectively.⁴⁶ The lack of educational and developmental opportunities causes child brides to be economically dependent on their husband and exacerbates their vulnerability and lack of empowerment.⁴⁷ The lack of education and empowerment also means that women are unlikely to know the rights which they have and the avenues for protection against domestic abuse and exploitation.⁴⁸ The fact that child marriages are illegal also means that the girls are subjected to an informal and unstable union in which they do not enjoy the protection of the law as a partner in a recognised marriage would.⁴⁹

Child marriages place children at a disadvantaged and disempowered position within the marital relationship where they are often incapable of negotiating safe sex and are extremely vulnerable to marital rape and other forms of sexual assault.⁵⁰ The under-aged spouse would often be decades younger than her marriage partner and is exposed to a heightened risk of HIV and other sexually transmitted infections due to the likelihood that the older spouse has many other wives and sexual partners.⁵¹

Child marriage also has devastating consequences for the sexual and reproductive health of the child involved. Refugee girls who are married under the age of 18 face obstacles in controlling their fertility and exercising choice over whether to have children and how the

⁴³ As above.

⁴⁴ As above.

⁴⁵ Refugee Law Project (m 5 above) 14.

⁴⁶ UNHCR (n 32 above) 18.

⁴⁷ UNICEF (n 2 above) 33-34.

⁴⁸ As above.

⁴⁹ UNICEF (n 2 above) 22.

⁵⁰ WLUM (n 32 above) 18.

⁵¹ UNHCR (n 6 above) 18.

births of children are to be spaced.⁵² This is due to challenges in obtaining contraceptives within the settlements as well as the disempowerment of girls within a marital relationship.

Complications during pregnancy and childbirth are a major cause of death, injury and disability among adolescent girls.⁵³ The risk of dying from pregnancy-related causes is four times higher for girls under the age of 16 than for women in their early twenties.⁵⁴ Girls who give birth at a young age are at a high risk of facing obstructed labour, which in turn, could lead to obstetric fistula – an abnormal opening between a woman’s genital tract and her urinary tract or rectum.⁵⁵ Girls and women who suffer obstetric fistula are often branded as outcasts and shunned from society.⁵⁶ The young age of mothers also has negative consequences for their babies since they are at heightened risk of early labour, low birth weight and lower chances of survival after birth.⁵⁷

Child marriage has severe negative consequences for the under-aged parties involved, notwithstanding the view of marriage as a ‘survival strategy’ within refugee settlements. Early marriage has irreversible consequences for the development, opportunities and health of children and should be addressed as a matter of urgency within refugee settlements in Uganda.

6. ACTION TO REDUCE THE INCIDENCE OF CHILD MARRIAGE AMONG REFUGEES IN UGANDA

The fact that child marriage is deeply entrenched in the cultural practices of many refugee communities, along with the sense of necessity created by dire economic circumstances, complicates efforts to shift attitudes in respect of this practice. It is therefore crucial to undertake concerted efforts to advocate against child marriage from the perspective of health, human rights, development and humanity.

It is important to raise awareness about the health risks associated with early pregnancy. Communities also have to be engaged in order to shift perceptions about the value of educating girl children and the economic benefits which acquired skills and knowledge could have for the broader family in the long run.

⁵² WLUM (n 32 above) 18.

⁵³ As above.

⁵⁴ UNHCR (n 6 above) 18.

⁵⁵ World Health Organization ‘Obstetric fistula’. Available at <https://www.who.int/news-room/facts-in-pictures/detail/10-facts-on-obstetric-fistula> (Accessed 27th June 2020).

⁵⁶ UNICEF (n 2 above) 32.

⁵⁷ WLUM (n 32 above) 18.

Concerted efforts to raise refugee populations out of extreme poverty would go a long way in preventing child marriages. As long as girl children are considered as a burden while living with their parents but an asset once married off in the context of extreme poverty, the practice of child marriage will continue.

There is also need to empower girl children with knowledge on how to protect themselves from sexual violence, unwanted pregnancy and forced marriage. Girls should also be empowered with knowledge of support systems which are available to them within refugee settlements in order to escape marriages which they were coerced into entering.

7. RECOMMENDATIONS

Policy level actions

- Strengthen efforts to support refugees to undertake income-generating activities in order to relieve the reliance on bride price as a source of wealth.
- Strengthen government-led efforts to ensure that girls, and refugee girls, complete both primary and secondary schooling.
- Undertake educational campaigns within refugee camps to emphasise the dangers of child marriage.
- Take corrective action against those who marry or engage in sexual activity with under-aged girls and boys.
- Run programmes to empower refugee girls and educate them about their right to consent to marriage and to control their own fertility.
- Increase the availability of various forms of contraceptives within the refugee camps and raise awareness about the availability of these services.
- Take measures to enhance security in refugee camps and prevent sexual violence.

Individual, family & community-level actions

- Educate adolescents about contraceptive use and enable adolescents to obtain contraceptive services.
- Build community support for contraceptive provision to adolescents in refugee settlements.
- Build community support for the empowerment and education of girls.
- Engage in community dialogues on the dangers and impact of child marriage and consider strategies for protecting girls from getting married before they reach the age of 18.

- Engage in community dialogues on the stigma associated with extra-marital sex and pregnancy.

8. CONCLUSION

This issue paper discussed some of the causes and consequences of child marriage within refugee settlements in Uganda. It is found that child marriage is a common practice among refugees, often as desperate means to ensure survival and notwithstanding the fact that such unions are illegal in the country. There is urgent need to undertake holistic efforts to address poverty, insecurity and gender inequality within refugee settlements in order to protect children from the irreversible consequences of child marriage on their health, well-being and development.

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